

By: Representative Criswell

To: Public Health and Human Services

HOUSE BILL NO. 606

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI ACCESS TO HEALTH CARE  
 2 ACT; TO AMEND SECTIONS 41-7-173, 41-7-185, 41-7-187, 41-7-189,  
 3 41-7-190, 41-7-191, 41-7-193, 41-7-197, 41-7-201, 41-7-202 AND  
 4 41-7-207, MISSISSIPPI CODE OF 1972, TO REVISE THE HEALTH CARE  
 5 CERTIFICATE OF NEED LAW TO REMOVE HEALTH CARE SERVICES AND  
 6 EQUIPMENT FROM THE REQUIREMENT FOR THE ISSUANCE OF A CERTIFICATE  
 7 OF NEED, SO THAT ONLY CERTAIN HEALTH CARE FACILITIES WILL REQUIRE  
 8 CERTIFICATE OF NEED REVIEW; TO REMOVE END-STAGE RENAL DISEASE  
 9 FACILITIES AND AMBULATORY SURGICAL FACILITIES FROM THE REQUIREMENT  
 10 FOR A CERTIFICATE OF NEED; TO DELETE THE MORATORIUM ON THE  
 11 ISSUANCE OF CERTIFICATES OF NEED FOR HOME HEALTH AGENCIES; TO  
 12 AMEND SECTIONS 41-73-5, 41-75-1, 41-75-5, 41-75-9 AND 41-75-25,  
 13 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;  
 14 AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** This act shall be known and may be cited as the  
 17 Mississippi Access to Health Care Act.

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

20 41-7-173. For the purposes of Section 41-7-171 et seq., the  
 21 following words shall have the meanings ascribed herein, unless  
 22 the context otherwise requires:

23 (a) "Affected person" means (i) the applicant; (ii) a  
 24 person residing within the geographic area to be served by the



25 applicant's proposal; (iii) a person who regularly uses health  
26 care facilities or HMOs located in the geographic area of the  
27 proposal which provide similar service to that which is proposed;  
28 (iv) health care facilities and HMOs which have, prior to receipt  
29 of the application under review, formally indicated an intention  
30 to provide service similar to that of the proposal being  
31 considered at a future date; (v) third-party payers who reimburse  
32 health care facilities located in the geographical area of the  
33 proposal; or (vi) any agency that establishes rates for health  
34 care services or HMOs located in the geographic area of the  
35 proposal.

36 (b) "Certificate of need" means a written order of the  
37 State Department of Health setting forth the affirmative finding  
38 that a proposal in prescribed application form, sufficiently  
39 satisfies the plans, standards and criteria prescribed for \* \* \*  
40 the project by Section 41-7-171 et seq., and by rules and  
41 regulations promulgated \* \* \* under those sections by the State  
42 Department of Health.

43 \* \* \*

44 ( \* \* \* c) "Commencement of construction" means that all  
45 of the following have been completed with respect to a proposal or  
46 project proposing construction, renovating, remodeling or  
47 alteration:

48 (i) A legally binding written contract has been  
49 consummated by the proponent and a lawfully licensed contractor to



50 construct and/or complete the intent of the proposal within a  
51 specified period of time in accordance with final architectural  
52 plans which have been approved by the licensing authority of the  
53 State Department of Health;

54 (ii) Any and all permits and/or approvals deemed  
55 lawfully necessary by all authorities with responsibility for such  
56 have been secured; and

57 (iii) Actual bona fide undertaking of the subject  
58 proposal has commenced, and a progress payment of at least one  
59 percent (1%) of the total cost price of the contract has been paid  
60 to the contractor by the proponent, and the requirements of this  
61 paragraph (e) have been certified to in writing by the State  
62 Department of Health.

63 Force account expenditures, such as deposits, securities,  
64 bonds, et cetera, may, in the discretion of the State Department  
65 of Health, be excluded from any or all of the provisions of  
66 defined commencement of construction.

67 ( \* \* \* d) "Consumer" means an individual who is not a  
68 provider of health care as defined in paragraph ( \* \* \* j) of this  
69 section.

70 \* \* \*

71 ( \* \* \* e) "Health care facility" includes hospitals,  
72 psychiatric hospitals, chemical dependency hospitals, skilled  
73 nursing facilities, \* \* \* intermediate care facilities, \* \* \*  
74 intermediate care facilities for the \* \* \* intellectually



75 disabled, home health agencies, psychiatric residential treatment  
76 facilities, pediatric skilled nursing facilities, long-term care  
77 hospitals, comprehensive medical rehabilitation facilities,  
78 including facilities owned or operated by the state or a political  
79 subdivision or instrumentality of the state, but does not include  
80 Christian Science sanatoriums operated or listed and certified by  
81 the First Church of Christ, Scientist, Boston, Massachusetts.  
82 This definition shall not apply to facilities for the private  
83 practice, either independently or by incorporated medical groups,  
84 of physicians, dentists or health care professionals except where  
85 such facilities are an integral part of an institutional health  
86 service. The various health care facilities listed in this  
87 paragraph shall be defined as follows:

88 (i) "Hospital" means an institution which is  
89 primarily engaged in providing to inpatients, by or under the  
90 supervision of physicians, diagnostic services and therapeutic  
91 services for medical diagnosis, treatment and care of injured,  
92 disabled or sick persons, or rehabilitation services for the  
93 rehabilitation of injured, disabled or sick persons. Such term  
94 does not include psychiatric hospitals.

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



99 (iii) "Chemical dependency hospital" means an  
100 institution which is primarily engaged in providing to inpatients,  
101 by or under the supervision of a physician, medical and related  
102 services for the diagnosis and treatment of chemical dependency  
103 such as alcohol and drug abuse.

104 (iv) "Skilled nursing facility" means an  
105 institution or a distinct part of an institution which is  
106 primarily engaged in providing to inpatients skilled nursing care  
107 and related services for patients who require medical or nursing  
108 care or rehabilitation services for the rehabilitation of injured,  
109 disabled or sick persons.

110 (v) \* \* \* [Deleted]

111 (vi) "Intermediate care facility" means an  
112 institution which provides, on a regular basis, health-related  
113 care and services to individuals who do not require the degree of  
114 care and treatment which a hospital or skilled nursing facility is  
115 designed to provide, but who, because of their mental or physical  
116 condition, require health-related care and services (above the  
117 level of room and board).

118 (vii) \* \* \* [Deleted]

119 (viii) "Intermediate care facility for the \* \* \*  
120 intellectually disabled" means an intermediate care facility that  
121 provides health or rehabilitative services in a planned program of  
122 activities to persons with an intellectual disability, also  
123 including, but not limited to, cerebral palsy and other conditions



124 covered by the Federal Developmentally Disabled Assistance and  
125 Bill of Rights Act, Public Law 94-103.

126 (ix) "Home health agency" means a public or  
127 privately owned agency or organization, or a subdivision of such  
128 an agency or organization, properly authorized to conduct business  
129 in Mississippi, which is primarily engaged in providing to  
130 individuals at the written direction of a licensed physician, in  
131 the individual's place of residence, skilled nursing services  
132 provided by or under the supervision of a registered nurse  
133 licensed to practice in Mississippi, and one or more of the  
134 following services or items:

- 135 1. Physical, occupational or speech therapy;
- 136 2. Medical social services;
- 137 3. Part-time or intermittent services of a  
138 home health aide;
- 139 4. Other services as approved by the  
140 licensing agency for home health agencies;
- 141 5. Medical supplies, other than drugs and  
142 biologicals, and the use of medical appliances; or
- 143 6. Medical services provided by an intern or  
144 resident-in-training at a hospital under a teaching program of  
145 such hospital.

146 Further, all skilled nursing services and those services  
147 listed in items 1 through 4 of this subparagraph (ix) must be  
148 provided directly by the licensed home health agency. For



149 purposes of this subparagraph, "directly" means either through an  
150 agency employee or by an arrangement with another individual not  
151 defined as a health care facility.

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

155 (x) "Psychiatric residential treatment facility"  
156 means any nonhospital establishment with permanent licensed  
157 facilities which provides a twenty-four-hour program of care by  
158 qualified therapists, including, but not limited to, duly licensed  
159 mental health professionals, psychiatrists, psychologists,  
160 psychotherapists and licensed certified social workers, for  
161 emotionally disturbed children and adolescents referred to such  
162 facility by a court, local school district or by the Department of  
163 Human Services, who are not in an acute phase of illness requiring  
164 the services of a psychiatric hospital, and are in need of such  
165 restorative treatment services. For purposes of this  
166 subparagraph, the term "emotionally disturbed" means a condition  
167 exhibiting one or more of the following characteristics over a  
168 long period of time and to a marked degree, which adversely  
169 affects educational performance:

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

172 2. An inability to build or maintain  
173 satisfactory relationships with peers and teachers;



174                   3. Inappropriate types of behavior or  
175 feelings under normal circumstances;  
176                   4. A general pervasive mood of unhappiness or  
177 depression; or  
178                   5. A tendency to develop physical symptoms or  
179 fears associated with personal or school problems. An  
180 establishment furnishing primarily domiciliary care is not within  
181 this definition.

182                   (xi) "Pediatric skilled nursing facility" means an  
183 institution or a distinct part of an institution that is primarily  
184 engaged in providing to inpatients skilled nursing care and  
185 related services for persons under twenty-one (21) years of age  
186 who require medical or nursing care or rehabilitation services for  
187 the rehabilitation of injured, disabled or sick persons.

188                   (xii) "Long-term care hospital" means a  
189 freestanding, Medicare-certified hospital that has an average  
190 length of inpatient stay greater than twenty-five (25) days, which  
191 is primarily engaged in providing chronic or long-term medical  
192 care to patients who do not require more than three (3) hours of  
193 rehabilitation or comprehensive rehabilitation per day, and has a  
194 transfer agreement with an acute care medical center and a  
195 comprehensive medical rehabilitation facility. Long-term care  
196 hospitals shall not use rehabilitation, comprehensive medical  
197 rehabilitation, medical rehabilitation, sub-acute rehabilitation,





198 nursing home, skilled nursing facility or sub-acute care facility  
199 in association with its name.

