

By: Senator(s) Doty, Carter, Jackson (11th)

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2840

1 AN ACT TO BE KNOWN AS THE OPIOID CRISIS INTERVENTION ACT; TO
2 AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI CODE OF 1972, TO
3 DELETE CHEMICAL DEPENDENCY HOSPITALS AND CHEMICAL DEPENDENCY
4 SERVICES FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF NEED; TO
5 AMEND SECTION 41-29-149.1, MISSISSIPPI CODE OF 1972, TO EXPAND THE
6 TYPES OF DRUG VIOLATIONS FOR WHICH A PERSON MAY NOT BE PROSECUTED
7 WHEN COMPLYING WITH THE MISSISSIPPI MEDICAL EMERGENCY GOOD
8 SAMARITAN ACT; TO AMEND SECTION 41-127-1, MISSISSIPPI CODE OF
9 1972, TO PROVIDE THAT TELEMEDICINE PROVIDERS SHALL BE ALLOWED TO
10 PROVIDE TREATMENT FOR SUBSTANCE USE DISORDERS, INCLUDING
11 MEDICATION-ASSISTED TREATMENT; TO DIRECT THE STATE BOARD OF
12 MEDICAL LICENSURE TO ADOPT REASONABLE REGULATIONS THAT ALLOW
13 PRIMARY CARE PHYSICIANS TO PROVIDE MAINTENANCE THERAPY FOR PERSONS
14 WITH IDENTIFIED SUBSTANCE USE DISORDERS AND ALLOW THOSE PHYSICIANS
15 TO PROVIDE THAT TREATMENT UNTIL THE PERSON CAN RECEIVE TREATMENT
16 FROM A LICENSED TREATMENT PROVIDER; TO PROHIBIT MUNICIPALITIES,
17 COUNTIES AND OTHER POLITICAL SUBDIVISIONS OF THIS STATE FROM
18 PLACING RULES, REGULATIONS, REQUIREMENTS OR ZONING RESTRICTIONS ON
19 DRUG AND ALCOHOL TREATMENT CENTERS; TO AUTHORIZE MUNICIPALITIES,
20 COUNTIES AND PUBLIC OR PRIVATE EDUCATIONAL INSTITUTIONS TO ADOPT A
21 PRE-ARREST DIVERSION PROGRAM IN WHICH LAW ENFORCEMENT OFFICERS OF
22 THE ENTITY MAY DIVERT ADULTS WHO COMMIT A NONVIOLENT MISDEMEANOR
23 OFFENSE; TO PROVIDE THAT ADULTS WHO ARE DIVERTED SHALL BE PROVIDED
24 APPROPRIATE ASSESSMENT, INTERVENTION, EDUCATION AND BEHAVIORAL
25 HEALTH CARE SERVICES; TO PROVIDE THAT IF THE ADULT DOES NOT
26 PARTICIPATE IN THE PRE-ARREST DIVERSION PROGRAM, THE LAW
27 ENFORCEMENT AGENCY MAY CRIMINALLY CHARGE THE ADULT FOR THE
28 ORIGINAL OFFENSE AND REFER THE CASE TO THE APPROPRIATE PROSECUTING
29 AGENCY TO DETERMINE IF PROSECUTION IS APPROPRIATE; TO PROVIDE THAT
30 IF THE ADULT SUCCESSFULLY COMPLETES THE PROGRAM, AN ARREST RECORD
31 SHALL NOT BE ASSOCIATED WITH THE OFFENSE; TO AMEND SECTION
32 9-23-13, MISSISSIPPI CODE OF 1972, TO REQUIRE DRUG COURTS TO ALLOW
33 MEDICATION-ASSISTED TREATMENT FOR PARTICIPANTS WHEN MEDICALLY
34 APPROPRIATE; TO BRING FORWARD SECTIONS 41-29-137, 41-29-319,



35 41-29-321, 73-9-13, 73-21-127 AND 73-43-11 MISSISSIPPI CODE OF
36 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED
37 PURPOSES.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

39 **SECTION 1.** This act shall be known and may be cited as the
40 Opioid Crisis Intervention Act.

41 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is
42 amended as follows:

43 41-7-173. For the purposes of Section 41-7-171 et seq., the
44 following words shall have the meanings ascribed herein, unless
45 the context otherwise requires:

46 (a) "Affected person" means (i) the applicant; (ii) a
47 person residing within the geographic area to be served by the
48 applicant's proposal; (iii) a person who regularly uses health
49 care facilities or HMOs located in the geographic area of the
50 proposal which provide similar service to that which is proposed;
51 (iv) health care facilities and HMOs which have, prior to receipt
52 of the application under review, formally indicated an intention
53 to provide service similar to that of the proposal being
54 considered at a future date; (v) third-party payers who reimburse
55 health care facilities located in the geographical area of the
56 proposal; or (vi) any agency that establishes rates for health
57 care services or HMOs located in the geographic area of the
58 proposal.

59 (b) "Certificate of need" means a written order of the
60 State Department of Health setting forth the affirmative finding
61 that a proposal in prescribed application form, sufficiently



62 satisfies the plans, standards and criteria prescribed for such
63 service or other project by Section 41-7-171 et seq., and by rules
64 and regulations promulgated thereunder by the State Department of
65 Health.

66 (c) (i) "Capital expenditure," when pertaining to
67 defined major medical equipment, shall mean an expenditure which,
68 under generally accepted accounting principles consistently
69 applied, is not properly chargeable as an expense of operation and
70 maintenance and which exceeds One Million Five Hundred Thousand
71 Dollars (\$1,500,000.00).

72 (ii) "Capital expenditure," when pertaining to
73 other than major medical equipment, shall mean any expenditure
74 which under generally accepted accounting principles consistently
75 applied is not properly chargeable as an expense of operation and
76 maintenance and which exceeds, for clinical health services, as
77 defined in * * * paragraph (k) below, Five Million Dollars
78 (\$5,000,000.00), adjusted for inflation as published by the State
79 Department of Health or which exceeds, for nonclinical health
80 services, as defined in * * * paragraph (k) below, Ten Million
81 Dollars (\$10,000,000.00), adjusted for inflation as published by
82 the State Department of Health.

83 (iii) A "capital expenditure" shall include the
84 acquisition, whether by lease, sufferance, gift, devise, legacy,
85 settlement of a trust or other means, of any facility or part
86 thereof, or equipment for a facility, the expenditure for which



87 would have been considered a capital expenditure if acquired by
88 purchase. Transactions which are separated in time but are
89 planned to be undertaken within twelve (12) months of each other
90 and are components of an overall plan for meeting patient care
91 objectives shall, for purposes of this definition, be viewed in
92 their entirety without regard to their timing.

93 (iv) In those instances where a health care
94 facility or other provider of health services proposes to provide
95 a service in which the capital expenditure for major medical
96 equipment or other than major medical equipment or a combination
97 of the two (2) may have been split between separate parties, the
98 total capital expenditure required to provide the proposed service
99 shall be considered in determining the necessity of certificate of
100 need review and in determining the appropriate certificate of need
101 review fee to be paid. The capital expenditure associated with
102 facilities and equipment to provide services in Mississippi shall
103 be considered regardless of where the capital expenditure was
104 made, in state or out of state, and regardless of the domicile of
105 the party making the capital expenditure, in state or out of
106 state.

107 (d) "Change of ownership" includes, but is not limited
108 to, inter vivos gifts, purchases, transfers, lease arrangements,
109 cash and/or stock transactions or other comparable arrangements
110 whenever any person or entity acquires or controls a majority
111 interest of an existing health care facility, and/or the change of



112 ownership of major medical equipment, a health service, or an
113 institutional health service. Changes of ownership from
114 partnerships, single proprietorships or corporations to another
115 form of ownership are specifically included. However, "change of
116 ownership" shall not include any inherited interest acquired as a
117 result of a testamentary instrument or under the laws of descent
118 and distribution of the State of Mississippi.

119 (e) "Commencement of construction" means that all of
120 the following have been completed with respect to a proposal or
121 project proposing construction, renovating, remodeling or
122 alteration:

123 (i) A legally binding written contract has been
124 consummated by the proponent and a lawfully licensed contractor to
125 construct and/or complete the intent of the proposal within a
126 specified period of time in accordance with final architectural
127 plans which have been approved by the licensing authority of the
128 State Department of Health;

129 (ii) Any and all permits and/or approvals deemed
130 lawfully necessary by all authorities with responsibility for such
131 have been secured; and

132 (iii) Actual bona fide undertaking of the subject
133 proposal has commenced, and a progress payment of at least one
134 percent (1%) of the total cost price of the contract has been paid
135 to the contractor by the proponent, and the requirements of this



136 paragraph (e) have been certified to in writing by the State
137 Department of Health.

138 Force account expenditures, such as deposits, securities,
139 bonds, et cetera, may, in the discretion of the State Department
140 of Health, be excluded from any or all of the provisions of
141 defined commencement of construction.

142 (f) "Consumer" means an individual who is not a
143 provider of health care as defined in paragraph (q) of this
144 section.

145 (g) "Develop," when used in connection with health
146 services, means to undertake those activities which, on their
147 completion, will result in the offering of a new institutional
148 health service or the incurring of a financial obligation as
149 defined under applicable state law in relation to the offering of
150 such services.

151 (h) "Health care facility" includes hospitals,
152 psychiatric hospitals, * * * skilled nursing facilities, end-stage
153 renal disease (ESRD) facilities, including freestanding
154 hemodialysis units, intermediate care facilities, ambulatory
155 surgical facilities, intermediate care facilities for the mentally
156 retarded, home health agencies, psychiatric residential treatment
157 facilities, pediatric skilled nursing facilities, long-term care
158 hospitals, comprehensive medical rehabilitation facilities,
159 including facilities owned or operated by the state or a political
160 subdivision or instrumentality of the state, but does not include



161 Christian Science sanatoriums operated or listed and certified by
162 the First Church of Christ, Scientist, Boston, Massachusetts.
163 This definition shall not apply to facilities for the private
164 practice, either independently or by incorporated medical groups,
165 of physicians, dentists or health care professionals except where
166 such facilities are an integral part of an institutional health
167 service. The various health care facilities listed in this
168 paragraph shall be defined as follows:

169 (i) "Hospital" means an institution which is
170 primarily engaged in providing to inpatients, by or under the
171 supervision of physicians, diagnostic services and therapeutic
172 services for medical diagnosis, treatment and care of injured,
173 disabled or sick persons, or rehabilitation services for the
174 rehabilitation of injured, disabled or sick persons. Such term
175 does not include psychiatric hospitals.

176 (ii) "Psychiatric hospital" means an institution
177 which is primarily engaged in providing to inpatients, by or under
178 the supervision of a physician, psychiatric services for the
179 diagnosis and treatment of persons with mental illness.

180 (iii) * * * [Deleted]

181 (iv) "Skilled nursing facility" means an
182 institution or a distinct part of an institution which is
183 primarily engaged in providing to inpatients skilled nursing care
184 and related services for patients who require medical or nursing



185 care or rehabilitation services for the rehabilitation of injured,
186 disabled or sick persons.

187 (v) "End-stage renal disease (ESRD) facilities"
188 means kidney disease treatment centers, which includes
189 freestanding hemodialysis units and limited care facilities. The
190 term "limited care facility" generally refers to an
191 off-hospital-premises facility, regardless of whether it is
192 provider or nonprovider operated, which is engaged primarily in
193 furnishing maintenance hemodialysis services to stabilized
194 patients.

195 (vi) "Intermediate care facility" means an
196 institution which provides, on a regular basis, health-related
197 care and services to individuals who do not require the degree of
198 care and treatment which a hospital or skilled nursing facility is
199 designed to provide, but who, because of their mental or physical
200 condition, require health-related care and services (above the
201 level of room and board).

202 (vii) "Ambulatory surgical facility" means a
203 facility primarily organized or established for the purpose of
204 performing surgery for outpatients and is a separate identifiable
205 legal entity from any other health care facility. Such term does
206 not include the offices of private physicians or dentists, whether
207 for individual or group practice, and does not include any
208 abortion facility as defined in Section 41-75-1(f).



209 (viii) "Intermediate care facility for the
210 mentally retarded" means an intermediate care facility that
211 provides health or rehabilitative services in a planned program of
212 activities to persons with an intellectual disability, also
213 including, but not limited to, cerebral palsy and other conditions
214 covered by the Federal Developmentally Disabled Assistance and
215 Bill of Rights Act, Public Law 94-103.

216 (ix) "Home health agency" means a public or
217 privately owned agency or organization, or a subdivision of such
218 an agency or organization, properly authorized to conduct business
219 in Mississippi, which is primarily engaged in providing to
220 individuals at the written direction of a licensed physician, in
221 the individual's place of residence, skilled nursing services
222 provided by or under the supervision of a registered nurse
223 licensed to practice in Mississippi, and one or more of the
224 following services or items:

- 225 1. Physical, occupational or speech therapy;
- 226 2. Medical social services;
- 227 3. Part-time or intermittent services of a
228 home health aide;
- 229 4. Other services as approved by the
230 licensing agency for home health agencies;
- 231 5. Medical supplies, other than drugs and
232 biologicals, and the use of medical appliances; or



233 6. Medical services provided by an intern or
234 resident-in-training at a hospital under a teaching program of
235 such hospital.

236 Further, all skilled nursing services and those services
237 listed in items 1 through 4 of this subparagraph (ix) must be
238 provided directly by the licensed home health agency. For
239 purposes of this subparagraph, "directly" means either through an
240 agency employee or by an arrangement with another individual not
241 defined as a health care facility.

242 This subparagraph (ix) shall not apply to health care
243 facilities which had contracts for the above services with a home
244 health agency on January 1, 1990.

245 (x) "Psychiatric residential treatment facility"
246 means any nonhospital establishment with permanent licensed
247 facilities which provides a twenty-four-hour program of care by
248 qualified therapists, including, but not limited to, duly licensed
249 mental health professionals, psychiatrists, psychologists,
250 psychotherapists and licensed certified social workers, for
251 emotionally disturbed children and adolescents referred to such
252 facility by a court, local school district or by the Department of
253 Human Services, who are not in an acute phase of illness requiring
254 the services of a psychiatric hospital, and are in need of such
255 restorative treatment services. For purposes of this
256 subparagraph, the term "emotionally disturbed" means a condition
257 exhibiting one or more of the following characteristics over a



258 long period of time and to a marked degree, which adversely
259 affects educational performance:

260 1. An inability to learn which cannot be
261 explained by intellectual, sensory or health factors;

262 2. An inability to build or maintain
263 satisfactory relationships with peers and teachers;

264 3. Inappropriate types of behavior or
265 feelings under normal circumstances;

266 4. A general pervasive mood of unhappiness or
267 depression; or

268 5. A tendency to develop physical symptoms or
269 fears associated with personal or school problems. An
270 establishment furnishing primarily domiciliary care is not within
271 this definition.

272 (xi) "Pediatric skilled nursing facility" means an
273 institution or a distinct part of an institution that is primarily
274 engaged in providing to inpatients skilled nursing care and
275 related services for persons under twenty-one (21) years of age
276 who require medical or nursing care or rehabilitation services for
277 the rehabilitation of injured, disabled or sick persons.

278 (xii) "Long-term care hospital" means a
279 freestanding, Medicare-certified hospital that has an average
280 length of inpatient stay greater than twenty-five (25) days, which
281 is primarily engaged in providing chronic or long-term medical
282 care to patients who do not require more than three (3) hours of



283 rehabilitation or comprehensive rehabilitation per day, and has a
284 transfer agreement with an acute care medical center and a
285 comprehensive medical rehabilitation facility. Long-term care
286 hospitals shall not use rehabilitation, comprehensive medical
287 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
288 nursing home, skilled nursing facility or sub-acute care facility
289 in association with its name.

290 (xiii) "Comprehensive medical rehabilitation
291 facility" means a hospital or hospital unit that is licensed
292 and/or certified as a comprehensive medical rehabilitation
293 facility which provides specialized programs that are accredited
294 by the Commission on Accreditation of Rehabilitation Facilities
295 and supervised by a physician board certified or board eligible in
296 physiatry or other doctor of medicine or osteopathy with at least
297 two (2) years of training in the medical direction of a
298 comprehensive rehabilitation program that:

299 1. Includes evaluation and treatment of
300 individuals with physical disabilities;

301 2. Emphasizes education and training of
302 individuals with disabilities;

303 3. Incorporates at least the following core
304 disciplines:

305 * * a. Physical Therapy;

306 * * b. Occupational Therapy;

307 * * c. Speech and Language Therapy;



308 * * *d. Rehabilitation Nursing; and
309 4. Incorporates at least three (3) of the
310 following disciplines:
311 * * *a. Psychology;
312 * * *b. Audiology;
313 * * *c. Respiratory Therapy;
314 * * *d. Therapeutic Recreation;
315 * * *e. Orthotics;
316 * * *f. Prosthetics;
317 * * *g. Special Education;
318 * * *h. Vocational Rehabilitation;
319 * * *i. Psychotherapy;
320 * * *j. Social Work;
321 * * *k. Rehabilitation Engineering.

322 These specialized programs include, but are not limited to:
323 spinal cord injury programs, head injury programs and infant and
324 early childhood development programs.

325 (i) "Health maintenance organization" or "HMO" means a
326 public or private organization organized under the laws of this
327 state or the federal government which:

328 (i) Provides or otherwise makes available to
329 enrolled participants health care services, including
330 substantially the following basic health care services: usual
331 physician services, hospitalization, laboratory, x-ray, emergency
332 and preventive services, and out-of-area coverage;



333 (ii) Is compensated (except for copayments) for
334 the provision of the basic health care services listed in
335 subparagraph (i) of this paragraph to enrolled participants on a
336 predetermined basis; and

337 (iii) Provides physician services primarily:

338 1. Directly through physicians who are either
339 employees or partners of such organization; or

340 2. Through arrangements with individual
341 physicians or one or more groups of physicians (organized on a
342 group practice or individual practice basis).

343 (j) "Health service area" means a geographic area of
344 the state designated in the State Health Plan as the area to be
345 used in planning for specified health facilities and services and
346 to be used when considering certificate of need applications to
347 provide health facilities and services.

348 (k) "Health services" means clinically related (i.e.,
349 diagnostic, treatment or rehabilitative) services and includes
350 alcohol, drug abuse, mental health and home health care services.
351 "Clinical health services" shall only include those activities
352 which contemplate any change in the existing bed complement of any
353 health care facility through the addition or conversion of any
354 beds, under Section 41-7-191(1)(c) or propose to offer any health
355 services if those services have not been provided on a regular
356 basis by the proposed provider of such services within the period
357 of twelve (12) months prior to the time such services would be



358 offered, under Section 41-7-191(1)(d). "Nonclinical health
359 services" shall be all other services which do not involve any
360 change in the existing bed complement or offering health services
361 as described above.

362 (l) "Institutional health services" shall mean health
363 services provided in or through health care facilities and shall
364 include the entities in or through which such services are
365 provided.

366 (m) "Major medical equipment" means medical equipment
367 designed for providing medical or any health-related service which
368 costs in excess of One Million Five Hundred Thousand Dollars
369 (\$1,500,000.00). However, this definition shall not be applicable
370 to clinical laboratories if they are determined by the State
371 Department of Health to be independent of any physician's office,
372 hospital or other health care facility or otherwise not so defined
373 by federal or state law, or rules and regulations promulgated
374 thereunder.

375 (n) "State Department of Health" or "department" shall
376 mean the state agency created under Section 41-3-15, which shall
377 be considered to be the State Health Planning and Development
378 Agency, as defined in paragraph (u) of this section.

379 (o) "Offer," when used in connection with health
380 services, means that it has been determined by the State
381 Department of Health that the health care facility is capable of
382 providing specified health services.



383 (p) "Person" means an individual, a trust or estate,
384 partnership, corporation (including associations, joint-stock
385 companies and insurance companies), the state or a political
386 subdivision or instrumentality of the state.

387 (q) "Provider" shall mean any person who is a provider
388 or representative of a provider of health care services requiring
389 a certificate of need under Section 41-7-171 et seq., or who has
390 any financial or indirect interest in any provider of services.

391 (r) "Radiation therapy services" means the treatment of
392 cancer and other diseases using ionizing radiation of either high
393 energy photons (x-rays or gamma rays) or charged particles
394 (electrons, protons or heavy nuclei). However, for purposes of a
395 certificate of need, radiation therapy services shall not include
396 low energy, superficial, external beam x-ray treatment of
397 superficial skin lesions.

398 (s) "Secretary" means the Secretary of Health and Human
399 Services, and any officer or employee of the Department of Health
400 and Human Services to whom the authority involved has been
401 delegated.

402 (t) "State Health Plan" means the sole and official
403 statewide health plan for Mississippi which identifies priority
404 state health needs and establishes standards and criteria for
405 health-related activities which require certificate of need review
406 in compliance with Section 41-7-191.



407 (u) "State Health Planning and Development Agency"
408 means the agency of state government designated to perform health
409 planning and resource development programs for the State of
410 Mississippi.

411 **SECTION 3.** Section 41-7-191, Mississippi Code of 1972, is
412 amended as follows:

413 41-7-191. (1) No person shall engage in any of the
414 following activities without obtaining the required certificate of
415 need:

416 (a) The construction, development or other
417 establishment of a new health care facility, which establishment
418 shall include the reopening of a health care facility that has
419 ceased to operate for a period of sixty (60) months or more;

420 (b) The relocation of a health care facility or portion
421 thereof, or major medical equipment, unless such relocation of a
422 health care facility or portion thereof, or major medical
423 equipment, which does not involve a capital expenditure by or on
424 behalf of a health care facility, is within five thousand two
425 hundred eighty (5,280) feet from the main entrance of the health
426 care facility;

427 (c) Any change in the existing bed complement of any
428 health care facility through the addition or conversion of any
429 beds or the alteration, modernizing or refurbishing of any unit or
430 department in which the beds may be located; however, if a health
431 care facility has voluntarily delicensed some of its existing bed



432 complement, it may later relicense some or all of its delicensed
433 beds without the necessity of having to acquire a certificate of
434 need. The State Department of Health shall maintain a record of
435 the delicensing health care facility and its voluntarily
436 delicensed beds and continue counting those beds as part of the
437 state's total bed count for health care planning purposes. If a
438 health care facility that has voluntarily delicensed some of its
439 beds later desires to relicense some or all of its voluntarily
440 delicensed beds, it shall notify the State Department of Health of
441 its intent to increase the number of its licensed beds. The State
442 Department of Health shall survey the health care facility within
443 thirty (30) days of that notice and, if appropriate, issue the
444 health care facility a new license reflecting the new contingent
445 of beds. However, in no event may a health care facility that has
446 voluntarily delicensed some of its beds be reissued a license to
447 operate beds in excess of its bed count before the voluntary
448 delicensure of some of its beds without seeking certificate of
449 need approval;

450 (d) Offering of the following health services if those
451 services have not been provided on a regular basis by the proposed
452 provider of such services within the period of twelve (12) months
453 prior to the time such services would be offered:

- 454 (i) Open-heart surgery services;
- 455 (ii) Cardiac catheterization services;



456 (iii) Comprehensive inpatient rehabilitation
457 services;
458 (iv) Licensed psychiatric services;
459 (v) * * * [Deleted]
460 (vi) Radiation therapy services;
461 (vii) Diagnostic imaging services of an invasive
462 nature, i.e. invasive digital angiography;
463 (viii) Nursing home care as defined in
464 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
465 (ix) Home health services;
466 (x) Swing-bed services;
467 (xi) Ambulatory surgical services;
468 (xii) Magnetic resonance imaging services;
469 (xiii) [Deleted]
470 (xiv) Long-term care hospital services;
471 (xv) Positron emission tomography (PET) services;
472 (e) The relocation of one or more health services from
473 one physical facility or site to another physical facility or
474 site, unless such relocation, which does not involve a capital
475 expenditure by or on behalf of a health care facility, (i) is to a
476 physical facility or site within five thousand two hundred eighty
477 (5,280) feet from the main entrance of the health care facility
478 where the health care service is located, or (ii) is the result of
479 an order of a court of appropriate jurisdiction or a result of
480 pending litigation in such court, or by order of the State



481 Department of Health, or by order of any other agency or legal
482 entity of the state, the federal government, or any political
483 subdivision of either, whose order is also approved by the State
484 Department of Health;

485 (f) The acquisition or otherwise control of any major
486 medical equipment for the provision of medical services; however,
487 (i) the acquisition of any major medical equipment used only for
488 research purposes, and (ii) the acquisition of major medical
489 equipment to replace medical equipment for which a facility is
490 already providing medical services and for which the State
491 Department of Health has been notified before the date of such
492 acquisition shall be exempt from this paragraph; an acquisition
493 for less than fair market value must be reviewed, if the
494 acquisition at fair market value would be subject to review;

495 (g) Changes of ownership of existing health care
496 facilities in which a notice of intent is not filed with the State
497 Department of Health at least thirty (30) days prior to the date
498 such change of ownership occurs, or a change in services or bed
499 capacity as prescribed in paragraph (c) or (d) of this subsection
500 as a result of the change of ownership; an acquisition for less
501 than fair market value must be reviewed, if the acquisition at
502 fair market value would be subject to review;

503 (h) The change of ownership of any health care facility
504 defined in subparagraphs (iv), (vi) and (viii) of Section
505 41-7-173(h), in which a notice of intent as described in paragraph



506 (g) has not been filed and if the Executive Director, Division of
507 Medicaid, Office of the Governor, has not certified in writing
508 that there will be no increase in allowable costs to Medicaid from
509 revaluation of the assets or from increased interest and
510 depreciation as a result of the proposed change of ownership;

511 (i) Any activity described in paragraphs (a) through
512 (h) if undertaken by any person if that same activity would
513 require certificate of need approval if undertaken by a health
514 care facility;

515 (j) Any capital expenditure or deferred capital
516 expenditure by or on behalf of a health care facility not covered
517 by paragraphs (a) through (h);

518 (k) The contracting of a health care facility as
519 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
520 to establish a home office, subunit, or branch office in the space
521 operated as a health care facility through a formal arrangement
522 with an existing health care facility as defined in subparagraph
523 (ix) of Section 41-7-173(h);

524 (l) The replacement or relocation of a health care
525 facility designated as a critical access hospital shall be exempt
526 from subsection (1) of this section so long as the critical access
527 hospital complies with all applicable federal law and regulations
528 regarding such replacement or relocation;

529 (m) Reopening a health care facility that has ceased to
530 operate for a period of sixty (60) months or more, which reopening



531 requires a certificate of need for the establishment of a new
532 health care facility.