200 (xiii) "Comprehensive medical rehabilitation  
201 facility" means a hospital or hospital unit that is licensed  
202 and/or certified as a comprehensive medical rehabilitation  
203 facility which provides specialized programs that are accredited  
204 by the Commission on Accreditation of Rehabilitation Facilities  
205 and supervised by a physician board certified or board eligible in  
206 physiatry or other doctor of medicine or osteopathy with at least  
207 two (2) years of training in the medical direction of a  
208 comprehensive rehabilitation program that:

209 1. Includes evaluation and treatment of  
210 individuals with physical disabilities;

211 2. Emphasizes education and training of  
212 individuals with disabilities;

213 3. Incorporates at least the following core  
214 disciplines:

215 \* \* \*a. Physical Therapy;

216 \* \* \*b. Occupational Therapy;

217 \* \* \*c. Speech and Language Therapy;

218 \* \* \*d. Rehabilitation Nursing; and

219 4. Incorporates at least three (3) of the  
220 following disciplines:

221 \* \* \*a. Psychology;

222 \* \* \*b. Audiology;



- 223                   \* \* \*c. Respiratory Therapy;
- 224                   \* \* \*d. Therapeutic Recreation;
- 225                   \* \* \*e. Orthotics;
- 226                   \* \* \*f. Prosthetics;
- 227                   \* \* \*g. Special Education;
- 228                   \* \* \*h. Vocational Rehabilitation;
- 229                   \* \* \*i. Psychotherapy;
- 230                   \* \* \*j. Social Work;
- 231                   \* \* \*k. Rehabilitation Engineering.

232           These specialized programs include, but are not limited to:  
233 spinal cord injury programs, head injury programs and infant and  
234 early childhood development programs.

235                   ( \* \* \*f.) "Health maintenance organization" or "HMO"  
236 means a public or private organization organized under the laws of  
237 this state or the federal government which:

238                           (i) Provides or otherwise makes available to  
239 enrolled participants health care services, including  
240 substantially the following basic health care services: usual  
241 physician services, hospitalization, laboratory, x-ray, emergency  
242 and preventive services, and out-of-area coverage;

243                           (ii) Is compensated (except for copayments) for  
244 the provision of the basic health care services listed in  
245 subparagraph (i) of this paragraph to enrolled participants on a  
246 predetermined basis; and

247                           (iii) Provides physician services primarily:



248 1. Directly through physicians who are either  
249 employees or partners of such organization; or

250 2. Through arrangements with individual  
251 physicians or one or more groups of physicians (organized on a  
252 group practice or individual practice basis).

253 ( \* \* \*g) "Health service area" means a geographic area  
254 of the state designated in the State Health Plan as the area to be  
255 used in planning for specified health care facilities \* \* \* and to  
256 be used when considering certificate of need applications to  
257 provide health care facilities \* \* \*.

258 \* \* \*

259 ( \* \* \*h) "State Department of Health" or "department"  
260 shall mean the state agency created under Section 41-3-15 \* \* \*.

261 \* \* \*

262 ( \* \* \*i) "Person" means an individual, a trust or  
263 estate, partnership, corporation (including associations,  
264 joint-stock companies and insurance companies), the state or a  
265 political subdivision or instrumentality of the state.

266 ( \* \* \*j) "Provider" shall mean any person who is a  
267 provider or representative of a provider of health care \* \* \*  
268 requiring a certificate of need under Section 41-7-171 et seq., or  
269 who has any financial or indirect interest in any provider  
270 of \* \* \* health care.

271 \* \* \*



272 ( \* \* \*k) "Secretary" means the Secretary of Health and  
273 Human Services, and any officer or employee of the Department of  
274 Health and Human Services to whom the authority involved has been  
275 delegated.

276 ( \* \* \*l) "State Health Plan" means the sole and  
277 official statewide health plan for Mississippi \* \* \* that  
278 identifies priority state health needs and establishes standards  
279 and criteria for health-related activities \* \* \* that require  
280 certificate of need review in compliance with Section 41-7-191.

281 \* \* \*

282 **SECTION 3.** Section 41-7-185, Mississippi Code of 1972, is  
283 amended as follows:

284 41-7-185. In carrying out its functions under Section  
285 41-7-171 et seq., the State Department of Health is \* \* \*  
286 empowered to:

287 (a) Make applications for and accept funds from the  
288 secretary and other federal and state agencies and to receive and  
289 administer such other funds for the planning or provision of  
290 health facilities or health care as are appropriate to the  
291 accomplishment of the purposes of Section 41-7-171 et seq. \* \* \*l  
292 and to contract with the secretary to accept funds to administer  
293 planning activities on the community, regional or state level;

294 (b) With the approval of the secretary, delegate to or  
295 contract with any mutually agreeable department, division or  
296 agency of the state, the federal government, or any political



297 subdivision of either, or any private corporation, organization or  
298 association chartered by the Secretary of State of Mississippi,  
299 authority for administering any programs, duties or functions  
300 provided for in Section 41-7-171 \* \* \* et seq.;

301 (c) Prescribe and promulgate such reasonable rules and  
302 regulations as may be necessary to the implementation of the  
303 purposes of Section 41-7-171 \* \* \* et seq., complying with  
304 Section \* \* \* 25-43-1.101 et seq.;

305 (d) Require providers of \* \* \* home health care  
306 services provided through a home health agency and any other  
307 provider of health care requiring a certificate of need to submit  
308 or make available statistical information or such other  
309 information requested by the State Department of Health, but not  
310 information that would constitute an unwarranted invasion of the  
311 personal privacy of any individual person or place the provider in  
312 jeopardy of legal action by a third party;

313 (e) Conduct such other hearing or hearings in addition  
314 to those provided for in Section 41-7-197, and enter such further  
315 order or orders, and with approval of the Governor enter into such  
316 agreement or agreements with the secretary as may be reasonably  
317 necessary to the realization by the people of Mississippi of the  
318 full benefits of Acts of Congress;

319 (f) In its discretion, contract with the secretary, or  
320 terminate any such contract, for the administration of the  
321 provisions, programs, duties and functions of Section 1122 of



322 Public Law 92-603; but the State Department of Health shall not be  
323 relieved of matters of accountability, obligation or  
324 responsibility that accrued to the department by virtue of prior  
325 contracts and/or statutes;

326 (g) Prepare, review at least triennially, and revise,  
327 as necessary, a State Health Plan, as defined in Section 41-7-173,  
328 which shall be approved by the Governor before it becomes  
329 effective.

330 **SECTION 4.** Section 41-7-187, Mississippi Code of 1972, is  
331 amended as follows:

332 41-7-187. The State Department of Health is \* \* \* authorized  
333 to develop and implement a statewide health certificate of need  
334 program. The State Department of Health is authorized and  
335 empowered to adopt by rule and regulation:

336 (a) Criteria, standards and plans to be used in  
337 evaluating applications for certificates of need;

338 (b) Effective standards to determine when a person,  
339 facility or organization must apply for a certificate of need; and

340 \* \* \*

341 ( \* \* \* c) Review procedures for conducting reviews of  
342 applications for certificates of need.

343 **SECTION 5.** Section 41-7-189, Mississippi Code of 1972, is  
344 amended as follows:

345 41-7-189. (1) \* \* \* Before review of \* \* \* proposals  
346 requiring a certificate of need, the State Department of Health



347 shall disseminate to all health care facilities and health  
348 maintenance organizations within the state, and shall publish in  
349 one or more newspapers of general circulation in the state, a  
350 description of the scope of coverage of the \* \* \* certificate of  
351 need program. Whenever the scope of such coverage is revised, the  
352 State Department of Health shall disseminate and publish a revised  
353 description thereof in like manner.

354 (2) Selected statistical data and information obtained by  
355 the State Department of Health as the licensing agency for health  
356 care facilities requiring licensure by the state and as the agency  
357 which provides certification for the Medicaid and/or Medicare  
358 program, may be utilized by the department in performing the  
359 statutory duties imposed upon it by any law over which it has  
360 authority, and regulations necessarily promulgated for such  
361 facilities to participate in the Medicaid and/or Medicare  
362 program; \* \* \* however, \* \* \* the names of individual patients  
363 shall not be revealed except in hearings or judicial proceedings  
364 regarding questions of licensure.

365 **SECTION 6.** Section 41-7-190, Mississippi Code of 1972, is  
366 amended as follows:

367 41-7-190. No corporation, foreign or domestic, partnership,  
368 individual(s) or association of such entities or of persons  
369 whatsoever, or any combination thereof, shall own, possess or  
370 exercise control over, in any manner, more than twenty percent  
371 (20%) of the beds in health care facilities defined in Section



372 41-7-173( \* \* \*e) (iv) and (vi) in the defined health service area  
373 of the State of Mississippi.

374 Health care facilities owned, operated or under control of  
375 the United States government, the state government or political  
376 subdivision of either are excluded from the limitation of this  
377 section.

378 **SECTION 7.** Section 41-7-191, Mississippi Code of 1972, is  
379 amended as follows:

380 41-7-191. (1) No person shall engage in any of the  
381 following activities without obtaining the required certificate of  
382 need:

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

387 (b) The relocation of a health care facility or portion  
388 thereof, \* \* \* unless \* \* \* the relocation of \* \* \* the health  
389 care facility or portion thereof \* \* \* is within five thousand two  
390 hundred eighty (5,280) feet from the main entrance of the health  
391 care facility;

392 (c) Any change in the existing bed complement of any  
393 health care facility through the addition or conversion of any  
394 beds \* \* \*; however, if a health care facility has voluntarily  
395 delicensed some of its existing bed complement, it may later  
396 relicense some or all of its delicensed beds without the necessity





397 of having to acquire a certificate of need. The State Department  
398 of Health shall maintain a record of the delicensing health care  
399 facility and its voluntarily delicensed beds and continue counting  
400 those beds as part of the state's total bed count for health care  
401 planning purposes. If a health care facility that has voluntarily  
402 delicensed some of its beds later desires to relicense some or all  
403 of its voluntarily delicensed beds, it shall notify the State  
404 Department of Health of its intent to increase the number of its  
405 licensed beds. The State Department of Health shall survey the  
406 health care facility within thirty (30) days of that notice and,  
407 if appropriate, issue the health care facility a new license  
408 reflecting the new contingent of beds. However, in no event may a  
409 health care facility that has voluntarily delicensed some of its  
410 beds be reissued a license to operate beds in excess of its bed  
411 count before the voluntary delicensure of some of its beds without  
412 seeking certificate of need approval;

413 \* \* \*

414 ( \* \* \*d) The contracting of a health care facility as  
415 defined in subparagraphs (i) through (viii) of Section  
416 41-7-173( \* \* \*e) to establish a home office, subunit, or branch  
417 office in the space operated as a health care facility through a  
418 formal arrangement with an existing health care facility as  
419 defined in subparagraph (ix) of Section 41-7-173( \* \* \*e);

420 ( \* \* \*e) The replacement or relocation of a health  
421 care facility designated as a critical access hospital shall be



422 exempt from subsection (1) of this section so long as the critical  
423 access hospital complies with all applicable federal law and  
424 regulations regarding such replacement or relocation;

425 ( \* \* \*f) Reopening a health care facility that has  
426 ceased to operate for a period of sixty (60) months or more, which  
427 reopening requires a certificate of need for the establishment of  
428 a new health care facility.