533 (2) The State Department of Health shall not grant approval
534 for or issue a certificate of need to any person proposing the new
535 construction of, addition to, or expansion of any health care
536 facility defined in subparagraphs (iv) (skilled nursing facility)
537 and (vi) (intermediate care facility) of Section 41-7-173(h) or
538 the conversion of vacant hospital beds to provide skilled or
539 intermediate nursing home care, except as hereinafter authorized:

540 (a) The department may issue a certificate of need to
541 any person proposing the new construction of any health care
542 facility defined in subparagraphs (iv) and (vi) of Section
543 41-7-173(h) as part of a life care retirement facility, in any
544 county bordering on the Gulf of Mexico in which is located a
545 National Aeronautics and Space Administration facility, not to
546 exceed forty (40) beds. From and after July 1, 1999, there shall
547 be no prohibition or restrictions on participation in the Medicaid
548 program (Section 43-13-101 et seq.) for the beds in the health
549 care facility that were authorized under this paragraph (a).

550 (b) The department may issue certificates of need in
551 Harrison County to provide skilled nursing home care for
552 Alzheimer's disease patients and other patients, not to exceed one
553 hundred fifty (150) beds. From and after July 1, 1999, there
554 shall be no prohibition or restrictions on participation in the



555 Medicaid program (Section 43-13-101 et seq.) for the beds in the
556 nursing facilities that were authorized under this paragraph (b).

557 (c) The department may issue a certificate of need for
558 the addition to or expansion of any skilled nursing facility that
559 is part of an existing continuing care retirement community
560 located in Madison County, provided that the recipient of the
561 certificate of need agrees in writing that the skilled nursing
562 facility will not at any time participate in the Medicaid program
563 (Section 43-13-101 et seq.) or admit or keep any patients in the
564 skilled nursing facility who are participating in the Medicaid
565 program. This written agreement by the recipient of the
566 certificate of need shall be fully binding on any subsequent owner
567 of the skilled nursing facility, if the ownership of the facility
568 is transferred at any time after the issuance of the certificate
569 of need. Agreement that the skilled nursing facility will not
570 participate in the Medicaid program shall be a condition of the
571 issuance of a certificate of need to any person under this
572 paragraph (c), and if such skilled nursing facility at any time
573 after the issuance of the certificate of need, regardless of the
574 ownership of the facility, participates in the Medicaid program or
575 admits or keeps any patients in the facility who are participating
576 in the Medicaid program, the State Department of Health shall
577 revoke the certificate of need, if it is still outstanding, and
578 shall deny or revoke the license of the skilled nursing facility,
579 at the time that the department determines, after a hearing



580 complying with due process, that the facility has failed to comply
581 with any of the conditions upon which the certificate of need was
582 issued, as provided in this paragraph and in the written agreement
583 by the recipient of the certificate of need. The total number of
584 beds that may be authorized under the authority of this paragraph
585 (c) shall not exceed sixty (60) beds.

586 (d) The State Department of Health may issue a
587 certificate of need to any hospital located in DeSoto County for
588 the new construction of a skilled nursing facility, not to exceed
589 one hundred twenty (120) beds, in DeSoto County. From and after
590 July 1, 1999, there shall be no prohibition or restrictions on
591 participation in the Medicaid program (Section 43-13-101 et seq.)
592 for the beds in the nursing facility that were authorized under
593 this paragraph (d).

594 (e) The State Department of Health may issue a
595 certificate of need for the construction of a nursing facility or
596 the conversion of beds to nursing facility beds at a personal care
597 facility for the elderly in Lowndes County that is owned and
598 operated by a Mississippi nonprofit corporation, not to exceed
599 sixty (60) beds. From and after July 1, 1999, there shall be no
600 prohibition or restrictions on participation in the Medicaid
601 program (Section 43-13-101 et seq.) for the beds in the nursing
602 facility that were authorized under this paragraph (e).

603 (f) The State Department of Health may issue a
604 certificate of need for conversion of a county hospital facility



605 in Itawamba County to a nursing facility, not to exceed sixty (60)
606 beds, including any necessary construction, renovation or
607 expansion. From and after July 1, 1999, there shall be no
608 prohibition or restrictions on participation in the Medicaid
609 program (Section 43-13-101 et seq.) for the beds in the nursing
610 facility that were authorized under this paragraph (f).

611 (g) The State Department of Health may issue a
612 certificate of need for the construction or expansion of nursing
613 facility beds or the conversion of other beds to nursing facility
614 beds in either Hinds, Madison or Rankin County, not to exceed
615 sixty (60) beds. From and after July 1, 1999, there shall be no
616 prohibition or restrictions on participation in the Medicaid
617 program (Section 43-13-101 et seq.) for the beds in the nursing
618 facility that were authorized under this paragraph (g).

619 (h) The State Department of Health may issue a
620 certificate of need for the construction or expansion of nursing
621 facility beds or the conversion of other beds to nursing facility
622 beds in either Hancock, Harrison or Jackson County, not to exceed
623 sixty (60) beds. From and after July 1, 1999, there shall be no
624 prohibition or restrictions on participation in the Medicaid
625 program (Section 43-13-101 et seq.) for the beds in the facility
626 that were authorized under this paragraph (h).

627 (i) The department may issue a certificate of need for
628 the new construction of a skilled nursing facility in Leake
629 County, provided that the recipient of the certificate of need



630 agrees in writing that the skilled nursing facility will not at
631 any time participate in the Medicaid program (Section 43-13-101 et
632 seq.) or admit or keep any patients in the skilled nursing
633 facility who are participating in the Medicaid program. This
634 written agreement by the recipient of the certificate of need
635 shall be fully binding on any subsequent owner of the skilled
636 nursing facility, if the ownership of the facility is transferred
637 at any time after the issuance of the certificate of need.
638 Agreement that the skilled nursing facility will not participate
639 in the Medicaid program shall be a condition of the issuance of a
640 certificate of need to any person under this paragraph (i), and if
641 such skilled nursing facility at any time after the issuance of
642 the certificate of need, regardless of the ownership of the
643 facility, participates in the Medicaid program or admits or keeps
644 any patients in the facility who are participating in the Medicaid
645 program, the State Department of Health shall revoke the
646 certificate of need, if it is still outstanding, and shall deny or
647 revoke the license of the skilled nursing facility, at the time
648 that the department determines, after a hearing complying with due
649 process, that the facility has failed to comply with any of the
650 conditions upon which the certificate of need was issued, as
651 provided in this paragraph and in the written agreement by the
652 recipient of the certificate of need. The provision of Section
653 41-7-193(1) regarding substantial compliance of the projection of
654 need as reported in the current State Health Plan is waived for



655 the purposes of this paragraph. The total number of nursing
656 facility beds that may be authorized by any certificate of need
657 issued under this paragraph (i) shall not exceed sixty (60) beds.
658 If the skilled nursing facility authorized by the certificate of
659 need issued under this paragraph is not constructed and fully
660 operational within eighteen (18) months after July 1, 1994, the
661 State Department of Health, after a hearing complying with due
662 process, shall revoke the certificate of need, if it is still
663 outstanding, and shall not issue a license for the skilled nursing
664 facility at any time after the expiration of the eighteen-month
665 period.

666 (j) The department may issue certificates of need to
667 allow any existing freestanding long-term care facility in
668 Tishomingo County and Hancock County that on July 1, 1995, is
669 licensed with fewer than sixty (60) beds. For the purposes of
670 this paragraph (j), the provisions of Section 41-7-193(1)
671 requiring substantial compliance with the projection of need as
672 reported in the current State Health Plan are waived. From and
673 after July 1, 1999, there shall be no prohibition or restrictions
674 on participation in the Medicaid program (Section 43-13-101 et
675 seq.) for the beds in the long-term care facilities that were
676 authorized under this paragraph (j).

677 (k) The department may issue a certificate of need for
678 the construction of a nursing facility at a continuing care
679 retirement community in Lowndes County. The total number of beds



680 that may be authorized under the authority of this paragraph (k)
681 shall not exceed sixty (60) beds. From and after July 1, 2001,
682 the prohibition on the facility participating in the Medicaid
683 program (Section 43-13-101 et seq.) that was a condition of
684 issuance of the certificate of need under this paragraph (k) shall
685 be revised as follows: The nursing facility may participate in
686 the Medicaid program from and after July 1, 2001, if the owner of
687 the facility on July 1, 2001, agrees in writing that no more than
688 thirty (30) of the beds at the facility will be certified for
689 participation in the Medicaid program, and that no claim will be
690 submitted for Medicaid reimbursement for more than thirty (30)
691 patients in the facility in any month or for any patient in the
692 facility who is in a bed that is not Medicaid-certified. This
693 written agreement by the owner of the facility shall be a
694 condition of licensure of the facility, and the agreement shall be
695 fully binding on any subsequent owner of the facility if the
696 ownership of the facility is transferred at any time after July 1,
697 2001. After this written agreement is executed, the Division of
698 Medicaid and the State Department of Health shall not certify more
699 than thirty (30) of the beds in the facility for participation in
700 the Medicaid program. If the facility violates the terms of the
701 written agreement by admitting or keeping in the facility on a
702 regular or continuing basis more than thirty (30) patients who are
703 participating in the Medicaid program, the State Department of
704 Health shall revoke the license of the facility, at the time that



705 the department determines, after a hearing complying with due
706 process, that the facility has violated the written agreement.

707 (l) Provided that funds are specifically appropriated
708 therefor by the Legislature, the department may issue a
709 certificate of need to a rehabilitation hospital in Hinds County
710 for the construction of a sixty-bed long-term care nursing
711 facility dedicated to the care and treatment of persons with
712 severe disabilities including persons with spinal cord and
713 closed-head injuries and ventilator dependent patients. The
714 provisions of Section 41-7-193(1) regarding substantial compliance
715 with projection of need as reported in the current State Health
716 Plan are waived for the purpose of this paragraph.

717 (m) The State Department of Health may issue a
718 certificate of need to a county-owned hospital in the Second
719 Judicial District of Panola County for the conversion of not more
720 than seventy-two (72) hospital beds to nursing facility beds,
721 provided that the recipient of the certificate of need agrees in
722 writing that none of the beds at the nursing facility will be
723 certified for participation in the Medicaid program (Section
724 43-13-101 et seq.), and that no claim will be submitted for
725 Medicaid reimbursement in the nursing facility in any day or for
726 any patient in the nursing facility. This written agreement by
727 the recipient of the certificate of need shall be a condition of
728 the issuance of the certificate of need under this paragraph, and
729 the agreement shall be fully binding on any subsequent owner of



730 the nursing facility if the ownership of the nursing facility is
731 transferred at any time after the issuance of the certificate of
732 need. After this written agreement is executed, the Division of
733 Medicaid and the State Department of Health shall not certify any
734 of the beds in the nursing facility for participation in the
735 Medicaid program. If the nursing facility violates the terms of
736 the written agreement by admitting or keeping in the nursing
737 facility on a regular or continuing basis any patients who are
738 participating in the Medicaid program, the State Department of
739 Health shall revoke the license of the nursing facility, at the
740 time that the department determines, after a hearing complying
741 with due process, that the nursing facility has violated the
742 condition upon which the certificate of need was issued, as
743 provided in this paragraph and in the written agreement. If the
744 certificate of need authorized under this paragraph is not issued
745 within twelve (12) months after July 1, 2001, the department shall
746 deny the application for the certificate of need and shall not
747 issue the certificate of need at any time after the twelve-month
748 period, unless the issuance is contested. If the certificate of
749 need is issued and substantial construction of the nursing
750 facility beds has not commenced within eighteen (18) months after
751 July 1, 2001, the State Department of Health, after a hearing
752 complying with due process, shall revoke the certificate of need
753 if it is still outstanding, and the department shall not issue a
754 license for the nursing facility at any time after the



755 eighteen-month period. However, if the issuance of the
756 certificate of need is contested, the department shall require
757 substantial construction of the nursing facility beds within six
758 (6) months after final adjudication on the issuance of the
759 certificate of need.

760 (n) The department may issue a certificate of need for
761 the new construction, addition or conversion of skilled nursing
762 facility beds in Madison County, provided that the recipient of
763 the certificate of need agrees in writing that the skilled nursing
764 facility will not at any time participate in the Medicaid program
765 (Section 43-13-101 et seq.) or admit or keep any patients in the
766 skilled nursing facility who are participating in the Medicaid
767 program. This written agreement by the recipient of the
768 certificate of need shall be fully binding on any subsequent owner
769 of the skilled nursing facility, if the ownership of the facility
770 is transferred at any time after the issuance of the certificate
771 of need. Agreement that the skilled nursing facility will not
772 participate in the Medicaid program shall be a condition of the
773 issuance of a certificate of need to any person under this
774 paragraph (n), and if such skilled nursing facility at any time
775 after the issuance of the certificate of need, regardless of the
776 ownership of the facility, participates in the Medicaid program or
777 admits or keeps any patients in the facility who are participating
778 in the Medicaid program, the State Department of Health shall
779 revoke the certificate of need, if it is still outstanding, and



780 shall deny or revoke the license of the skilled nursing facility,
781 at the time that the department determines, after a hearing
782 complying with due process, that the facility has failed to comply
783 with any of the conditions upon which the certificate of need was
784 issued, as provided in this paragraph and in the written agreement
785 by the recipient of the certificate of need. The total number of
786 nursing facility beds that may be authorized by any certificate of
787 need issued under this paragraph (n) shall not exceed sixty (60)
788 beds. If the certificate of need authorized under this paragraph
789 is not issued within twelve (12) months after July 1, 1998, the
790 department shall deny the application for the certificate of need
791 and shall not issue the certificate of need at any time after the
792 twelve-month period, unless the issuance is contested. If the
793 certificate of need is issued and substantial construction of the
794 nursing facility beds has not commenced within eighteen (18)
795 months after July 1, 1998, the State Department of Health, after a
796 hearing complying with due process, shall revoke the certificate
797 of need if it is still outstanding, and the department shall not
798 issue a license for the nursing facility at any time after the
799 eighteen-month period. However, if the issuance of the
800 certificate of need is contested, the department shall require
801 substantial construction of the nursing facility beds within six
802 (6) months after final adjudication on the issuance of the
803 certificate of need.



804 (o) The department may issue a certificate of need for
805 the new construction, addition or conversion of skilled nursing
806 facility beds in Leake County, provided that the recipient of the
807 certificate of need agrees in writing that the skilled nursing
808 facility will not at any time participate in the Medicaid program
809 (Section 43-13-101 et seq.) or admit or keep any patients in the
810 skilled nursing facility who are participating in the Medicaid
811 program. This written agreement by the recipient of the
812 certificate of need shall be fully binding on any subsequent owner
813 of the skilled nursing facility, if the ownership of the facility
814 is transferred at any time after the issuance of the certificate
815 of need. Agreement that the skilled nursing facility will not
816 participate in the Medicaid program shall be a condition of the
817 issuance of a certificate of need to any person under this
818 paragraph (o), and if such skilled nursing facility at any time
819 after the issuance of the certificate of need, regardless of the
820 ownership of the facility, participates in the Medicaid program or
821 admits or keeps any patients in the facility who are participating
822 in the Medicaid program, the State Department of Health shall
823 revoke the certificate of need, if it is still outstanding, and
824 shall deny or revoke the license of the skilled nursing facility,
825 at the time that the department determines, after a hearing
826 complying with due process, that the facility has failed to comply
827 with any of the conditions upon which the certificate of need was
828 issued, as provided in this paragraph and in the written agreement



829 by the recipient of the certificate of need. The total number of
830 nursing facility beds that may be authorized by any certificate of
831 need issued under this paragraph (o) shall not exceed sixty (60)
832 beds. If the certificate of need authorized under this paragraph
833 is not issued within twelve (12) months after July 1, 2001, the
834 department shall deny the application for the certificate of need
835 and shall not issue the certificate of need at any time after the
836 twelve-month period, unless the issuance is contested. If the
837 certificate of need is issued and substantial construction of the
838 nursing facility beds has not commenced within eighteen (18)
839 months after July 1, 2001, the State Department of Health, after a
840 hearing complying with due process, shall revoke the certificate
841 of need if it is still outstanding, and the department shall not
842 issue a license for the nursing facility at any time after the
843 eighteen-month period. However, if the issuance of the
844 certificate of need is contested, the department shall require
845 substantial construction of the nursing facility beds within six
846 (6) months after final adjudication on the issuance of the
847 certificate of need.

848 (p) The department may issue a certificate of need for
849 the construction of a municipally owned nursing facility within
850 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
851 beds, provided that the recipient of the certificate of need
852 agrees in writing that the skilled nursing facility will not at
853 any time participate in the Medicaid program (Section 43-13-101 et



854 seq.) or admit or keep any patients in the skilled nursing
855 facility who are participating in the Medicaid program. This
856 written agreement by the recipient of the certificate of need
857 shall be fully binding on any subsequent owner of the skilled
858 nursing facility, if the ownership of the facility is transferred
859 at any time after the issuance of the certificate of need.
860 Agreement that the skilled nursing facility will not participate
861 in the Medicaid program shall be a condition of the issuance of a
862 certificate of need to any person under this paragraph (p), and if
863 such skilled nursing facility at any time after the issuance of
864 the certificate of need, regardless of the ownership of the
865 facility, participates in the Medicaid program or admits or keeps
866 any patients in the facility who are participating in the Medicaid
867 program, the State Department of Health shall revoke the
868 certificate of need, if it is still outstanding, and shall deny or
869 revoke the license of the skilled nursing facility, at the time
870 that the department determines, after a hearing complying with due
871 process, that the facility has failed to comply with any of the
872 conditions upon which the certificate of need was issued, as
873 provided in this paragraph and in the written agreement by the
874 recipient of the certificate of need. The provision of Section
875 41-7-193(1) regarding substantial compliance of the projection of
876 need as reported in the current State Health Plan is waived for
877 the purposes of this paragraph. If the certificate of need
878 authorized under this paragraph is not issued within twelve (12)



879 months after July 1, 1998, the department shall deny the
880 application for the certificate of need and shall not issue the
881 certificate of need at any time after the twelve-month period,
882 unless the issuance is contested. If the certificate of need is
883 issued and substantial construction of the nursing facility beds
884 has not commenced within eighteen (18) months after July 1, 1998,
885 the State Department of Health, after a hearing complying with due
886 process, shall revoke the certificate of need if it is still
887 outstanding, and the department shall not issue a license for the
888 nursing facility at any time after the eighteen-month period.
889 However, if the issuance of the certificate of need is contested,
890 the department shall require substantial construction of the
891 nursing facility beds within six (6) months after final
892 adjudication on the issuance of the certificate of need.

893 (q) (i) Beginning on July 1, 1999, the State
894 Department of Health shall issue certificates of need during each
895 of the next four (4) fiscal years for the construction or
896 expansion of nursing facility beds or the conversion of other beds
897 to nursing facility beds in each county in the state having a need
898 for fifty (50) or more additional nursing facility beds, as shown
899 in the fiscal year 1999 State Health Plan, in the manner provided
900 in this paragraph (q). The total number of nursing facility beds
901 that may be authorized by any certificate of need authorized under
902 this paragraph (q) shall not exceed sixty (60) beds.



903 (ii) Subject to the provisions of subparagraph
904 (v), during each of the next four (4) fiscal years, the department
905 shall issue six (6) certificates of need for new nursing facility
906 beds, as follows: During fiscal years 2000, 2001 and 2002, one
907 (1) certificate of need shall be issued for new nursing facility
908 beds in the county in each of the four (4) Long-Term Care Planning
909 Districts designated in the fiscal year 1999 State Health Plan
910 that has the highest need in the district for those beds; and two
911 (2) certificates of need shall be issued for new nursing facility
912 beds in the two (2) counties from the state at large that have the
913 highest need in the state for those beds, when considering the
914 need on a statewide basis and without regard to the Long-Term Care
915 Planning Districts in which the counties are located. During
916 fiscal year 2003, one (1) certificate of need shall be issued for
917 new nursing facility beds in any county having a need for fifty
918 (50) or more additional nursing facility beds, as shown in the
919 fiscal year 1999 State Health Plan, that has not received a
920 certificate of need under this paragraph (q) during the three (3)
921 previous fiscal years. During fiscal year 2000, in addition to
922 the six (6) certificates of need authorized in this subparagraph,
923 the department also shall issue a certificate of need for new
924 nursing facility beds in Amite County and a certificate of need
925 for new nursing facility beds in Carroll County.

926 (iii) Subject to the provisions of subparagraph
927 (v), the certificate of need issued under subparagraph (ii) for



928 nursing facility beds in each Long-Term Care Planning District
929 during each fiscal year shall first be available for nursing
930 facility beds in the county in the district having the highest
931 need for those beds, as shown in the fiscal year 1999 State Health
932 Plan. If there are no applications for a certificate of need for
933 nursing facility beds in the county having the highest need for
934 those beds by the date specified by the department, then the
935 certificate of need shall be available for nursing facility beds
936 in other counties in the district in descending order of the need
937 for those beds, from the county with the second highest need to
938 the county with the lowest need, until an application is received
939 for nursing facility beds in an eligible county in the district.

940 (iv) Subject to the provisions of subparagraph
941 (v), the certificate of need issued under subparagraph (ii) for
942 nursing facility beds in the two (2) counties from the state at
943 large during each fiscal year shall first be available for nursing
944 facility beds in the two (2) counties that have the highest need
945 in the state for those beds, as shown in the fiscal year 1999
946 State Health Plan, when considering the need on a statewide basis
947 and without regard to the Long-Term Care Planning Districts in
948 which the counties are located. If there are no applications for
949 a certificate of need for nursing facility beds in either of the
950 two (2) counties having the highest need for those beds on a
951 statewide basis by the date specified by the department, then the
952 certificate of need shall be available for nursing facility beds



953 in other counties from the state at large in descending order of
954 the need for those beds on a statewide basis, from the county with
955 the second highest need to the county with the lowest need, until
956 an application is received for nursing facility beds in an
957 eligible county from the state at large.

958 (v) If a certificate of need is authorized to be
959 issued under this paragraph (q) for nursing facility beds in a
960 county on the basis of the need in the Long-Term Care Planning
961 District during any fiscal year of the four-year period, a
962 certificate of need shall not also be available under this
963 paragraph (q) for additional nursing facility beds in that county
964 on the basis of the need in the state at large, and that county
965 shall be excluded in determining which counties have the highest
966 need for nursing facility beds in the state at large for that
967 fiscal year. After a certificate of need has been issued under
968 this paragraph (q) for nursing facility beds in a county during
969 any fiscal year of the four-year period, a certificate of need
970 shall not be available again under this paragraph (q) for
971 additional nursing facility beds in that county during the
972 four-year period, and that county shall be excluded in determining
973 which counties have the highest need for nursing facility beds in
974 succeeding fiscal years.

975 (vi) If more than one (1) application is made for
976 a certificate of need for nursing home facility beds available
977 under this paragraph (q), in Yalobusha, Newton or Tallahatchie



978 County, and one (1) of the applicants is a county-owned hospital
979 located in the county where the nursing facility beds are
980 available, the department shall give priority to the county-owned
981 hospital in granting the certificate of need if the following
982 conditions are met:

983 1. The county-owned hospital fully meets all
984 applicable criteria and standards required to obtain a certificate
985 of need for the nursing facility beds; and

986 2. The county-owned hospital's qualifications
987 for the certificate of need, as shown in its application and as
988 determined by the department, are at least equal to the
989 qualifications of the other applicants for the certificate of
990 need.

991 (r) (i) Beginning on July 1, 1999, the State
992 Department of Health shall issue certificates of need during each
993 of the next two (2) fiscal years for the construction or expansion
994 of nursing facility beds or the conversion of other beds to
995 nursing facility beds in each of the four (4) Long-Term Care
996 Planning Districts designated in the fiscal year 1999 State Health
997 Plan, to provide care exclusively to patients with Alzheimer's
998 disease.

999 (ii) Not more than twenty (20) beds may be
1000 authorized by any certificate of need issued under this paragraph
1001 (r), and not more than a total of sixty (60) beds may be
1002 authorized in any Long-Term Care Planning District by all



1003 certificates of need issued under this paragraph (r). However,
1004 the total number of beds that may be authorized by all
1005 certificates of need issued under this paragraph (r) during any
1006 fiscal year shall not exceed one hundred twenty (120) beds, and
1007 the total number of beds that may be authorized in any Long-Term
1008 Care Planning District during any fiscal year shall not exceed
1009 forty (40) beds. Of the certificates of need that are issued for
1010 each Long-Term Care Planning District during the next two (2)
1011 fiscal years, at least one (1) shall be issued for beds in the
1012 northern part of the district, at least one (1) shall be issued
1013 for beds in the central part of the district, and at least one (1)
1014 shall be issued for beds in the southern part of the district.

1015 (iii) The State Department of Health, in
1016 consultation with the Department of Mental Health and the Division
1017 of Medicaid, shall develop and prescribe the staffing levels,
1018 space requirements and other standards and requirements that must
1019 be met with regard to the nursing facility beds authorized under
1020 this paragraph (r) to provide care exclusively to patients with
1021 Alzheimer's disease.