429 (2) The State Department of Health shall not grant approval  
430 for or issue a certificate of need to any person proposing the new  
431 construction of, addition to, or expansion of any health care  
432 facility defined in subparagraphs (iv) (skilled nursing facility)  
433 and (vi) (intermediate care facility) of Section 41-7-173( \* \* \*e)  
434 or the conversion of vacant hospital beds to provide skilled or  
435 intermediate nursing home care, except as hereinafter authorized:

436 (a) The department may issue a certificate of need to  
437 any person proposing the new construction of any health care  
438 facility defined in subparagraphs (iv) and (vi) of Section  
439 41-7-173(h) as part of a life care retirement facility, in any  
440 county bordering on the Gulf of Mexico in which is located a  
441 National Aeronautics and Space Administration facility, not to  
442 exceed forty (40) beds. From and after July 1, 1999, there shall  
443 be no prohibition or restrictions on participation in the Medicaid  
444 program (Section 43-13-101 et seq.) for the beds in the health  
445 care facility that were authorized under this paragraph (a).



446 (b) The department may issue certificates of need in  
447 Harrison County to provide skilled nursing home care for  
448 Alzheimer's disease patients and other patients, not to exceed one  
449 hundred fifty (150) beds. From and after July 1, 1999, there  
450 shall be no prohibition or restrictions on participation in the  
451 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
452 nursing facilities that were authorized under this paragraph (b).

453 (c) The department may issue a certificate of need for  
454 the addition to or expansion of any skilled nursing facility that  
455 is part of an existing continuing care retirement community  
456 located in Madison County, provided that the recipient of the  
457 certificate of need agrees in writing that the skilled nursing  
458 facility will not at any time participate in the Medicaid program  
459 (Section 43-13-101 et seq.) or admit or keep any patients in the  
460 skilled nursing facility who are participating in the Medicaid  
461 program. This written agreement by the recipient of the  
462 certificate of need shall be fully binding on any subsequent owner  
463 of the skilled nursing facility, if the ownership of the facility  
464 is transferred at any time after the issuance of the certificate  
465 of need. Agreement that the skilled nursing facility will not  
466 participate in the Medicaid program shall be a condition of the  
467 issuance of a certificate of need to any person under this  
468 paragraph (c), and if such skilled nursing facility at any time  
469 after the issuance of the certificate of need, regardless of the  
470 ownership of the facility, participates in the Medicaid program or



471 admits or keeps any patients in the facility who are participating  
472 in the Medicaid program, the State Department of Health shall  
473 revoke the certificate of need, if it is still outstanding, and  
474 shall deny or revoke the license of the skilled nursing facility,  
475 at the time that the department determines, after a hearing  
476 complying with due process, that the facility has failed to comply  
477 with any of the conditions upon which the certificate of need was  
478 issued, as provided in this paragraph and in the written agreement  
479 by the recipient of the certificate of need. The total number of  
480 beds that may be authorized under the authority of this paragraph  
481 (c) shall not exceed sixty (60) beds.

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

490 (e) The State Department of Health may issue a  
491 certificate of need for the construction of a nursing facility or  
492 the conversion of beds to nursing facility beds at a personal care  
493 facility for the elderly in Lowndes County that is owned and  
494 operated by a Mississippi nonprofit corporation, not to exceed  
495 sixty (60) beds. From and after July 1, 1999, there shall be no



496 prohibition or restrictions on participation in the Medicaid  
497 program (Section 43-13-101 et seq.) for the beds in the nursing  
498 facility that were authorized under this paragraph (e).

499 (f) The State Department of Health may issue a  
500 certificate of need for conversion of a county hospital facility  
501 in Itawamba County to a nursing facility, not to exceed sixty (60)  
502 beds, including any necessary construction, renovation or  
503 expansion. From and after July 1, 1999, there shall be no  
504 prohibition or restrictions on participation in the Medicaid  
505 program (Section 43-13-101 et seq.) for the beds in the nursing  
506 facility that were authorized under this paragraph (f).

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

515 (h) The State Department of Health may issue a  
516 certificate of need for the construction or expansion of nursing  
517 facility beds or the conversion of other beds to nursing facility  
518 beds in either Hancock, Harrison or Jackson County, not to exceed  
519 sixty (60) beds. From and after July 1, 1999, there shall be no  
520 prohibition or restrictions on participation in the Medicaid



521 program (Section 43-13-101 et seq.) for the beds in the facility  
522 that were authorized under this paragraph (h).

523 (i) The department may issue a certificate of need for  
524 the new construction of a skilled nursing facility in Leake  
525 County, provided that the recipient of the certificate of need  
526 agrees in writing that the skilled nursing facility will not at  
527 any time participate in the Medicaid program (Section 43-13-101 et  
528 seq.) or admit or keep any patients in the skilled nursing  
529 facility who are participating in the Medicaid program. This  
530 written agreement by the recipient of the certificate of need  
531 shall be fully binding on any subsequent owner of the skilled  
532 nursing facility, if the ownership of the facility is transferred  
533 at any time after the issuance of the certificate of need.  
534 Agreement that the skilled nursing facility will not participate  
535 in the Medicaid program shall be a condition of the issuance of a  
536 certificate of need to any person under this paragraph (i), and if  
537 such skilled nursing facility at any time after the issuance of  
538 the certificate of need, regardless of the ownership of the  
539 facility, participates in the Medicaid program or admits or keeps  
540 any patients in the facility who are participating in the Medicaid  
541 program, the State Department of Health shall revoke the  
542 certificate of need, if it is still outstanding, and shall deny or  
543 revoke the license of the skilled nursing facility, at the time  
544 that the department determines, after a hearing complying with due  
545 process, that the facility has failed to comply with any of the



546 conditions upon which the certificate of need was issued, as  
547 provided in this paragraph and in the written agreement by the  
548 recipient of the certificate of need. The provision of Section  
549 41-7-193(1) regarding substantial compliance of the projection of  
550 need as reported in the current State Health Plan is waived for  
551 the purposes of this paragraph. The total number of nursing  
552 facility beds that may be authorized by any certificate of need  
553 issued under this paragraph (i) shall not exceed sixty (60) beds.  
554 If the skilled nursing facility authorized by the certificate of  
555 need issued under this paragraph is not constructed and fully  
556 operational within eighteen (18) months after July 1, 1994, the  
557 State Department of Health, after a hearing complying with due  
558 process, shall revoke the certificate of need, if it is still  
559 outstanding, and shall not issue a license for the skilled nursing  
560 facility at any time after the expiration of the eighteen-month  
561 period.

562 (j) The department may issue certificates of need to  
563 allow any existing freestanding long-term care facility in  
564 Tishomingo County and Hancock County that on July 1, 1995, is  
565 licensed with fewer than sixty (60) beds. For the purposes of  
566 this paragraph (j), the provisions of Section 41-7-193(1)  
567 requiring substantial compliance with the projection of need as  
568 reported in the current State Health Plan are waived. From and  
569 after July 1, 1999, there shall be no prohibition or restrictions  
570 on participation in the Medicaid program (Section 43-13-101 et



571 seq.) for the beds in the long-term care facilities that were  
572 authorized under this paragraph (j).

573 (k) The department may issue a certificate of need for  
574 the construction of a nursing facility at a continuing care  
575 retirement community in Lowndes County. The total number of beds  
576 that may be authorized under the authority of this paragraph (k)  
577 shall not exceed sixty (60) beds. From and after July 1, 2001,  
578 the prohibition on the facility participating in the Medicaid  
579 program (Section 43-13-101 et seq.) that was a condition of  
580 issuance of the certificate of need under this paragraph (k) shall  
581 be revised as follows: The nursing facility may participate in  
582 the Medicaid program from and after July 1, 2001, if the owner of  
583 the facility on July 1, 2001, agrees in writing that no more than  
584 thirty (30) of the beds at the facility will be certified for  
585 participation in the Medicaid program, and that no claim will be  
586 submitted for Medicaid reimbursement for more than thirty (30)  
587 patients in the facility in any month or for any patient in the  
588 facility who is in a bed that is not Medicaid-certified. This  
589 written agreement by the owner of the facility shall be a  
590 condition of licensure of the facility, and the agreement shall be  
591 fully binding on any subsequent owner of the facility if the  
592 ownership of the facility is transferred at any time after July 1,  
593 2001. After this written agreement is executed, the Division of  
594 Medicaid and the State Department of Health shall not certify more  
595 than thirty (30) of the beds in the facility for participation in





596 the Medicaid program. If the facility violates the terms of the  
597 written agreement by admitting or keeping in the facility on a  
598 regular or continuing basis more than thirty (30) patients who are  
599 participating in the Medicaid program, the State Department of  
600 Health shall revoke the license of the facility, at the time that  
601 the department determines, after a hearing complying with due  
602 process, that the facility has violated the written agreement.

603 (l) Provided that funds are specifically appropriated  
604 therefor by the Legislature, the department may issue a  
605 certificate of need to a rehabilitation hospital in Hinds County  
606 for the construction of a sixty-bed long-term care nursing  
607 facility dedicated to the care and treatment of persons with  
608 severe disabilities including persons with spinal cord and  
609 closed-head injuries and ventilator dependent patients. The  
610 provisions of Section 41-7-193(1) regarding substantial compliance  
611 with projection of need as reported in the current State Health  
612 Plan are waived for the purpose of this paragraph.