1022 (s) The State Department of Health may issue a
1023 certificate of need to a nonprofit skilled nursing facility using
1024 the Green House model of skilled nursing care and located in Yazoo
1025 City, Yazoo County, Mississippi, for the construction, expansion
1026 or conversion of not more than nineteen (19) nursing facility
1027 beds. For purposes of this paragraph (s), the provisions of



1028 Section 41-7-193(1) requiring substantial compliance with the
1029 projection of need as reported in the current State Health Plan
1030 and the provisions of Section 41-7-197 requiring a formal
1031 certificate of need hearing process are waived. There shall be no
1032 prohibition or restrictions on participation in the Medicaid
1033 program for the person receiving the certificate of need
1034 authorized under this paragraph (s).

1035 (t) The State Department of Health shall issue
1036 certificates of need to the owner of a nursing facility in
1037 operation at the time of Hurricane Katrina in Hancock County that
1038 was not operational on December 31, 2005, because of damage
1039 sustained from Hurricane Katrina to authorize the following: (i)
1040 the construction of a new nursing facility in Harrison County;
1041 (ii) the relocation of forty-nine (49) nursing facility beds from
1042 the Hancock County facility to the new Harrison County facility;
1043 (iii) the establishment of not more than twenty (20) non-Medicaid
1044 nursing facility beds at the Hancock County facility; and (iv) the
1045 establishment of not more than twenty (20) non-Medicaid beds at
1046 the new Harrison County facility. The certificates of need that
1047 authorize the non-Medicaid nursing facility beds under
1048 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1049 subject to the following conditions: The owner of the Hancock
1050 County facility and the new Harrison County facility must agree in
1051 writing that no more than fifty (50) of the beds at the Hancock
1052 County facility and no more than forty-nine (49) of the beds at



1053 the Harrison County facility will be certified for participation
1054 in the Medicaid program, and that no claim will be submitted for
1055 Medicaid reimbursement for more than fifty (50) patients in the
1056 Hancock County facility in any month, or for more than forty-nine
1057 (49) patients in the Harrison County facility in any month, or for
1058 any patient in either facility who is in a bed that is not
1059 Medicaid-certified. This written agreement by the owner of the
1060 nursing facilities shall be a condition of the issuance of the
1061 certificates of need under this paragraph (t), and the agreement
1062 shall be fully binding on any later owner or owners of either
1063 facility if the ownership of either facility is transferred at any
1064 time after the certificates of need are issued. After this
1065 written agreement is executed, the Division of Medicaid and the
1066 State Department of Health shall not certify more than fifty (50)
1067 of the beds at the Hancock County facility or more than forty-nine
1068 (49) of the beds at the Harrison County facility for participation
1069 in the Medicaid program. If the Hancock County facility violates
1070 the terms of the written agreement by admitting or keeping in the
1071 facility on a regular or continuing basis more than fifty (50)
1072 patients who are participating in the Medicaid program, or if the
1073 Harrison County facility violates the terms of the written
1074 agreement by admitting or keeping in the facility on a regular or
1075 continuing basis more than forty-nine (49) patients who are
1076 participating in the Medicaid program, the State Department of
1077 Health shall revoke the license of the facility that is in



1078 violation of the agreement, at the time that the department
1079 determines, after a hearing complying with due process, that the
1080 facility has violated the agreement.

1081 (u) The State Department of Health shall issue a
1082 certificate of need to a nonprofit venture for the establishment,
1083 construction and operation of a skilled nursing facility of not
1084 more than sixty (60) beds to provide skilled nursing care for
1085 ventilator dependent or otherwise medically dependent pediatric
1086 patients who require medical and nursing care or rehabilitation
1087 services to be located in a county in which an academic medical
1088 center and a children's hospital are located, and for any
1089 construction and for the acquisition of equipment related to those
1090 beds. The facility shall be authorized to keep such ventilator
1091 dependent or otherwise medically dependent pediatric patients
1092 beyond age twenty-one (21) in accordance with regulations of the
1093 State Board of Health. For purposes of this paragraph (u), the
1094 provisions of Section 41-7-193(1) requiring substantial compliance
1095 with the projection of need as reported in the current State
1096 Health Plan are waived, and the provisions of Section 41-7-197
1097 requiring a formal certificate of need hearing process are waived.
1098 The beds authorized by this paragraph shall be counted as
1099 pediatric skilled nursing facility beds for health planning
1100 purposes under Section 41-7-171 et seq. There shall be no
1101 prohibition of or restrictions on participation in the Medicaid



1102 program for the person receiving the certificate of need
1103 authorized by this paragraph.

1104 (3) The State Department of Health may grant approval for
1105 and issue certificates of need to any person proposing the new
1106 construction of, addition to, conversion of beds of or expansion
1107 of any health care facility defined in subparagraph (x)
1108 (psychiatric residential treatment facility) of Section
1109 41-7-173(h). The total number of beds which may be authorized by
1110 such certificates of need shall not exceed three hundred
1111 thirty-four (334) beds for the entire state.

1112 (a) Of the total number of beds authorized under this
1113 subsection, the department shall issue a certificate of need to a
1114 privately owned psychiatric residential treatment facility in
1115 Simpson County for the conversion of sixteen (16) intermediate
1116 care facility for the mentally retarded (ICF-MR) beds to
1117 psychiatric residential treatment facility beds, provided that
1118 facility agrees in writing that the facility shall give priority
1119 for the use of those sixteen (16) beds to Mississippi residents
1120 who are presently being treated in out-of-state facilities.

1121 (b) Of the total number of beds authorized under this
1122 subsection, the department may issue a certificate or certificates
1123 of need for the construction or expansion of psychiatric
1124 residential treatment facility beds or the conversion of other
1125 beds to psychiatric residential treatment facility beds in Warren
1126 County, not to exceed sixty (60) psychiatric residential treatment



1127 facility beds, provided that the facility agrees in writing that
1128 no more than thirty (30) of the beds at the psychiatric
1129 residential treatment facility will be certified for participation
1130 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1131 any patients other than those who are participating only in the
1132 Medicaid program of another state, and that no claim will be
1133 submitted to the Division of Medicaid for Medicaid reimbursement
1134 for more than thirty (30) patients in the psychiatric residential
1135 treatment facility in any day or for any patient in the
1136 psychiatric residential treatment facility who is in a bed that is
1137 not Medicaid-certified. This written agreement by the recipient
1138 of the certificate of need shall be a condition of the issuance of
1139 the certificate of need under this paragraph, and the agreement
1140 shall be fully binding on any subsequent owner of the psychiatric
1141 residential treatment facility if the ownership of the facility is
1142 transferred at any time after the issuance of the certificate of
1143 need. After this written agreement is executed, the Division of
1144 Medicaid and the State Department of Health shall not certify more
1145 than thirty (30) of the beds in the psychiatric residential
1146 treatment facility for participation in the Medicaid program for
1147 the use of any patients other than those who are participating
1148 only in the Medicaid program of another state. If the psychiatric
1149 residential treatment facility violates the terms of the written
1150 agreement by admitting or keeping in the facility on a regular or
1151 continuing basis more than thirty (30) patients who are



1152 participating in the Mississippi Medicaid program, the State
1153 Department of Health shall revoke the license of the facility, at
1154 the time that the department determines, after a hearing complying
1155 with due process, that the facility has violated the condition
1156 upon which the certificate of need was issued, as provided in this
1157 paragraph and in the written agreement.

1158 The State Department of Health, on or before July 1, 2002,
1159 shall transfer the certificate of need authorized under the
1160 authority of this paragraph (b), or reissue the certificate of
1161 need if it has expired, to River Region Health System.

1162 (c) Of the total number of beds authorized under this
1163 subsection, the department shall issue a certificate of need to a
1164 hospital currently operating Medicaid-certified acute psychiatric
1165 beds for adolescents in DeSoto County, for the establishment of a
1166 forty-bed psychiatric residential treatment facility in DeSoto
1167 County, provided that the hospital agrees in writing (i) that the
1168 hospital shall give priority for the use of those forty (40) beds
1169 to Mississippi residents who are presently being treated in
1170 out-of-state facilities, and (ii) that no more than fifteen (15)
1171 of the beds at the psychiatric residential treatment facility will
1172 be certified for participation in the Medicaid program (Section
1173 43-13-101 et seq.), and that no claim will be submitted for
1174 Medicaid reimbursement for more than fifteen (15) patients in the
1175 psychiatric residential treatment facility in any day or for any
1176 patient in the psychiatric residential treatment facility who is



1177 in a bed that is not Medicaid-certified. This written agreement
1178 by the recipient of the certificate of need shall be a condition
1179 of the issuance of the certificate of need under this paragraph,
1180 and the agreement shall be fully binding on any subsequent owner
1181 of the psychiatric residential treatment facility if the ownership
1182 of the facility is transferred at any time after the issuance of
1183 the certificate of need. After this written agreement is
1184 executed, the Division of Medicaid and the State Department of
1185 Health shall not certify more than fifteen (15) of the beds in the
1186 psychiatric residential treatment facility for participation in
1187 the Medicaid program. If the psychiatric residential treatment
1188 facility violates the terms of the written agreement by admitting
1189 or keeping in the facility on a regular or continuing basis more
1190 than fifteen (15) patients who are participating in the Medicaid
1191 program, the State Department of Health shall revoke the license
1192 of the facility, at the time that the department determines, after
1193 a hearing complying with due process, that the facility has
1194 violated the condition upon which the certificate of need was
1195 issued, as provided in this paragraph and in the written
1196 agreement.

1197 (d) Of the total number of beds authorized under this
1198 subsection, the department may issue a certificate or certificates
1199 of need for the construction or expansion of psychiatric
1200 residential treatment facility beds or the conversion of other
1201 beds to psychiatric treatment facility beds, not to exceed thirty



1202 (30) psychiatric residential treatment facility beds, in either
1203 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1204 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1205 (e) Of the total number of beds authorized under this
1206 subsection (3) the department shall issue a certificate of need to
1207 a privately owned, nonprofit psychiatric residential treatment
1208 facility in Hinds County for an eight-bed expansion of the
1209 facility, provided that the facility agrees in writing that the
1210 facility shall give priority for the use of those eight (8) beds
1211 to Mississippi residents who are presently being treated in
1212 out-of-state facilities.

1213 (f) The department shall issue a certificate of need to
1214 a one-hundred-thirty-four-bed specialty hospital located on
1215 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1216 at 5900 Highway 39 North in Meridian (Lauderdale County),
1217 Mississippi, for the addition, construction or expansion of
1218 child/adolescent psychiatric residential treatment facility beds
1219 in Lauderdale County. As a condition of issuance of the
1220 certificate of need under this paragraph, the facility shall give
1221 priority in admissions to the child/adolescent psychiatric
1222 residential treatment facility beds authorized under this
1223 paragraph to patients who otherwise would require out-of-state
1224 placement. The Division of Medicaid, in conjunction with the
1225 Department of Human Services, shall furnish the facility a list of
1226 all out-of-state patients on a quarterly basis. Furthermore,



1227 notice shall also be provided to the parent, custodial parent or
1228 guardian of each out-of-state patient notifying them of the
1229 priority status granted by this paragraph. For purposes of this
1230 paragraph, the provisions of Section 41-7-193(1) requiring
1231 substantial compliance with the projection of need as reported in
1232 the current State Health Plan are waived. The total number of
1233 child/adolescent psychiatric residential treatment facility beds
1234 that may be authorized under the authority of this paragraph shall
1235 be sixty (60) beds. There shall be no prohibition or restrictions
1236 on participation in the Medicaid program (Section 43-13-101 et
1237 seq.) for the person receiving the certificate of need authorized
1238 under this paragraph or for the beds converted pursuant to the
1239 authority of that certificate of need.

1240 (4) * * * [Deleted]

1241 (5) The department may issue a certificate of need to a
1242 county hospital in Winston County for the conversion of fifteen
1243 (15) acute care beds to geriatric psychiatric care beds.

1244 (6) The State Department of Health shall issue a certificate
1245 of need to a Mississippi corporation qualified to manage a
1246 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1247 Harrison County, not to exceed eighty (80) beds, including any
1248 necessary renovation or construction required for licensure and
1249 certification, provided that the recipient of the certificate of
1250 need agrees in writing that the long-term care hospital will not
1251 at any time participate in the Medicaid program (Section 43-13-101



1252 et seq.) or admit or keep any patients in the long-term care
1253 hospital who are participating in the Medicaid program. This
1254 written agreement by the recipient of the certificate of need
1255 shall be fully binding on any subsequent owner of the long-term
1256 care hospital, if the ownership of the facility is transferred at
1257 any time after the issuance of the certificate of need. Agreement
1258 that the long-term care hospital will not participate in the
1259 Medicaid program shall be a condition of the issuance of a
1260 certificate of need to any person under this subsection (6), and
1261 if such long-term care hospital at any time after the issuance of
1262 the certificate of need, regardless of the ownership of the
1263 facility, participates in the Medicaid program or admits or keeps
1264 any patients in the facility who are participating in the Medicaid
1265 program, the State Department of Health shall revoke the
1266 certificate of need, if it is still outstanding, and shall deny or
1267 revoke the license of the long-term care hospital, at the time
1268 that the department determines, after a hearing complying with due
1269 process, that the facility has failed to comply with any of the
1270 conditions upon which the certificate of need was issued, as
1271 provided in this subsection and in the written agreement by the
1272 recipient of the certificate of need. For purposes of this
1273 subsection, the provisions of Section 41-7-193(1) requiring
1274 substantial compliance with the projection of need as reported in
1275 the current State Health Plan are waived.