613 (m) The State Department of Health may issue a  
614 certificate of need to a county-owned hospital in the Second  
615 Judicial District of Panola County for the conversion of not more  
616 than seventy-two (72) hospital beds to nursing facility beds,  
617 provided that the recipient of the certificate of need agrees in  
618 writing that none of the beds at the nursing facility will be  
619 certified for participation in the Medicaid program (Section  
620 43-13-101 et seq.), and that no claim will be submitted for



621 Medicaid reimbursement in the nursing facility in any day or for  
622 any patient in the nursing facility. This written agreement by  
623 the recipient of the certificate of need shall be a condition of  
624 the issuance of the certificate of need under this paragraph, and  
625 the agreement shall be fully binding on any subsequent owner of  
626 the nursing facility if the ownership of the nursing facility is  
627 transferred at any time after the issuance of the certificate of  
628 need. After this written agreement is executed, the Division of  
629 Medicaid and the State Department of Health shall not certify any  
630 of the beds in the nursing facility for participation in the  
631 Medicaid program. If the nursing facility violates the terms of  
632 the written agreement by admitting or keeping in the nursing  
633 facility on a regular or continuing basis any patients who are  
634 participating in the Medicaid program, the State Department of  
635 Health shall revoke the license of the nursing facility, at the  
636 time that the department determines, after a hearing complying  
637 with due process, that the nursing facility has violated the  
638 condition upon which the certificate of need was issued, as  
639 provided in this paragraph and in the written agreement. If the  
640 certificate of need authorized under this paragraph is not issued  
641 within twelve (12) months after July 1, 2001, the department shall  
642 deny the application for the certificate of need and shall not  
643 issue the certificate of need at any time after the twelve-month  
644 period, unless the issuance is contested. If the certificate of  
645 need is issued and substantial construction of the nursing



646 facility beds has not commenced within eighteen (18) months after  
647 July 1, 2001, the State Department of Health, after a hearing  
648 complying with due process, shall revoke the certificate of need  
649 if it is still outstanding, and the department shall not issue a  
650 license for the nursing facility at any time after the  
651 eighteen-month period. However, if the issuance of the  
652 certificate of need is contested, the department shall require  
653 substantial construction of the nursing facility beds within six  
654 (6) months after final adjudication on the issuance of the  
655 certificate of need.

656 (n) The department may issue a certificate of need for  
657 the new construction, addition or conversion of skilled nursing  
658 facility beds in Madison County, provided that the recipient of  
659 the certificate of need agrees in writing that the skilled nursing  
660 facility will not at any time participate in the Medicaid program  
661 (Section 43-13-101 et seq.) or admit or keep any patients in the  
662 skilled nursing facility who are participating in the Medicaid  
663 program. This written agreement by the recipient of the  
664 certificate of need shall be fully binding on any subsequent owner  
665 of the skilled nursing facility, if the ownership of the facility  
666 is transferred at any time after the issuance of the certificate  
667 of need. Agreement that the skilled nursing facility will not  
668 participate in the Medicaid program shall be a condition of the  
669 issuance of a certificate of need to any person under this  
670 paragraph (n), and if such skilled nursing facility at any time



671 after the issuance of the certificate of need, regardless of the  
672 ownership of the facility, participates in the Medicaid program or  
673 admits or keeps any patients in the facility who are participating  
674 in the Medicaid program, the State Department of Health shall  
675 revoke the certificate of need, if it is still outstanding, and  
676 shall deny or revoke the license of the skilled nursing facility,  
677 at the time that the department determines, after a hearing  
678 complying with due process, that the facility has failed to comply  
679 with any of the conditions upon which the certificate of need was  
680 issued, as provided in this paragraph and in the written agreement  
681 by the recipient of the certificate of need. The total number of  
682 nursing facility beds that may be authorized by any certificate of  
683 need issued under this paragraph (n) shall not exceed sixty (60)  
684 beds. If the certificate of need authorized under this paragraph  
685 is not issued within twelve (12) months after July 1, 1998, the  
686 department shall deny the application for the certificate of need  
687 and shall not issue the certificate of need at any time after the  
688 twelve-month period, unless the issuance is contested. If the  
689 certificate of need is issued and substantial construction of the  
690 nursing facility beds has not commenced within eighteen (18)  
691 months after July 1, 1998, the State Department of Health, after a  
692 hearing complying with due process, shall revoke the certificate  
693 of need if it is still outstanding, and the department shall not  
694 issue a license for the nursing facility at any time after the  
695 eighteen-month period. However, if the issuance of the



696 certificate of need is contested, the department shall require  
697 substantial construction of the nursing facility beds within six  
698 (6) months after final adjudication on the issuance of the  
699 certificate of need.

700           (o) The department may issue a certificate of need for  
701 the new construction, addition or conversion of skilled nursing  
702 facility beds in Leake County, provided that the recipient of the  
703 certificate of need agrees in writing that the skilled nursing  
704 facility will not at any time participate in the Medicaid program  
705 (Section 43-13-101 et seq.) or admit or keep any patients in the  
706 skilled nursing facility who are participating in the Medicaid  
707 program. This written agreement by the recipient of the  
708 certificate of need shall be fully binding on any subsequent owner  
709 of the skilled nursing facility, if the ownership of the facility  
710 is transferred at any time after the issuance of the certificate  
711 of need. Agreement that the skilled nursing facility will not  
712 participate in the Medicaid program shall be a condition of the  
713 issuance of a certificate of need to any person under this  
714 paragraph (o), and if such skilled nursing facility at any time  
715 after the issuance of the certificate of need, regardless of the  
716 ownership of the facility, participates in the Medicaid program or  
717 admits or keeps any patients in the facility who are participating  
718 in the Medicaid program, the State Department of Health shall  
719 revoke the certificate of need, if it is still outstanding, and  
720 shall deny or revoke the license of the skilled nursing facility,



721 at the time that the department determines, after a hearing  
722 complying with due process, that the facility has failed to comply  
723 with any of the conditions upon which the certificate of need was  
724 issued, as provided in this paragraph and in the written agreement  
725 by the recipient of the certificate of need. The total number of  
726 nursing facility beds that may be authorized by any certificate of  
727 need issued under this paragraph (o) shall not exceed sixty (60)  
728 beds. If the certificate of need authorized under this paragraph  
729 is not issued within twelve (12) months after July 1, 2001, the  
730 department shall deny the application for the certificate of need  
731 and shall not issue the certificate of need at any time after the  
732 twelve-month period, unless the issuance is contested. If the  
733 certificate of need is issued and substantial construction of the  
734 nursing facility beds has not commenced within eighteen (18)  
735 months after July 1, 2001, the State Department of Health, after a  
736 hearing complying with due process, shall revoke the certificate  
737 of need if it is still outstanding, and the department shall not  
738 issue a license for the nursing facility at any time after the  
739 eighteen-month period. However, if the issuance of the  
740 certificate of need is contested, the department shall require  
741 substantial construction of the nursing facility beds within six  
742 (6) months after final adjudication on the issuance of the  
743 certificate of need.

744 (p) The department may issue a certificate of need for  
745 the construction of a municipally owned nursing facility within



746 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
747 beds, provided that the recipient of the certificate of need  
748 agrees in writing that the skilled nursing facility will not at  
749 any time participate in the Medicaid program (Section 43-13-101 et  
750 seq.) or admit or keep any patients in the skilled nursing  
751 facility who are participating in the Medicaid program. This  
752 written agreement by the recipient of the certificate of need  
753 shall be fully binding on any subsequent owner of the skilled  
754 nursing facility, if the ownership of the facility is transferred  
755 at any time after the issuance of the certificate of need.  
756 Agreement that the skilled nursing facility will not participate  
757 in the Medicaid program shall be a condition of the issuance of a  
758 certificate of need to any person under this paragraph (p), and if  
759 such skilled nursing facility at any time after the issuance of  
760 the certificate of need, regardless of the ownership of the  
761 facility, participates in the Medicaid program or admits or keeps  
762 any patients in the facility who are participating in the Medicaid  
763 program, the State Department of Health shall revoke the  
764 certificate of need, if it is still outstanding, and shall deny or  
765 revoke the license of the skilled nursing facility, at the time  
766 that the department determines, after a hearing complying with due  
767 process, that the facility has failed to comply with any of the  
768 conditions upon which the certificate of need was issued, as  
769 provided in this paragraph and in the written agreement by the  
770 recipient of the certificate of need. The provision of Section



771 41-7-193(1) regarding substantial compliance of the projection of  
772 need as reported in the current State Health Plan is waived for  
773 the purposes of this paragraph. If the certificate of need  
774 authorized under this paragraph is not issued within twelve (12)  
775 months after July 1, 1998, the department shall deny the  
776 application for the certificate of need and shall not issue the  
777 certificate of need at any time after the twelve-month period,  
778 unless the issuance is contested. If the certificate of need is  
779 issued and substantial construction of the nursing facility beds  
780 has not commenced within eighteen (18) months after July 1, 1998,  
781 the State Department of Health, after a hearing complying with due  
782 process, shall revoke the certificate of need if it is still  
783 outstanding, and the department shall not issue a license for the  
784 nursing facility at any time after the eighteen-month period.  
785 However, if the issuance of the certificate of need is contested,  
786 the department shall require substantial construction of the  
787 nursing facility beds within six (6) months after final  
788 adjudication on the issuance of the certificate of need.

789 (q) (i) Beginning on July 1, 1999, the State  
790 Department of Health shall issue certificates of need during each  
791 of the next four (4) fiscal years for the construction or  
792 expansion of nursing facility beds or the conversion of other beds  
793 to nursing facility beds in each county in the state having a need  
794 for fifty (50) or more additional nursing facility beds, as shown  
795 in the fiscal year 1999 State Health Plan, in the manner provided





796 in this paragraph (q). The total number of nursing facility beds  
797 that may be authorized by any certificate of need authorized under  
798 this paragraph (q) shall not exceed sixty (60) beds.

799 (ii) Subject to the provisions of subparagraph  
800 (v), during each of the next four (4) fiscal years, the department  
801 shall issue six (6) certificates of need for new nursing facility  
802 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
803 (1) certificate of need shall be issued for new nursing facility  
804 beds in the county in each of the four (4) Long-Term Care Planning  
805 Districts designated in the fiscal year 1999 State Health Plan  
806 that has the highest need in the district for those beds; and two  
807 (2) certificates of need shall be issued for new nursing facility  
808 beds in the two (2) counties from the state at large that have the  
809 highest need in the state for those beds, when considering the  
810 need on a statewide basis and without regard to the Long-Term Care  
811 Planning Districts in which the counties are located. During  
812 fiscal year 2003, one (1) certificate of need shall be issued for  
813 new nursing facility beds in any county having a need for fifty  
814 (50) or more additional nursing facility beds, as shown in the  
815 fiscal year 1999 State Health Plan, that has not received a  
816 certificate of need under this paragraph (q) during the three (3)  
817 previous fiscal years. During fiscal year 2000, in addition to  
818 the six (6) certificates of need authorized in this subparagraph,  
819 the department also shall issue a certificate of need for new



820 nursing facility beds in Amite County and a certificate of need  
821 for new nursing facility beds in Carroll County.

822 (iii) Subject to the provisions of subparagraph  
823 (v), the certificate of need issued under subparagraph (ii) for  
824 nursing facility beds in each Long-Term Care Planning District  
825 during each fiscal year shall first be available for nursing  
826 facility beds in the county in the district having the highest  
827 need for those beds, as shown in the fiscal year 1999 State Health  
828 Plan. If there are no applications for a certificate of need for  
829 nursing facility beds in the county having the highest need for  
830 those beds by the date specified by the department, then the  
831 certificate of need shall be available for nursing facility beds  
832 in other counties in the district in descending order of the need  
833 for those beds, from the county with the second highest need to  
834 the county with the lowest need, until an application is received  
835 for nursing facility beds in an eligible county in the district.

836 (iv) Subject to the provisions of subparagraph  
837 (v), the certificate of need issued under subparagraph (ii) for  
838 nursing facility beds in the two (2) counties from the state at  
839 large during each fiscal year shall first be available for nursing  
840 facility beds in the two (2) counties that have the highest need  
841 in the state for those beds, as shown in the fiscal year 1999  
842 State Health Plan, when considering the need on a statewide basis  
843 and without regard to the Long-Term Care Planning Districts in  
844 which the counties are located. If there are no applications for



845 a certificate of need for nursing facility beds in either of the  
846 two (2) counties having the highest need for those beds on a  
847 statewide basis by the date specified by the department, then the  
848 certificate of need shall be available for nursing facility beds  
849 in other counties from the state at large in descending order of  
850 the need for those beds on a statewide basis, from the county with  
851 the second highest need to the county with the lowest need, until  
852 an application is received for nursing facility beds in an  
853 eligible county from the state at large.

854 (v) If a certificate of need is authorized to be  
855 issued under this paragraph (q) for nursing facility beds in a  
856 county on the basis of the need in the Long-Term Care Planning  
857 District during any fiscal year of the four-year period, a  
858 certificate of need shall not also be available under this  
859 paragraph (q) for additional nursing facility beds in that county  
860 on the basis of the need in the state at large, and that county  
861 shall be excluded in determining which counties have the highest  
862 need for nursing facility beds in the state at large for that  
863 fiscal year. After a certificate of need has been issued under  
864 this paragraph (q) for nursing facility beds in a county during  
865 any fiscal year of the four-year period, a certificate of need  
866 shall not be available again under this paragraph (q) for  
867 additional nursing facility beds in that county during the  
868 four-year period, and that county shall be excluded in determining



869 which counties have the highest need for nursing facility beds in  
870 succeeding fiscal years.

871 (vi) If more than one (1) application is made for  
872 a certificate of need for nursing home facility beds available  
873 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
874 County, and one (1) of the applicants is a county-owned hospital  
875 located in the county where the nursing facility beds are  
876 available, the department shall give priority to the county-owned  
877 hospital in granting the certificate of need if the following  
878 conditions are met:

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

882 2. The county-owned hospital's qualifications  
883 for the certificate of need, as shown in its application and as  
884 determined by the department, are at least equal to the  
885 qualifications of the other applicants for the certificate of  
886 need.

887 (r) (i) Beginning on July 1, 1999, the State  
888 Department of Health shall issue certificates of need during each  
889 of the next two (2) fiscal years for the construction or expansion  
890 of nursing facility beds or the conversion of other beds to  
891 nursing facility beds in each of the four (4) Long-Term Care  
892 Planning Districts designated in the fiscal year 1999 State Health



893 Plan, to provide care exclusively to patients with Alzheimer's  
894 disease.

895 (ii) Not more than twenty (20) beds may be  
896 authorized by any certificate of need issued under this paragraph  
897 (r), and not more than a total of sixty (60) beds may be  
898 authorized in any Long-Term Care Planning District by all  
899 certificates of need issued under this paragraph (r). However,  
900 the total number of beds that may be authorized by all  
901 certificates of need issued under this paragraph (r) during any  
902 fiscal year shall not exceed one hundred twenty (120) beds, and  
903 the total number of beds that may be authorized in any Long-Term  
904 Care Planning District during any fiscal year shall not exceed  
905 forty (40) beds. Of the certificates of need that are issued for  
906 each Long-Term Care Planning District during the next two (2)  
907 fiscal years, at least one (1) shall be issued for beds in the  
908 northern part of the district, at least one (1) shall be issued  
909 for beds in the central part of the district, and at least one (1)  
910 shall be issued for beds in the southern part of the district.

911 (iii) The State Department of Health, in  
912 consultation with the Department of Mental Health and the Division  
913 of Medicaid, shall develop and prescribe the staffing levels,  
914 space requirements and other standards and requirements that must  
915 be met with regard to the nursing facility beds authorized under  
916 this paragraph (r) to provide care exclusively to patients with  
917 Alzheimer's disease.



918           (s) The State Department of Health may issue a  
919 certificate of need to a nonprofit skilled nursing facility using  
920 the Green House model of skilled nursing care and located in Yazoo  
921 City, Yazoo County, Mississippi, for the construction, expansion  
922 or conversion of not more than nineteen (19) nursing facility  
923 beds. For purposes of this paragraph (s), the provisions of  
924 Section 41-7-193(1) requiring substantial compliance with the  
925 projection of need as reported in the current State Health Plan  
926 and the provisions of Section 41-7-197 requiring a formal  
927 certificate of need hearing process are waived. There shall be no  
928 prohibition or restrictions on participation in the Medicaid  
929 program for the person receiving the certificate of need  
930 authorized under this paragraph (s).

931           (t) The State Department of Health shall issue  
932 certificates of need to the owner of a nursing facility in  
933 operation at the time of Hurricane Katrina in Hancock County that  
934 was not operational on December 31, 2005, because of damage  
935 sustained from Hurricane Katrina to authorize the following: (i)  
936 the construction of a new nursing facility in Harrison County;  
937 (ii) the relocation of forty-nine (49) nursing facility beds from  
938 the Hancock County facility to the new Harrison County facility;  
939 (iii) the establishment of not more than twenty (20) non-Medicaid  
940 nursing facility beds at the Hancock County facility; and (iv) the  
941 establishment of not more than twenty (20) non-Medicaid beds at  
942 the new Harrison County facility. The certificates of need that



943 authorize the non-Medicaid nursing facility beds under  
944 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
945 subject to the following conditions: The owner of the Hancock  
946 County facility and the new Harrison County facility must agree in  
947 writing that no more than fifty (50) of the beds at the Hancock  
948 County facility and no more than forty-nine (49) of the beds at  
949 the Harrison County facility will be certified for participation  
950 in the Medicaid program, and that no claim will be submitted for  
951 Medicaid reimbursement for more than fifty (50) patients in the  
952 Hancock County facility in any month, or for more than forty-nine  
953 (49) patients in the Harrison County facility in any month, or for  
954 any patient in either facility who is in a bed that is not  
955 Medicaid-certified. This written agreement by the owner of the  
956 nursing facilities shall be a condition of the issuance of the  
957 certificates of need under this paragraph (t), and the agreement  
958 shall be fully binding on any later owner or owners of either  
959 facility if the ownership of either facility is transferred at any  
960 time after the certificates of need are issued. After this  
961 written agreement is executed, the Division of Medicaid and the  
962 State Department of Health shall not certify more than fifty (50)  
963 of the beds at the Hancock County facility or more than forty-nine  
964 (49) of the beds at the Harrison County facility for participation  
965 in the Medicaid program. If the Hancock County facility violates  
966 the terms of the written agreement by admitting or keeping in the  
967 facility on a regular or continuing basis more than fifty (50)



968 patients who are participating in the Medicaid program, or if the  
969 Harrison County facility violates the terms of the written  
970 agreement by admitting or keeping in the facility on a regular or  
971 continuing basis more than forty-nine (49) patients who are  
972 participating in the Medicaid program, the State Department of  
973 Health shall revoke the license of the facility that is in  
974 violation of the agreement, at the time that the department  
975 determines, after a hearing complying with due process, that the  
976 facility has violated the agreement.

977           (u) The State Department of Health shall issue a  
978 certificate of need to a nonprofit venture for the establishment,  
979 construction and operation of a skilled nursing facility of not  
980 more than sixty (60) beds to provide skilled nursing care for  
981 ventilator dependent or otherwise medically dependent pediatric  
982 patients who require medical and nursing care or rehabilitation  
983 services to be located in a county in which an academic medical  
984 center and a children's hospital are located, and for any  
985 construction and for the acquisition of equipment related to those  
986 beds. The facility shall be authorized to keep such ventilator  
987 dependent or otherwise medically dependent pediatric patients  
988 beyond age twenty-one (21) in accordance with regulations of the  
989 State Board of Health. For purposes of this paragraph (u), the  
990 provisions of Section 41-7-193(1) requiring substantial compliance  
991 with the projection of need as reported in the current State  
992 Health Plan are waived, and the provisions of Section 41-7-197





993 requiring a formal certificate of need hearing process are waived.  
994 The beds authorized by this paragraph shall be counted as  
995 pediatric skilled nursing facility beds for health planning  
996 purposes under Section 41-7-171 et seq. There shall be no  
997 prohibition of or restrictions on participation in the Medicaid  
998 program for the person receiving the certificate of need  
999 authorized by this paragraph.

1000 (3) The State Department of Health may grant approval for  
1001 and issue certificates of need to any person proposing the new  
1002 construction of, addition to, conversion of beds of or expansion  
1003 of any health care facility defined in subparagraph (x)  
1004 (psychiatric residential treatment facility) of Section  
1005 41-7-173( \* \* \*e). The total number of beds which may be  
1006 authorized by such certificates of need shall not exceed three  
1007 hundred thirty-four (334) beds for the entire state.

1008 (a) Of the total number of beds authorized under this  
1009 subsection, the department shall issue a certificate of need to a  
1010 privately owned psychiatric residential treatment facility in  
1011 Simpson County for the conversion of sixteen (16) intermediate  
1012 care facility for the \* \* \* intellectually disabled (ICF-ID) beds  
1013 to psychiatric residential treatment facility beds, provided that  
1014 facility agrees in writing that the facility shall give priority  
1015 for the use of those sixteen (16) beds to Mississippi residents  
1016 who are presently being treated in out-of-state facilities.