1276 (7) The State Department of Health may issue a certificate
1277 of need to any hospital in the state to utilize a portion of its
1278 beds for the "swing-bed" concept. Any such hospital must be in
1279 conformance with the federal regulations regarding such swing-bed
1280 concept at the time it submits its application for a certificate
1281 of need to the State Department of Health, except that such
1282 hospital may have more licensed beds or a higher average daily
1283 census (ADC) than the maximum number specified in federal
1284 regulations for participation in the swing-bed program. Any
1285 hospital meeting all federal requirements for participation in the
1286 swing-bed program which receives such certificate of need shall
1287 render services provided under the swing-bed concept to any
1288 patient eligible for Medicare (Title XVIII of the Social Security
1289 Act) who is certified by a physician to be in need of such
1290 services, and no such hospital shall permit any patient who is
1291 eligible for both Medicaid and Medicare or eligible only for
1292 Medicaid to stay in the swing beds of the hospital for more than
1293 thirty (30) days per admission unless the hospital receives prior
1294 approval for such patient from the Division of Medicaid, Office of
1295 the Governor. Any hospital having more licensed beds or a higher
1296 average daily census (ADC) than the maximum number specified in
1297 federal regulations for participation in the swing-bed program
1298 which receives such certificate of need shall develop a procedure
1299 to insure that before a patient is allowed to stay in the swing
1300 beds of the hospital, there are no vacant nursing home beds



1301 available for that patient located within a fifty-mile radius of
1302 the hospital. When any such hospital has a patient staying in the
1303 swing beds of the hospital and the hospital receives notice from a
1304 nursing home located within such radius that there is a vacant bed
1305 available for that patient, the hospital shall transfer the
1306 patient to the nursing home within a reasonable time after receipt
1307 of the notice. Any hospital which is subject to the requirements
1308 of the two (2) preceding sentences of this subsection may be
1309 suspended from participation in the swing-bed program for a
1310 reasonable period of time by the State Department of Health if the
1311 department, after a hearing complying with due process, determines
1312 that the hospital has failed to comply with any of those
1313 requirements.

1314 (8) The Department of Health shall not grant approval for or
1315 issue a certificate of need to any person proposing the new
1316 construction of, addition to or expansion of a health care
1317 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1318 except as hereinafter provided: The department may issue a
1319 certificate of need to a nonprofit corporation located in Madison
1320 County, Mississippi, for the construction, expansion or conversion
1321 of not more than twenty (20) beds in a community living program
1322 for developmentally disabled adults in a facility as defined in
1323 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1324 subsection (8), the provisions of Section 41-7-193(1) requiring
1325 substantial compliance with the projection of need as reported in



1326 the current State Health Plan and the provisions of Section
1327 41-7-197 requiring a formal certificate of need hearing process
1328 are waived. There shall be no prohibition or restrictions on
1329 participation in the Medicaid program for the person receiving the
1330 certificate of need authorized under this subsection (8).

1331 (9) The Department of Health shall not grant approval for or
1332 issue a certificate of need to any person proposing the
1333 establishment of, or expansion of the currently approved territory
1334 of, or the contracting to establish a home office, subunit or
1335 branch office within the space operated as a health care facility
1336 as defined in Section 41-7-173(h)(i) through (viii) by a health
1337 care facility as defined in subparagraph (ix) of Section
1338 41-7-173(h).

1339 (10) Health care facilities owned and/or operated by the
1340 state or its agencies are exempt from the restraints in this
1341 section against issuance of a certificate of need if such addition
1342 or expansion consists of repairing or renovation necessary to
1343 comply with the state licensure law. This exception shall not
1344 apply to the new construction of any building by such state
1345 facility. This exception shall not apply to any health care
1346 facilities owned and/or operated by counties, municipalities,
1347 districts, unincorporated areas, other defined persons, or any
1348 combination thereof.

1349 (11) The new construction, renovation or expansion of or
1350 addition to any health care facility defined in subparagraph (ii)



1351 (psychiatric hospital), subparagraph (iv) (skilled nursing
1352 facility), subparagraph (vi) (intermediate care facility),
1353 subparagraph (viii) (intermediate care facility for the mentally
1354 retarded) and subparagraph (x) (psychiatric residential treatment
1355 facility) of Section 41-7-173(h) which is owned by the State of
1356 Mississippi and under the direction and control of the State
1357 Department of Mental Health, and the addition of new beds or the
1358 conversion of beds from one category to another in any such
1359 defined health care facility which is owned by the State of
1360 Mississippi and under the direction and control of the State
1361 Department of Mental Health, shall not require the issuance of a
1362 certificate of need under Section 41-7-171 et seq.,
1363 notwithstanding any provision in Section 41-7-171 et seq. to the
1364 contrary.

1365 (12) The new construction, renovation or expansion of or
1366 addition to any veterans homes or domiciliaries for eligible
1367 veterans of the State of Mississippi as authorized under Section
1368 35-1-19 shall not require the issuance of a certificate of need,
1369 notwithstanding any provision in Section 41-7-171 et seq. to the
1370 contrary.

1371 (13) The repair or the rebuilding of an existing, operating
1372 health care facility that sustained significant damage from a
1373 natural disaster that occurred after April 15, 2014, in an area
1374 that is proclaimed a disaster area or subject to a state of
1375 emergency by the Governor or by the President of the United States



1376 shall be exempt from all of the requirements of the Mississippi
1377 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1378 rules and regulations promulgated under that law, subject to the
1379 following conditions:

1380 (a) The repair or the rebuilding of any such damaged
1381 health care facility must be within one (1) mile of the
1382 pre-disaster location of the campus of the damaged health care
1383 facility, except that any temporary post-disaster health care
1384 facility operating location may be within five (5) miles of the
1385 pre-disaster location of the damaged health care facility;

1386 (b) The repair or the rebuilding of the damaged health
1387 care facility (i) does not increase or change the complement of
1388 its bed capacity that it had before the Governor's or the
1389 President's proclamation, (ii) does not increase or change its
1390 levels and types of health care services that it provided before
1391 the Governor's or the President's proclamation, and (iii) does not
1392 rebuild in a different county; however, this paragraph does not
1393 restrict or prevent a health care facility from decreasing its bed
1394 capacity that it had before the Governor's or the President's
1395 proclamation, or from decreasing the levels of or decreasing or
1396 eliminating the types of health care services that it provided
1397 before the Governor's or the President's proclamation, when the
1398 damaged health care facility is repaired or rebuilt;

1399 (c) The exemption from Certificate of Need Law provided
1400 under this subsection (13) is valid for only five (5) years from



1401 the date of the Governor's or the President's proclamation. If
1402 actual construction has not begun within that five-year period,
1403 the exemption provided under this subsection is inapplicable; and

1404 (d) The Division of Health Facilities Licensure and
1405 Certification of the State Department of Health shall provide the
1406 same oversight for the repair or the rebuilding of the damaged
1407 health care facility that it provides to all health care facility
1408 construction projects in the state.

1409 For the purposes of this subsection (13), "significant
1410 damage" to a health care facility means damage to the health care
1411 facility requiring an expenditure of at least One Million Dollars
1412 (\$1,000,000.00).

1413 (14) The State Department of Health shall issue a
1414 certificate of need to any hospital which is currently licensed
1415 for two hundred fifty (250) or more acute care beds and is located
1416 in any general hospital service area not having a comprehensive
1417 cancer center, for the establishment and equipping of such a
1418 center which provides facilities and services for outpatient
1419 radiation oncology therapy, outpatient medical oncology therapy,
1420 and appropriate support services including the provision of
1421 radiation therapy services. The provisions of Section 41-7-193(1)
1422 regarding substantial compliance with the projection of need as
1423 reported in the current State Health Plan are waived for the
1424 purpose of this subsection.



1425 (15) The State Department of Health may authorize the
1426 transfer of hospital beds, not to exceed sixty (60) beds, from the
1427 North Panola Community Hospital to the South Panola Community
1428 Hospital. The authorization for the transfer of those beds shall
1429 be exempt from the certificate of need review process.

1430 (16) The State Department of Health shall issue any
1431 certificates of need necessary for Mississippi State University
1432 and a public or private health care provider to jointly acquire
1433 and operate a linear accelerator and a magnetic resonance imaging
1434 unit. Those certificates of need shall cover all capital
1435 expenditures related to the project between Mississippi State
1436 University and the health care provider, including, but not
1437 limited to, the acquisition of the linear accelerator, the
1438 magnetic resonance imaging unit and other radiological modalities;
1439 the offering of linear accelerator and magnetic resonance imaging
1440 services; and the cost of construction of facilities in which to
1441 locate these services. The linear accelerator and the magnetic
1442 resonance imaging unit shall be (a) located in the City of
1443 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1444 Mississippi State University and the public or private health care
1445 provider selected by Mississippi State University through a
1446 request for proposals (RFP) process in which Mississippi State
1447 University selects, and the Board of Trustees of State
1448 Institutions of Higher Learning approves, the health care provider
1449 that makes the best overall proposal; (c) available to Mississippi



1450 State University for research purposes two-thirds (2/3) of the
1451 time that the linear accelerator and magnetic resonance imaging
1452 unit are operational; and (d) available to the public or private
1453 health care provider selected by Mississippi State University and
1454 approved by the Board of Trustees of State Institutions of Higher
1455 Learning one-third (1/3) of the time for clinical, diagnostic and
1456 treatment purposes. For purposes of this subsection, the
1457 provisions of Section 41-7-193(1) requiring substantial compliance
1458 with the projection of need as reported in the current State
1459 Health Plan are waived.

1460 (17) The State Department of Health shall issue a
1461 certificate of need for the construction of an acute care hospital
1462 in Kemper County, not to exceed twenty-five (25) beds, which shall
1463 be named the "John C. Stennis Memorial Hospital." In issuing the
1464 certificate of need under this subsection, the department shall
1465 give priority to a hospital located in Lauderdale County that has
1466 two hundred fifteen (215) beds. For purposes of this subsection,
1467 the provisions of Section 41-7-193(1) requiring substantial
1468 compliance with the projection of need as reported in the current
1469 State Health Plan and the provisions of Section 41-7-197 requiring
1470 a formal certificate of need hearing process are waived. There
1471 shall be no prohibition or restrictions on participation in the
1472 Medicaid program (Section 43-13-101 et seq.) for the person or
1473 entity receiving the certificate of need authorized under this



1474 subsection or for the beds constructed under the authority of that
1475 certificate of need.

1476 (18) The planning, design, construction, renovation,
1477 addition, furnishing and equipping of a clinical research unit at
1478 any health care facility defined in Section 41-7-173(h) that is
1479 under the direction and control of the University of Mississippi
1480 Medical Center and located in Jackson, Mississippi, and the
1481 addition of new beds or the conversion of beds from one (1)
1482 category to another in any such clinical research unit, shall not
1483 require the issuance of a certificate of need under Section
1484 41-7-171 et seq., notwithstanding any provision in Section
1485 41-7-171 et seq. to the contrary.

1486 (19) [Repealed]

1487 (20) Nothing in this section or in any other provision of
1488 Section 41-7-171 et seq. shall prevent any nursing facility from
1489 designating an appropriate number of existing beds in the facility
1490 as beds for providing care exclusively to patients with
1491 Alzheimer's disease.

1492 **SECTION 4.** Section 41-29-149.1, Mississippi Code of 1972, is
1493 amended as follows:

1494 41-29-149.1. (1) This section shall be known as the
1495 "Mississippi Medical Emergency Good Samaritan Act."

1496 (2) As used in this section, the following words shall have
1497 the meanings ascribed:



1498 (a) "Drug overdose" means an acute condition,
1499 including, but not limited to, extreme physical illness, decreased
1500 level of consciousness, respiratory depression, coma, mania, or
1501 death, resulting from the consumption or use of a controlled
1502 substance or dangerous drug in violation of this chapter or that a
1503 layperson would reasonably believe to be resulting from the
1504 consumption or use of a controlled substance or dangerous drug for
1505 which medical assistance is required.

1506 (b) "Drug violation" means * * * a violation of Section
1507 41-29-139 * * *, 41-29-144, 41-29-145, 67-1-17, 67-1-81(2),
1508 67-3-13 or 67-3-70.

1509 (c) "Medical assistance" means aid provided to a person
1510 experiencing or believed to be experiencing a drug overdose by a
1511 health care professional who is licensed, registered, or certified
1512 under the laws of this state and who, acting within the lawful
1513 scope of practice, may provide diagnosis, treatment, or emergency
1514 services relative to the overdose.