1017 (b) Of the total number of beds authorized under this  
1018 subsection, the department may issue a certificate or certificates  
1019 of need for the construction or expansion of psychiatric  
1020 residential treatment facility beds or the conversion of other  
1021 beds to psychiatric residential treatment facility beds in Warren  
1022 County, not to exceed sixty (60) psychiatric residential treatment  
1023 facility beds, provided that the facility agrees in writing that  
1024 no more than thirty (30) of the beds at the psychiatric  
1025 residential treatment facility will be certified for participation  
1026 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1027 any patients other than those who are participating only in the  
1028 Medicaid program of another state, and that no claim will be  
1029 submitted to the Division of Medicaid for Medicaid reimbursement  
1030 for more than thirty (30) patients in the psychiatric residential  
1031 treatment facility in any day or for any patient in the  
1032 psychiatric residential treatment facility who is in a bed that is  
1033 not Medicaid-certified. This written agreement by the recipient  
1034 of the certificate of need shall be a condition of the issuance of  
1035 the certificate of need under this paragraph, and the agreement  
1036 shall be fully binding on any subsequent owner of the psychiatric  
1037 residential treatment facility if the ownership of the facility is  
1038 transferred at any time after the issuance of the certificate of  
1039 need. After this written agreement is executed, the Division of  
1040 Medicaid and the State Department of Health shall not certify more  
1041 than thirty (30) of the beds in the psychiatric residential



1042 treatment facility for participation in the Medicaid program for  
1043 the use of any patients other than those who are participating  
1044 only in the Medicaid program of another state. If the psychiatric  
1045 residential treatment facility violates the terms of the written  
1046 agreement by admitting or keeping in the facility on a regular or  
1047 continuing basis more than thirty (30) patients who are  
1048 participating in the Mississippi Medicaid program, the State  
1049 Department of Health shall revoke the license of the facility, at  
1050 the time that the department determines, after a hearing complying  
1051 with due process, that the facility has violated the condition  
1052 upon which the certificate of need was issued, as provided in this  
1053 paragraph and in the written agreement.

1054 The State Department of Health, on or before July 1, 2002,  
1055 shall transfer the certificate of need authorized under the  
1056 authority of this paragraph (b), or reissue the certificate of  
1057 need if it has expired, to River Region Health System.

1058 (c) Of the total number of beds authorized under this  
1059 subsection, the department shall issue a certificate of need to a  
1060 hospital currently operating Medicaid-certified acute psychiatric  
1061 beds for adolescents in DeSoto County, for the establishment of a  
1062 forty-bed psychiatric residential treatment facility in DeSoto  
1063 County, provided that the hospital agrees in writing (i) that the  
1064 hospital shall give priority for the use of those forty (40) beds  
1065 to Mississippi residents who are presently being treated in  
1066 out-of-state facilities, and (ii) that no more than fifteen (15)



1067 of the beds at the psychiatric residential treatment facility will  
1068 be certified for participation in the Medicaid program (Section  
1069 43-13-101 et seq.), and that no claim will be submitted for  
1070 Medicaid reimbursement for more than fifteen (15) patients in the  
1071 psychiatric residential treatment facility in any day or for any  
1072 patient in the psychiatric residential treatment facility who is  
1073 in a bed that is not Medicaid-certified. This written agreement  
1074 by the recipient of the certificate of need shall be a condition  
1075 of the issuance of the certificate of need under this paragraph,  
1076 and the agreement shall be fully binding on any subsequent owner  
1077 of the psychiatric residential treatment facility if the ownership  
1078 of the facility is transferred at any time after the issuance of  
1079 the certificate of need. After this written agreement is  
1080 executed, the Division of Medicaid and the State Department of  
1081 Health shall not certify more than fifteen (15) of the beds in the  
1082 psychiatric residential treatment facility for participation in  
1083 the Medicaid program. If the psychiatric residential treatment  
1084 facility violates the terms of the written agreement by admitting  
1085 or keeping in the facility on a regular or continuing basis more  
1086 than fifteen (15) patients who are participating in the Medicaid  
1087 program, the State Department of Health shall revoke the license  
1088 of the facility, at the time that the department determines, after  
1089 a hearing complying with due process, that the facility has  
1090 violated the condition upon which the certificate of need was



1091 issued, as provided in this paragraph and in the written  
1092 agreement.

1093 (d) Of the total number of beds authorized under this  
1094 subsection, the department may issue a certificate or certificates  
1095 of need for the construction or expansion of psychiatric  
1096 residential treatment facility beds or the conversion of other  
1097 beds to psychiatric treatment facility beds, not to exceed thirty  
1098 (30) psychiatric residential treatment facility beds, in either  
1099 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1100 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1101 (e) Of the total number of beds authorized under this  
1102 subsection (3) the department shall issue a certificate of need to  
1103 a privately owned, nonprofit psychiatric residential treatment  
1104 facility in Hinds County for an eight-bed expansion of the  
1105 facility, provided that the facility agrees in writing that the  
1106 facility shall give priority for the use of those eight (8) beds  
1107 to Mississippi residents who are presently being treated in  
1108 out-of-state facilities.

1109 (f) The department shall issue a certificate of need to  
1110 a one-hundred-thirty-four-bed specialty hospital located on  
1111 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1112 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1113 Mississippi, for the addition, construction or expansion of  
1114 child/adolescent psychiatric residential treatment facility beds  
1115 in Lauderdale County. As a condition of issuance of the



1116 certificate of need under this paragraph, the facility shall give  
1117 priority in admissions to the child/adolescent psychiatric  
1118 residential treatment facility beds authorized under this  
1119 paragraph to patients who otherwise would require out-of-state  
1120 placement. The Division of Medicaid, in conjunction with the  
1121 Department of Human Services, shall furnish the facility a list of  
1122 all out-of-state patients on a quarterly basis. Furthermore,  
1123 notice shall also be provided to the parent, custodial parent or  
1124 guardian of each out-of-state patient notifying them of the  
1125 priority status granted by this paragraph. For purposes of this  
1126 paragraph, the provisions of Section 41-7-193(1) requiring  
1127 substantial compliance with the projection of need as reported in  
1128 the current State Health Plan are waived. The total number of  
1129 child/adolescent psychiatric residential treatment facility beds  
1130 that may be authorized under the authority of this paragraph shall  
1131 be sixty (60) beds. There shall be no prohibition or restrictions  
1132 on participation in the Medicaid program (Section 43-13-101 et  
1133 seq.) for the person receiving the certificate of need authorized  
1134 under this paragraph or for the beds converted pursuant to the  
1135 authority of that certificate of need.

1136 (4) (a) From and after July 1, 1993, the department shall  
1137 not issue a certificate of need to any person for the new  
1138 construction of any hospital, psychiatric hospital or chemical  
1139 dependency hospital that will contain any child/adolescent  
1140 psychiatric or child/adolescent chemical dependency beds, or for



1141 the conversion of any other health care facility to a hospital,  
1142 psychiatric hospital or chemical dependency hospital that will  
1143 contain any child/adolescent psychiatric or child/adolescent  
1144 chemical dependency beds, or for the addition of any  
1145 child/adolescent psychiatric or child/adolescent chemical  
1146 dependency beds in any hospital, psychiatric hospital or chemical  
1147 dependency hospital, or for the conversion of any beds of another  
1148 category in any hospital, psychiatric hospital or chemical  
1149 dependency hospital to child/adolescent psychiatric or  
1150 child/adolescent chemical dependency beds, except as hereinafter  
1151 authorized:

1152                   (i) The department may issue certificates of need  
1153 to any person for any purpose described in this subsection,  
1154 provided that the hospital, psychiatric hospital or chemical  
1155 dependency hospital does not participate in the Medicaid program  
1156 (Section 43-13-101 et seq.) at the time of the application for the  
1157 certificate of need and the owner of the hospital, psychiatric  
1158 hospital or chemical dependency hospital agrees in writing that  
1159 the hospital, psychiatric hospital or chemical dependency hospital  
1160 will not at any time participate in the Medicaid program or admit  
1161 or keep any patients who are participating in the Medicaid program  
1162 in the hospital, psychiatric hospital or chemical dependency  
1163 hospital. This written agreement by the recipient of the  
1164 certificate of need shall be fully binding on any subsequent owner  
1165 of the hospital, psychiatric hospital or chemical dependency



1166 hospital, if the ownership of the facility is transferred at any  
1167 time after the issuance of the certificate of need. Agreement  
1168 that the hospital, psychiatric hospital or chemical dependency  
1169 hospital will not participate in the Medicaid program shall be a  
1170 condition of the issuance of a certificate of need to any person  
1171 under this subparagraph (i), and if such hospital, psychiatric  
1172 hospital or chemical dependency hospital at any time after the  
1173 issuance of the certificate of need, regardless of the ownership  
1174 of the facility, participates in the Medicaid program or admits or  
1175 keeps any patients in the hospital, psychiatric hospital or  
1176 chemical dependency hospital who are participating in the Medicaid  
1177 program, the State Department of Health shall revoke the  
1178 certificate of need, if it is still outstanding, and shall deny or  
1179 revoke the license of the hospital, psychiatric hospital or  
1180 chemical dependency hospital, at the time that the department  
1181 determines, after a hearing complying with due process, that the  
1182 hospital, psychiatric hospital or chemical dependency hospital has  
1183 failed to comply with any of the conditions upon which the  
1184 certificate of need was issued, as provided in this subparagraph  
1185 (i) and in the written agreement by the recipient of the  
1186 certificate of need.

1187                   (ii) The department may issue a certificate of  
1188 need for the conversion of existing beds in a county hospital in  
1189 Choctaw County from acute care beds to child/adolescent chemical  
1190 dependency beds. For purposes of this subparagraph (ii), the





1191 provisions of Section 41-7-193(1) requiring substantial compliance  
1192 with the projection of need as reported in the current State  
1193 Health Plan are waived. The total number of beds that may be  
1194 authorized under authority of this subparagraph shall not exceed  
1195 twenty (20) beds. There shall be no prohibition or restrictions  
1196 on participation in the Medicaid program (Section 43-13-101 et  
1197 seq.) for the hospital receiving the certificate of need  
1198 authorized under this subparagraph or for the beds converted  
1199 pursuant to the authority of that certificate of need.

1200 (iii) The department may issue a certificate or  
1201 certificates of need for the construction or expansion of  
1202 child/adolescent psychiatric beds or the conversion of other beds  
1203 to child/adolescent psychiatric beds in Warren County. For  
1204 purposes of this subparagraph (iii), the provisions of Section  
1205 41-7-193(1) requiring substantial compliance with the projection  
1206 of need as reported in the current State Health Plan are waived.  
1207 The total number of beds that may be authorized under the  
1208 authority of this subparagraph shall not exceed twenty (20) beds.  
1209 There shall be no prohibition or restrictions on participation in  
1210 the Medicaid program (Section 43-13-101 et seq.) for the person  
1211 receiving the certificate of need authorized under this  
1212 subparagraph or for the beds converted pursuant to the authority  
1213 of that certificate of need.