1515 (d) "Seeks medical assistance" means accesses or
1516 assists in accessing the E-911 system or otherwise contacts or
1517 assists in contacting law enforcement or a poison control center
1518 or provides care to a person experiencing or believed to be
1519 experiencing a drug overdose while awaiting the arrival of medical
1520 assistance to aid the person.

1521 (3) (a) Any person who in good faith seeks medical
1522 assistance for someone who is experiencing a drug overdose shall



1523 not be arrested, charged, or prosecuted for a drug violation if
1524 there is evidence that the person is under the influence of a
1525 controlled substance or in possession of a controlled substance as
1526 referenced in subsection (2)(b) of this section.

1527 (b) Any person who is experiencing a drug overdose and,
1528 in good faith, seeks medical assistance or is the subject of a
1529 request for medical assistance shall not be arrested, charged, or
1530 prosecuted for a drug violation if there is evidence that the
1531 person is under the influence of a controlled substance or in
1532 possession of a controlled substance as referenced in subsection
1533 (2)(b) of this section.

1534 (c) A person shall also not be subject to, if related
1535 to the seeking of medical assistance:

1536 (i) Penalties for a violation of a permanent or
1537 temporary protective order or restraining order;

1538 (ii) Sanctions for a violation of a condition of
1539 pretrial release, condition of probation, or condition of parole
1540 based on a drug violation; or

1541 (iii) Forfeiture of property pursuant to Section
1542 41-29-153 or 41-29-176 for a drug violation, except that prima
1543 facie contraband shall be subject to forfeiture.

1544 (4) Nothing in this section shall be construed:

1545 (a) To limit the admissibility of any evidence in
1546 connection with the investigation or prosecution of a crime with
1547 regard to a defendant who does not qualify for the protections of



1548 subsection (3) of this section or with regard to other crimes
1549 committed by a person who otherwise qualifies for protection
1550 pursuant to subsection (3) of this section;

1551 (b) To limit any seizure of evidence or contraband
1552 otherwise permitted by law; and

1553 (c) To limit or abridge the authority of a law
1554 enforcement officer to detain or take into custody a person in the
1555 course of an investigation or to effectuate an arrest for any
1556 offense except as provided in subsection (3) of this section.

1557 **SECTION 5.** Section 41-127-1, Mississippi Code of 1972, is
1558 amended as follows:

1559 41-127-1. Subject to the limitations of the license under
1560 which the individual is practicing, a health care practitioner
1561 licensed in this state may prescribe, dispense, or administer
1562 drugs or medical supplies, or otherwise provide treatment
1563 recommendations to a patient after having performed an appropriate
1564 examination of the patient either in person or by the use of
1565 instrumentation and diagnostic equipment through which images and
1566 medical records may be transmitted electronically. Treatment
1567 recommendations made via electronic means, including issuing a
1568 prescription via electronic means, shall be held to the same
1569 standards of appropriate practice as those in traditional
1570 provider-patient settings.

1571 Notwithstanding any other provision of law, rule or
1572 regulation, telemedicine providers shall be authorized to provide



1573 treatment for substance use disorders, including
1574 medication-assisted treatment.

1575 **SECTION 6.** The State Board of Medical Licensure shall adopt
1576 reasonable regulations that allow primary care physicians to
1577 provide maintenance therapy for persons with identified substance
1578 use disorders and allow those physicians to provide that treatment
1579 until the person can receive treatment from a licensed treatment
1580 provider.

1581 **SECTION 7.** A municipality, county or other political
1582 subdivision of this state shall not place rules, regulations,
1583 requirements or zoning restrictions on drug and alcohol treatment
1584 centers. Any current rule, regulation, requirement or zoning
1585 restriction that violates the provisions of this section shall be
1586 explicitly preempted and voided by this section.

1587 **SECTION 8.** (1) A municipality, county or public or private
1588 educational institutions may adopt a pre-arrest diversion program
1589 in which:

1590 (a) Law enforcement officers of the entity that adopted
1591 the program, at their sole discretion, may divert adults who
1592 commit a nonviolent misdemeanor offense. Adults who are diverted
1593 shall report for intake as required by the pre-arrest diversion
1594 program and shall be provided appropriate assessment,
1595 intervention, education and behavioral health care services. If
1596 the adult does not participate in the pre-arrest diversion
1597 program, the law enforcement agency may criminally charge the



1598 adult for the original offense and refer the case to the
1599 appropriate prosecuting agency to determine if prosecution is
1600 appropriate. If the adult successfully completes the program, an
1601 arrest record shall not be associated with the offense.

1602 (b) A municipality, county or public or private
1603 educational institution that adopts a pre-arrest diversion program
1604 shall create a steering committee for the program to develop
1605 policies and procedures for the program, including, but not
1606 limited to, eligibility criteria, program implementation and
1607 operation, and the fee to be paid by adults participating in the
1608 program. At a minimum, the steering committee must be composed of
1609 representatives of the law enforcement agencies participating in
1610 the program, a representative of the program services provider, a
1611 public defender or his or her designee, a prosecuting attorney or
1612 his or her designee, a clerk of the circuit court or his or her
1613 designee, and other interested stakeholders.

1614 (2) This section does not preempt a county or municipality
1615 from enacting noncriminal sanctions for a violation of an
1616 ordinance or other violation, and does not preempt a county,
1617 municipality or public or private educational institution from
1618 creating its own model for a pre-arrest diversion program for
1619 adults.

1620 **SECTION 9.** Section 9-23-13, Mississippi Code of 1972, is
1621 amended as follows:



1622 9-23-13. (1) A drug court's alcohol and drug intervention
1623 component shall provide for eligible individuals, either directly
1624 or through referrals, a range of necessary court intervention
1625 services, including, but not limited to, the following:

1626 (a) Screening using a valid and reliable assessment
1627 tool effective for identifying alcohol and drug dependent persons
1628 for eligibility and appropriate services;

1629 (b) Clinical assessment;

1630 (c) Education;

1631 (d) Referral;

1632 (e) Service coordination and case management; * * *

1633 (f) Counseling and rehabilitative care * * *; and

1634 (g) Medication-assisted treatment.

1635 (2) Any inpatient treatment or inpatient detoxification
1636 program ordered by the court shall be certified by the Department
1637 of Mental Health, other appropriate state agency or the equivalent
1638 agency of another state.

1639 **SECTION 10.** Section 41-29-137, Mississippi Code of 1972, is
1640 brought forward as follows:

1641 41-29-137. (a) (1) Except when dispensed directly by a
1642 practitioner, other than a pharmacy, to an ultimate user, no
1643 controlled substance in Schedule II, as set out in Section
1644 41-29-115, may be dispensed without the written valid prescription
1645 of a practitioner. A practitioner shall keep a record of all
1646 controlled substances in Schedule I, II and III administered,



1647 dispensed or professionally used by him otherwise than by
1648 prescription.

1649 (2) In emergency situations, as defined by rule of the
1650 State Board of Pharmacy, Schedule II drugs may be dispensed upon
1651 the oral valid prescription of a practitioner, reduced promptly to
1652 writing and filed by the pharmacy. Prescriptions shall be
1653 retained in conformity with the requirements of Section 41-29-133.
1654 No prescription for a Schedule II substance may be refilled unless
1655 renewed by prescription issued by a licensed medical doctor.

1656 (b) Except when dispensed directly by a practitioner, other
1657 than a pharmacy, to an ultimate user, a controlled substance
1658 included in Schedule III or IV, as set out in Sections 41-29-117
1659 and 41-29-119, shall not be dispensed without a written or oral
1660 valid prescription of a practitioner. The prescription shall not
1661 be filled or refilled more than six (6) months after the date
1662 thereof or be refilled more than five (5) times, unless renewed by
1663 the practitioner.

1664 (c) A controlled substance included in Schedule V, as set
1665 out in Section 41-29-121, shall not be distributed or dispensed
1666 other than for a medical purpose.

1667 (d) An optometrist certified to prescribe and use
1668 therapeutic pharmaceutical agents under Sections 73-19-153 through
1669 73-19-165 shall be authorized to prescribe oral analgesic
1670 controlled substances in Schedule IV or V, as pertains to



1671 treatment and management of eye disease by written prescription
1672 only.

1673 (e) Administration by injection of any pharmaceutical
1674 product authorized in this section is expressly prohibited except
1675 when dispensed directly by a practitioner other than a pharmacy.

1676 (f) (1) For the purposes of this article, Title 73, Chapter
1677 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it
1678 pertains to prescriptions for controlled substances, a "valid
1679 prescription" means a prescription that is issued for a legitimate
1680 medical purpose in the usual course of professional practice by:

1681 (A) A practitioner who has conducted at least one
1682 (1) in-person medical evaluation of the patient; or

1683 (B) A covering practitioner.

1684 (2) (A) "In-person medical evaluation" means a medical
1685 evaluation that is conducted with the patient in the physical
1686 presence of the practitioner, without regard to whether portions
1687 of the evaluation are conducted by other health professionals.

1688 (B) "Covering practitioner" means a practitioner
1689 who conducts a medical evaluation other than an in-person medical
1690 evaluation at the request of a practitioner who has conducted at
1691 least one (1) in-person medical evaluation of the patient or an
1692 evaluation of the patient through the practice of telemedicine
1693 within the previous twenty-four (24) months and who is temporarily
1694 unavailable to conduct the evaluation of the patient.



1695 (3) A prescription for a controlled substance based
1696 solely on a consumer's completion of an online medical
1697 questionnaire is not a valid prescription.

1698 (4) Nothing in this subsection (b) shall apply to:

1699 (A) A prescription issued by a practitioner
1700 engaged in the practice of telemedicine as authorized under state
1701 or federal law; or

1702 (B) The dispensing or selling of a controlled
1703 substance pursuant to practices as determined by the United States
1704 Attorney General by regulation.

1705 **SECTION 11.** Section 41-29-319, Mississippi Code of 1972, is
1706 brought forward as follows:

1707 41-29-319. (1) This section shall be known as the
1708 "Emergency Response and Overdose Prevention Act."

1709 (2) As used in this section, the following terms shall be
1710 defined as provided in this subsection:

1711 (a) "Practitioner" means a physician licensed to
1712 practice medicine in this state or any licensed health care
1713 provider who is authorized to prescribe an opioid antagonist.

1714 (b) "Opioid antagonist" means any drug that binds to
1715 opioid receptors and blocks or inhibits the effects of opioids
1716 acting on those receptors and that is approved by the federal Food
1717 and Drug Administration for the treatment of an opioid-related
1718 overdose.



1719 (c) "Opioid-related overdose" means an acute condition,
1720 including, but not limited to, extreme physical illness, decreased
1721 level of consciousness, respiratory depression, coma, mania or
1722 death, resulting from the consumption or use of an opioid or
1723 another substance with which an opioid was combined or that a
1724 layperson would reasonably believe to be resulting from the
1725 consumption or use of an opioid or another substance with which an
1726 opioid was combined for which medical assistance is required.

1727 (d) "Emergency medical technician" means an individual
1728 who possesses a valid emergency medical technician's certificate
1729 issued under Section 41-59-33.

1730 (3) (a) A practitioner acting in good faith and in
1731 compliance with the standard of care applicable to that
1732 practitioner may directly or by standing order prescribe an opioid
1733 antagonist to a person at risk of experiencing an opioid-related
1734 overdose or to a registered pain management clinic, family member,
1735 friend or other person in a position to assist such person at risk
1736 of experiencing an opioid-related overdose.

1737 (b) A practitioner acting in good faith and in
1738 compliance with the standard of care applicable to that
1739 practitioner may issue a standing order to one or more individual
1740 pharmacies that authorizes the pharmacy to dispense an opioid
1741 antagonist to a person at risk of experiencing an opioid-related
1742 overdose or to a family member, friend or other person in a
1743 position to assist such person at risk of experiencing an



1744 opioid-related overdose, without the person to whom the opioid
1745 antagonist is dispensed needing to have an individual
1746 prescription.

1747 (4) A pharmacist acting in good faith and in compliance with
1748 the standard of care applicable to pharmacists may dispense opioid
1749 antagonists under a prescription or a standing order issued in
1750 accordance with subsection (3) of this section. However, before a
1751 pharmacist may dispense an opioid antagonist under the authority
1752 of subsection (3)(b) of this section, the pharmacist must complete
1753 a training program approved by the State Board of Pharmacy on
1754 opioid antagonists.

1755 (5) A person acting in good faith and with reasonable care
1756 to another person whom he or she believes to be experiencing an
1757 opioid-related overdose may administer an opioid antagonist that
1758 was prescribed or authorized by a standing order in accordance
1759 with subsection (3) of this section.

1760 (6) Emergency medical technicians, firefighters and law
1761 enforcement officers acting in good faith shall be authorized and
1762 permitted to administer an opioid antagonist as clinically
1763 indicated. Failure of an emergency medical technician,
1764 firefighter or law enforcement officer to act shall not expose
1765 such person to any criminal or civil liability.