1214 If by January 1, 2002, there has been no significant  
1215 commencement of construction of the beds authorized under this



1216 subparagraph (iii), or no significant action taken to convert  
1217 existing beds to the beds authorized under this subparagraph, then  
1218 the certificate of need that was previously issued under this  
1219 subparagraph shall expire. If the previously issued certificate  
1220 of need expires, the department may accept applications for  
1221 issuance of another certificate of need for the beds authorized  
1222 under this subparagraph, and may issue a certificate of need to  
1223 authorize the construction, expansion or conversion of the beds  
1224 authorized under this subparagraph.

1225                   (iv) The department shall issue a certificate of  
1226 need to the Region 7 Mental Health/Retardation Commission for the  
1227 construction or expansion of child/adolescent psychiatric beds or  
1228 the conversion of other beds to child/adolescent psychiatric beds  
1229 in any of the counties served by the commission. For purposes of  
1230 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1231 requiring substantial compliance with the projection of need as  
1232 reported in the current State Health Plan are waived. The total  
1233 number of beds that may be authorized under the authority of this  
1234 subparagraph shall not exceed twenty (20) beds. There shall be no  
1235 prohibition or restrictions on participation in the Medicaid  
1236 program (Section 43-13-101 et seq.) for the person receiving the  
1237 certificate of need authorized under this subparagraph or for the  
1238 beds converted pursuant to the authority of that certificate of  
1239 need.



1240 (v) The department may issue a certificate of need  
1241 to any county hospital located in Leflore County for the  
1242 construction or expansion of adult psychiatric beds or the  
1243 conversion of other beds to adult psychiatric beds, not to exceed  
1244 twenty (20) beds, provided that the recipient of the certificate  
1245 of need agrees in writing that the adult psychiatric beds will not  
1246 at any time be certified for participation in the Medicaid program  
1247 and that the hospital will not admit or keep any patients who are  
1248 participating in the Medicaid program in any of such adult  
1249 psychiatric beds. This written agreement by the recipient of the  
1250 certificate of need shall be fully binding on any subsequent owner  
1251 of the hospital if the ownership of the hospital is transferred at  
1252 any time after the issuance of the certificate of need. Agreement  
1253 that the adult psychiatric beds will not be certified for  
1254 participation in the Medicaid program shall be a condition of the  
1255 issuance of a certificate of need to any person under this  
1256 subparagraph (v), and if such hospital at any time after the  
1257 issuance of the certificate of need, regardless of the ownership  
1258 of the hospital, has any of such adult psychiatric beds certified  
1259 for participation in the Medicaid program or admits or keeps any  
1260 Medicaid patients in such adult psychiatric beds, the State  
1261 Department of Health shall revoke the certificate of need, if it  
1262 is still outstanding, and shall deny or revoke the license of the  
1263 hospital at the time that the department determines, after a  
1264 hearing complying with due process, that the hospital has failed



1265 to comply with any of the conditions upon which the certificate of  
1266 need was issued, as provided in this subparagraph and in the  
1267 written agreement by the recipient of the certificate of need.

1268                   (vi) The department may issue a certificate or  
1269 certificates of need for the expansion of child psychiatric beds  
1270 or the conversion of other beds to child psychiatric beds at the  
1271 University of Mississippi Medical Center. For purposes of this  
1272 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1273 substantial compliance with the projection of need as reported in  
1274 the current State Health Plan are waived. The total number of  
1275 beds that may be authorized under the authority of this  
1276 subparagraph shall not exceed fifteen (15) beds. There shall be  
1277 no prohibition or restrictions on participation in the Medicaid  
1278 program (Section 43-13-101 et seq.) for the hospital receiving the  
1279 certificate of need authorized under this subparagraph or for the  
1280 beds converted pursuant to the authority of that certificate of  
1281 need.

1282                   (b) From and after July 1, 1990, no hospital,  
1283 psychiatric hospital or chemical dependency hospital shall be  
1284 authorized to add any child/adolescent psychiatric or  
1285 child/adolescent chemical dependency beds or convert any beds of  
1286 another category to child/adolescent psychiatric or  
1287 child/adolescent chemical dependency beds without a certificate of  
1288 need under the authority of subsection (1)(c) of this section.



1289 (5) The department may issue a certificate of need to a  
1290 county hospital in Winston County for the conversion of fifteen  
1291 (15) acute care beds to geriatric psychiatric care beds.

1292 (6) The State Department of Health shall issue a certificate  
1293 of need to a Mississippi corporation qualified to manage a  
1294 long-term care hospital as defined in Section  
1295 41-7-173( \* \* \*e) (xii) in Harrison County, not to exceed eighty  
1296 (80) beds, including any necessary renovation or construction  
1297 required for licensure and certification, provided that the  
1298 recipient of the certificate of need agrees in writing that the  
1299 long-term care hospital will not at any time participate in the  
1300 Medicaid program (Section 43-13-101 et seq.) or admit or keep any  
1301 patients in the long-term care hospital who are participating in  
1302 the Medicaid program. This written agreement by the recipient of  
1303 the certificate of need shall be fully binding on any subsequent  
1304 owner of the long-term care hospital, if the ownership of the  
1305 facility is transferred at any time after the issuance of the  
1306 certificate of need. Agreement that the long-term care hospital  
1307 will not participate in the Medicaid program shall be a condition  
1308 of the issuance of a certificate of need to any person under this  
1309 subsection (6), and if such long-term care hospital at any time  
1310 after the issuance of the certificate of need, regardless of the  
1311 ownership of the facility, participates in the Medicaid program or  
1312 admits or keeps any patients in the facility who are participating  
1313 in the Medicaid program, the State Department of Health shall



1314 revoke the certificate of need, if it is still outstanding, and  
1315 shall deny or revoke the license of the long-term care hospital,  
1316 at the time that the department determines, after a hearing  
1317 complying with due process, that the facility has failed to comply  
1318 with any of the conditions upon which the certificate of need was  
1319 issued, as provided in this subsection and in the written  
1320 agreement by the recipient of the certificate of need. For  
1321 purposes of this subsection, the provisions of Section 41-7-193(1)  
1322 requiring substantial compliance with the projection of need as  
1323 reported in the current State Health Plan are waived.

1324 (7) The State Department of Health may issue a certificate  
1325 of need to any hospital in the state to utilize a portion of its  
1326 beds for the "swing-bed" concept. Any such hospital must be in  
1327 conformance with the federal regulations regarding such swing-bed  
1328 concept at the time it submits its application for a certificate  
1329 of need to the State Department of Health, except that such  
1330 hospital may have more licensed beds or a higher average daily  
1331 census (ADC) than the maximum number specified in federal  
1332 regulations for participation in the swing-bed program. Any  
1333 hospital meeting all federal requirements for participation in the  
1334 swing-bed program which receives such certificate of need shall  
1335 render services provided under the swing-bed concept to any  
1336 patient eligible for Medicare (Title XVIII of the Social Security  
1337 Act) who is certified by a physician to be in need of such  
1338 services, and no such hospital shall permit any patient who is



1339 eligible for both Medicaid and Medicare or eligible only for  
1340 Medicaid to stay in the swing beds of the hospital for more than  
1341 thirty (30) days per admission unless the hospital receives prior  
1342 approval for such patient from the Division of Medicaid, Office of  
1343 the Governor. Any hospital having more licensed beds or a higher  
1344 average daily census (ADC) than the maximum number specified in  
1345 federal regulations for participation in the swing-bed program  
1346 which receives such certificate of need shall develop a procedure  
1347 to insure that before a patient is allowed to stay in the swing  
1348 beds of the hospital, there are no vacant nursing home beds  
1349 available for that patient located within a fifty-mile radius of  
1350 the hospital. When any such hospital has a patient staying in the  
1351 swing beds of the hospital and the hospital receives notice from a  
1352 nursing home located within such radius that there is a vacant bed  
1353 available for that patient, the hospital shall transfer the  
1354 patient to the nursing home within a reasonable time after receipt  
1355 of the notice. Any hospital which is subject to the requirements  
1356 of the two (2) preceding sentences of this subsection may be  
1357 suspended from participation in the swing-bed program for a  
1358 reasonable period of time by the State Department of Health if the  
1359 department, after a hearing complying with due process, determines  
1360 that the hospital has failed to comply with any of those  
1361 requirements.

1362 (8) The Department of Health shall not grant approval for or  
1363 issue a certificate of need to any person proposing the new



1364 construction of, addition to or expansion of a health care  
1365 facility as defined in subparagraph (viii) of Section  
1366 41-7-173( \* \* \*e), except as hereinafter provided: The department  
1367 may issue a certificate of need to a nonprofit corporation located  
1368 in Madison County, Mississippi, for the construction, expansion or  
1369 conversion of not more than twenty (20) beds in a community living  
1370 program for developmentally disabled adults in a facility as  
1371 defined in subparagraph (viii) of Section 41-7-173( \* \* \*e). For  
1372 purposes of this subsection (8), the provisions of Section  
1373 41-7-193(1) requiring substantial compliance with the projection  
1374 of need as reported in the current State Health Plan and the  
1375 provisions of Section 41-7-197 requiring a formal certificate of  
1376 need hearing process are waived. There shall be no prohibition or  
1377 restrictions on participation in the Medicaid program for the  
1378 person receiving the certificate of need authorized under this  
1379 subsection (8).

1380 (9) \* \* \* [Deleted]

1381 (10) Health care facilities owned and/or operated by the  
1382 state or its agencies are exempt from the restraints in this  
1383 section against issuance of a certificate of need if such addition  
1384 or expansion consists of repairing or renovation necessary to  
1385 comply with the state licensure law. This exception shall not  
1386 apply to the new construction of any building by such state  
1387 facility. This exception shall not apply to any health care  
1388 facilities owned and/or operated by counties, municipalities,





1389 districts, unincorporated areas, other defined persons, or any  
1390 combination thereof.

1391 (11) The new construction, renovation or expansion of or  
1392 addition to any health care facility defined in subparagraph (ii)  
1393 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1394 facility), subparagraph (vi) (intermediate care facility),  
1395 subparagraph (viii) (intermediate care facility for the \* \* \*  
1396 intellectually disabled) and subparagraph (x) (psychiatric  
1397 residential treatment facility) of Section 41-7-173( \* \* \*e) which  
1398 is owned by the State of Mississippi and under the direction and  
1399 control of the State Department of Mental Health, and the addition  
1400 of new beds or the conversion of beds from one category to another  
1401 in any such defined health care facility which is owned by the  
1402 State of Mississippi and under the direction and control of the  
1403 State Department of Mental Health, shall not require the issuance  
1404 of a certificate of need under Section 41-7-171 et seq.,  
1405 notwithstanding any provision in Section 41-7-171 et seq. to the  
1406 contrary.