1766 (7) The following individuals are immune from any civil or
1767 criminal liability or professional licensing sanctions for the
1768 following actions authorized by this section:



1769 (a) Any practitioner who prescribes or issues a
1770 standing order for an opioid antagonist in accordance with
1771 subsection (3) of this section;

1772 (b) Any practitioner or pharmacist acting in good faith
1773 and in compliance with the standard of care applicable to that
1774 practitioner or pharmacist who dispenses an opioid antagonist
1775 under a prescription or standing order issued in accordance with
1776 subsection (3) of this section;

1777 (c) Any person other than a practitioner who
1778 administers an opioid antagonist in accordance with subsection (5)
1779 of this section; and

1780 (d) Any emergency medical technician, firefighters and
1781 law enforcement officers who administers an opioid antagonist in
1782 accordance with subsection (6) of this section.

1783 **SECTION 12.** Section 41-29-321, Mississippi Code of 1972, is
1784 brought forward as follows:

1785 41-29-321. The Mississippi State Department of Health shall
1786 create and offer training for first responders that meets the
1787 following criteria:

1788 (a) The course content must include:

1789 (i) The signs and symptoms of an opioid overdose;

1790 (ii) The protocols and procedures for

1791 administration of an opioid antagonist;

1792 (iii) The signs and symptoms of an adverse

1793 reaction to an opioid antagonist;



1794 (iv) The protocols and procedures to stabilize the
1795 patient if an adverse response occurs;

1796 (v) The procedures for storage, transport and
1797 security of the opioid antagonist.

1798 (b) The method of opioid antagonist administration
1799 being taught.

1800 (c) Training will be overseen by a physician or
1801 pharmacist licensed in this state.

1802 (d) Subject to the oversight required in paragraph (c)
1803 of this section, training may be provided by the employer of the
1804 first responder.

1805 (e) First responders trained to possess and administer
1806 opioid antagonists must be retrained at least every three (3)
1807 years.

1808 **SECTION 13.** Section 73-9-13, Mississippi Code of 1972, is
1809 brought forward as follows:

1810 73-9-13. The State Board of Dental Examiners shall each year
1811 elect from their number a president, vice president and
1812 secretary-treasurer to serve for the coming year and until their
1813 successors are qualified. Only dentist members of the board may
1814 hold the offices of president and vice president. The board shall
1815 have a seal with appropriate wording to be kept at the offices of
1816 the board. The secretary and the executive director of the board
1817 shall be required to make bond in such sum and with such surety as
1818 the board may determine. It shall be the duty of the executive



1819 director to keep a complete record of the acts and proceedings of
1820 the board and to preserve all papers, documents and correspondence
1821 received by the board relating to its duties and office.

1822 The board shall have the following powers and duties:

1823 (a) To carry out the purposes and provisions of the
1824 state laws pertaining to dentistry and dental hygiene, and the
1825 practice thereof and matters related thereto, particularly
1826 Sections 73-9-1 through 73-9-117, together with all amendments and
1827 additions thereto.

1828 (b) To regulate the practice of dentistry and dental
1829 hygiene and to promulgate reasonable regulations as are necessary
1830 or convenient for the protection of the public; however, the board
1831 shall not adopt any rule or regulation or impose any requirement
1832 regarding the licensing of dentists that conflicts with the
1833 prohibitions in Section 73-49-3.

1834 (c) To make rules and regulations by which clinical
1835 facilities within institutions, schools, colleges, universities
1836 and other agencies may be recognized and approved for the practice
1837 of dentistry or of dental hygiene by unlicensed persons therein,
1838 as a precondition to their being excepted from the dental practice
1839 act and authorized in accordance with Section 73-9-3(g) and (h).

1840 (d) To provide for the enforcement of and to enforce
1841 the laws of the State of Mississippi and the rules and regulations
1842 of the State Board of Dental Examiners.



1843 (e) To compile at least once each calendar year and to
1844 maintain an adequate list of prospective dentist and dental
1845 hygienist appointees for approval by the Governor as provided for
1846 elsewhere by law.

1847 (f) To issue licenses and permits to applicants when
1848 found to be qualified.

1849 (g) To provide for reregistration of all licenses and
1850 permits duly issued by the board.

1851 (h) To maintain an up-to-date list of all licensees and
1852 permit holders in the state, together with their addresses.

1853 (i) To examine applicants for the practice of dentistry
1854 or dental hygiene at least annually.

1855 (j) To issue licenses or duplicates and
1856 reregistration/renewal certificates, and to collect and account
1857 for fees for same.

1858 (k) To maintain an office adequately staffed insofar as
1859 funds are available for the purposes of carrying out the powers
1860 and duties of the board.

1861 (l) To provide by appropriate rules and regulations,
1862 within the provisions of the state laws, for revoking or
1863 suspending licenses and permits and a system of fines for lesser
1864 penalties.

1865 (m) To prosecute, investigate or initiate prosecution
1866 for violations of the laws of the state pertaining to practice of



1867 dentistry or dental hygiene, or matters affecting the rights and
1868 duties, or related thereto.

1869 (n) To provide by rules for the conduct of as much
1870 board business as practicable by mail, which, when so done, shall
1871 be and have the same force and effect as if done in a regular
1872 meeting duly organized.

1873 (o) To adopt rules and regulations providing for the
1874 reasonable regulation of advertising by dentists and dental
1875 hygienists.

1876 (p) To employ, in its discretion, a duly licensed
1877 attorney to represent the board in individual cases.

1878 (q) To employ, in its discretion, technical and
1879 professional personnel to conduct dental office sedation site
1880 visits, administer and monitor state board examinations and carry
1881 out the powers and duties of the board.

1882 **SECTION 14.** Section 73-21-127, Mississippi Code of 1972, is
1883 brought forward as follows:

1884 73-21-127. The Board of Pharmacy shall develop and implement
1885 a computerized program to track prescriptions for controlled
1886 substances and to report suspected abuse and misuse of controlled
1887 substances in compliance with the federal regulations promulgated
1888 under authority of the National All Schedules Prescription
1889 Electronic Reporting Act of 2005 and in compliance with the
1890 federal HIPAA law, under the following conditions:



1891 (a) Submission or reporting of dispensing information
1892 shall be mandatory and required by the State Board of Pharmacy for
1893 any entity dispensing controlled substances in or into the State
1894 of Mississippi, except for the dispensing of controlled substance
1895 drugs by a veterinarian residing in the State of Mississippi.

1896 (b) The prescriptions tracked shall be prescriptions
1897 for controlled substances listed in Schedule II, III, IV or V and
1898 specified noncontrolled substances identified by the State Board
1899 of Pharmacy that are dispensed to residents in the State of
1900 Mississippi by licensed pharmacies, nonresident pharmacies,
1901 institutions and dispensing practitioners, regardless of dispenser
1902 location.

1903 (c) The Board of Pharmacy shall report any activity it
1904 reasonably suspects may be fraudulent or illegal to the
1905 appropriate law enforcement agency or occupational licensing board
1906 and provide them with the relevant information obtained for
1907 further investigation.

1908 (d) The program shall provide information regarding the
1909 potential inappropriate use of controlled substances and the
1910 specified noncontrolled substances to practitioners,
1911 pharmacists-in-charge and appropriate state agencies in order to
1912 prevent the inappropriate or illegal use of these controlled
1913 substances. The specific purposes of the program shall be to: be
1914 proactive in safeguarding public health and safety; support the
1915 legitimate use of controlled substances; facilitate and encourage



1916 the identification, intervention with and treatment of individuals
1917 addicted to controlled substances and specified noncontrolled
1918 drugs; identify and prevent drug diversion; provide assistance to
1919 those state and federal law enforcement and regulatory agencies
1920 investigating cases of drug diversion or other misuse; and inform
1921 the public and health care professionals of the use and abuse
1922 trends related to controlled substance and specified noncontrolled
1923 drugs.

1924 (e) (i) Access to collected data shall be confidential
1925 and not subject to the provisions of the federal Freedom of
1926 Information Act or the Mississippi Public Records Act. Upon
1927 request, the State Board of Pharmacy shall provide collected
1928 information to: pharmacists or practitioners who are properly
1929 registered with the State Board of Pharmacy and are authorized to
1930 prescribe or dispense controlled substances for the purpose of
1931 providing medical and pharmaceutical care for their patients;
1932 local, state and federal law enforcement officials engaged in the
1933 administration, investigation or enforcement of the laws governing
1934 illicit drug use; regulatory and licensing boards in this state;
1935 Division of Medicaid regarding Medicaid and Medicare Program
1936 recipients; judicial authorities under grand jury subpoena; an
1937 individual who requests the individual's own prescription
1938 monitoring information; and prescription monitoring programs in
1939 other states through mutual agreement adhering to State Board of
1940 Pharmacy policies.



1941 (ii) The Director of the Mississippi Bureau of
1942 Narcotics, or his designee, shall have access to the Prescription
1943 Monitoring Program (PMP) database for the purpose of investigating
1944 the potential illegal acquisition, distribution, dispensing,
1945 prescribing or administering of the controlled and noncontrolled
1946 substances monitored by the program, subject to all legal
1947 restrictions on further dissemination of the information obtained.

1948 (iii) The State Board of Pharmacy may also provide
1949 statistical data for research or educational purposes if the board
1950 determines the use of the data to be of significant benefit to
1951 public health and safety. The board maintains the right to refuse
1952 any request for PMP data.

1953 (iv) A pharmacist licensed by the Mississippi
1954 Board of Pharmacy must be a registered user of the PMP. Failure
1955 of a pharmacist licensed by the Mississippi Board of Pharmacy to
1956 register as a user of the PMP is grounds for disciplinary action
1957 by the board.

1958 (v) All licensed practitioners as defined under
1959 Section 73-21-73(cc) holding an active DEA number shall register
1960 as users of the PMP.

1961 (f) The Prescription Monitoring Program through the
1962 Board of Pharmacy may:

1963 (i) Establish the cost of administration,
1964 maintenance, and operation of the program and charge to like



1965 agencies a fee based on a formula to be determined by the board
1966 with collaboration and input from participating agencies; and

1967 (ii) Assess charges for information and/or
1968 statistical data provided to agencies, institutions and
1969 individuals. The amounts of those fees shall be set by the
1970 Executive Director of the Board of Pharmacy based on the
1971 recommendation of the Director of the PMP.

1972 All such fees collected shall be deposited into the special
1973 fund of the State Board of Pharmacy and used to support the
1974 operations of the PMP.

1975 (g) A dispenser pharmacist or practitioner licensed to
1976 dispense controlled substances and specified noncontrolled
1977 substance drugs who knowingly fails to submit drug monitoring
1978 information or knowingly submits incorrect dispensing information
1979 shall be subject to actions against the pharmacist's or
1980 practitioner's license, registrations or permit and/or an
1981 administrative penalty as provided in Sections 73-21-97 and
1982 73-21-103. Any misuse of the PMP is subject to penalties as
1983 provided in Sections 73-21-97 and 73-21-103.

1984 (h) The Board of Pharmacy and the Prescription
1985 Monitoring Program shall be immune from civil liability arising
1986 from inaccuracy of any of the information submitted to the
1987 program.

1988 (i) "Practitioner," as used in this section, shall
1989 include any person licensed, registered or otherwise permitted to



1990 distribute, dispense, prescribe or administer a controlled
1991 substance, as defined under Section 41-29-105(y), and any person
1992 defined as a "practitioner" under Section 73-21-73(cc).

1993 (j) In addition to any funds appropriated by the
1994 Legislature, the State Board of Pharmacy may apply for any
1995 available grants and accept any gifts, grants or donations to
1996 assist in future development or in maintaining the program.

1997 **SECTION 15.** Section 73-43-11, Mississippi Code of 1972, is
1998 brought forward as follows:

1999 73-43-11. The State Board of Medical Licensure shall have
2000 the following powers and responsibilities:

2001 (a) Setting policies and professional standards
2002 regarding the medical practice of physicians, osteopaths,
2003 podiatrists and physician assistants practicing with physician
2004 supervision;

2005 (b) Considering applications for licensure;

2006 (c) Conducting examinations for licensure;

2007 (d) Investigating alleged violations of the medical
2008 practice act;

2009 (e) Conducting hearings on disciplinary matters
2010 involving violations of state and federal law, probation,
2011 suspension and revocation of licenses;

2012 (f) Considering petitions for termination of
2013 probationary and suspension periods, and restoration of revoked
2014 licenses;



2015 (g) To promulgate and publish reasonable rules and
2016 regulations necessary to enable it to discharge its functions and
2017 to enforce the provisions of law regulating the practice of
2018 medicine; however, the board shall not adopt any rule or
2019 regulation or impose any requirement regarding the licensing of
2020 physicians or osteopaths that conflicts with the prohibitions in
2021 Section 73-49-3;

2022 (h) To enter into contracts with any other state or
2023 federal agency, or with any private person, organization or group
2024 capable of contracting, if it finds such action to be in the
2025 public interest and in the furtherance of its responsibilities;

2026 (i) Perform the duties prescribed by Sections 73-26-1
2027 through 73-26-5; and

2028 (j) Perform the duties prescribed by the Interstate
2029 Medical Licensure Compact, Section 73-25-101.

2030 **SECTION 16.** This act shall take effect and be in force from
2031 and after July 1, 2018, and shall stand repealed on June 30, 2017.