1407 (12) The new construction, renovation or expansion of or  
1408 addition to any veterans homes or domiciliaries for eligible  
1409 veterans of the State of Mississippi as authorized under Section  
1410 35-1-19 shall not require the issuance of a certificate of need,  
1411 notwithstanding any provision in Section 41-7-171 et seq. to the  
1412 contrary.



1413           (13) The repair or the rebuilding of an existing, operating  
1414 health care facility that sustained significant damage from a  
1415 natural disaster that occurred after April 15, 2014, in an area  
1416 that is proclaimed a disaster area or subject to a state of  
1417 emergency by the Governor or by the President of the United States  
1418 shall be exempt from all of the requirements of the Mississippi  
1419 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1420 rules and regulations promulgated under that law, subject to the  
1421 following conditions:

1422           (a) The repair or the rebuilding of any such damaged  
1423 health care facility must be within one (1) mile of the  
1424 pre-disaster location of the campus of the damaged health care  
1425 facility, except that any temporary post-disaster health care  
1426 facility operating location may be within five (5) miles of the  
1427 pre-disaster location of the damaged health care facility;

1428           (b) The repair or the rebuilding of the damaged health  
1429 care facility (i) does not increase or change the complement of  
1430 its bed capacity that it had before the Governor's or the  
1431 President's proclamation, \* \* \* the Governor's or the President's  
1432 proclamation, and ( \* \* \* ii) does not rebuild in a different  
1433 county; however, this paragraph does not restrict or prevent a  
1434 health care facility from decreasing its bed capacity that it had  
1435 before the Governor's or the President's proclamation, or from  
1436 decreasing the levels of or decreasing or eliminating the types of  
1437 health care services that it provided before the Governor's or the



1438 President's proclamation, when the damaged health care facility is  
1439 repaired or rebuilt;

1440 (c) The exemption from Certificate of Need Law provided  
1441 under this subsection (13) is valid for only five (5) years from  
1442 the date of the Governor's or the President's proclamation. If  
1443 actual construction has not begun within that five-year period,  
1444 the exemption provided under this subsection is inapplicable; and

1445 (d) The Division of Health Facilities Licensure and  
1446 Certification of the State Department of Health shall provide the  
1447 same oversight for the repair or the rebuilding of the damaged  
1448 health care facility that it provides to all health care facility  
1449 construction projects in the state.

1450 For the purposes of this subsection (13), "significant  
1451 damage" to a health care facility means damage to the health care  
1452 facility requiring an expenditure of at least One Million Dollars  
1453 (\$1,000,000.00).

1454 (14) The State Department of Health shall issue a  
1455 certificate of need to any hospital which is currently licensed  
1456 for two hundred fifty (250) or more acute care beds and is located  
1457 in any general hospital service area not having a comprehensive  
1458 cancer center, for the establishment and equipping of such a  
1459 center which provides facilities and services for outpatient  
1460 radiation oncology therapy, outpatient medical oncology therapy,  
1461 and appropriate support services including the provision of  
1462 radiation therapy services. The provisions of Section 41-7-193(1)



1463 regarding substantial compliance with the projection of need as  
1464 reported in the current State Health Plan are waived for the  
1465 purpose of this subsection.

1466 (15) The State Department of Health may authorize the  
1467 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1468 North Panola Community Hospital to the South Panola Community  
1469 Hospital. The authorization for the transfer of those beds shall  
1470 be exempt from the certificate of need review process.

1471 (16) The State Department of Health shall issue any  
1472 certificates of need necessary for Mississippi State University  
1473 and a public or private health care provider to jointly acquire  
1474 and operate a linear accelerator and a magnetic resonance imaging  
1475 unit. Those certificates of need shall cover all capital  
1476 expenditures related to the project between Mississippi State  
1477 University and the health care provider, including, but not  
1478 limited to, the acquisition of the linear accelerator, the  
1479 magnetic resonance imaging unit and other radiological modalities;  
1480 the offering of linear accelerator and magnetic resonance imaging  
1481 services; and the cost of construction of facilities in which to  
1482 locate these services. The linear accelerator and the magnetic  
1483 resonance imaging unit shall be (a) located in the City of  
1484 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1485 Mississippi State University and the public or private health care  
1486 provider selected by Mississippi State University through a  
1487 request for proposals (RFP) process in which Mississippi State



1488 University selects, and the Board of Trustees of State  
1489 Institutions of Higher Learning approves, the health care provider  
1490 that makes the best overall proposal; (c) available to Mississippi  
1491 State University for research purposes two-thirds (2/3) of the  
1492 time that the linear accelerator and magnetic resonance imaging  
1493 unit are operational; and (d) available to the public or private  
1494 health care provider selected by Mississippi State University and  
1495 approved by the Board of Trustees of State Institutions of Higher  
1496 Learning one-third (1/3) of the time for clinical, diagnostic and  
1497 treatment purposes. For purposes of this subsection, the  
1498 provisions of Section 41-7-193(1) requiring substantial compliance  
1499 with the projection of need as reported in the current State  
1500 Health Plan are waived.

1501 (17) The State Department of Health shall issue a  
1502 certificate of need for the construction of an acute care hospital  
1503 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1504 be named the "John C. Stennis Memorial Hospital." In issuing the  
1505 certificate of need under this subsection, the department shall  
1506 give priority to a hospital located in Lauderdale County that has  
1507 two hundred fifteen (215) beds. For purposes of this subsection,  
1508 the provisions of Section 41-7-193(1) requiring substantial  
1509 compliance with the projection of need as reported in the current  
1510 State Health Plan and the provisions of Section 41-7-197 requiring  
1511 a formal certificate of need hearing process are waived. There  
1512 shall be no prohibition or restrictions on participation in the



1513 Medicaid program (Section 43-13-101 et seq.) for the person or  
1514 entity receiving the certificate of need authorized under this  
1515 subsection or for the beds constructed under the authority of that  
1516 certificate of need.

1517 (18) The planning, design, construction, renovation,  
1518 addition, furnishing and equipping of a clinical research unit at  
1519 any health care facility defined in Section 41-7-173( \* \* \*e) that  
1520 is under the direction and control of the University of  
1521 Mississippi Medical Center and located in Jackson, Mississippi,  
1522 and the addition of new beds or the conversion of beds from one  
1523 (1) category to another in any such clinical research unit, shall  
1524 not require the issuance of a certificate of need under Section  
1525 41-7-171 et seq., notwithstanding any provision in Section  
1526 41-7-171 et seq. to the contrary.

1527 \* \* \*

1528 ( \* \* \*19) Nothing in this section or in any other provision  
1529 of Section 41-7-171 et seq. shall prevent any nursing facility  
1530 from designating an appropriate number of existing beds in the  
1531 facility as beds for providing care exclusively to patients with  
1532 Alzheimer's disease.

1533 **SECTION 8.** Section 41-7-193, Mississippi Code of 1972, is  
1534 amended as follows:

1535 41-7-193. (1) No person may enter into any financing  
1536 arrangement or commitment for financing a \* \* \* project requiring  
1537 a certificate of need unless such certificate has been granted for



1538 such purpose. A certificate of need shall not be granted or  
1539 issued to any person for any proposal, cause or reason, unless the  
1540 proposal has been reviewed for consistency with the specifications  
1541 and the criteria established by the State Department of Health and  
1542 substantially complies with the projection of need as reported in  
1543 the state health plan in effect at the time the application for  
1544 the proposal was submitted.

1545 (2) An application for a certificate of need for \* \* \* a  
1546 proposal requiring a certificate of need shall specify the time,  
1547 within that granted, such shall be functional or operational  
1548 according to a time schedule submitted with the application. Each  
1549 certificate of need shall specify the maximum amount of capital  
1550 expenditure that may be obligated. The State Department of Health  
1551 shall periodically review the progress and time schedule of any  
1552 person issued or granted a certificate of need for any purpose.

1553 (3) An application for a certificate of need may be filed at  
1554 any time with the department after the applicant has given the  
1555 department fifteen (15) days' written notice of its intent to  
1556 apply for a certificate of need. The department shall not delay  
1557 review of an application. The department shall make its  
1558 recommendation approving or disapproving a complete application  
1559 within forty-five (45) days of the date the application was filed  
1560 or within fifteen (15) days of receipt of any requested  
1561 information, whichever is later, \* \* \* the request to be made by



1562 the department within fifteen (15) days of the filing of the  
1563 application.

1564 **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is  
1565 amended as follows:

1566 41-7-197. (1) The State Department of Health shall adopt  
1567 and \* \* \* use procedures for conducting certificate of need  
1568 reviews. Such procedures shall include, inter alia, the  
1569 following: (a) written notification to the applicant; (b) written  
1570 notification to health care facilities in the same health service  
1571 area as the proposed \* \* \* health care facility; (c) written  
1572 notification to other persons who \* \* \* before the receipt of the  
1573 application have filed a formal notice of intent to \* \* \* operate  
1574 a health care facility in the same service area; and (d)  
1575 notification to members of the public who reside in the service  
1576 area where the \* \* \* facility is proposed, which may be provided  
1577 through newspapers or public information channels.

1578 (2) All notices provided shall include, inter alia, the  
1579 following: (a) the proposed schedule for the review; (b) written  
1580 notification of the period within which a public hearing during  
1581 the course of the review may be requested in writing by one or  
1582 more affected persons, such request to be made within ten (10)  
1583 days of the department's staff recommendation for approval or  
1584 disapproval of an application; and (c) the manner in which  
1585 notification will be provided of the time and place of any hearing  
1586 so requested. Any such hearing shall be \* \* \* begun by an





1587 independent hearing officer designated by the State Department of  
1588 Health within sixty (60) days of the filing of the hearing request  
1589 unless all parties to the hearing agree to extend the time for  
1590 the \* \* \* beginning of the hearing. At such hearing, the hearing  
1591 officer and any person affected by the proposal being reviewed may  
1592 conduct reasonable questioning of persons who make relevant  
1593 factual allegations concerning the proposal. The hearing officer  
1594 shall require that all persons be sworn before they may offer any  
1595 testimony at the hearing, and the hearing officer is authorized to  
1596 administer oaths. Any person so choosing may be represented by  
1597 counsel at the hearing. A record of the hearing shall be made,  
1598 which shall consist of a transcript of all testimony received, all  
1599 documents and other material introduced by any interested person,  
1600 the staff report and recommendation and such other material as the  
1601 hearing officer considers relevant, including his own  
1602 recommendation, which he shall make, after reviewing, studying and  
1603 analyzing the evidence presented during the hearing, within a  
1604 reasonable period of time after the hearing is closed, which in no  
1605 event shall exceed forty-five (45) days. The completed record  
1606 shall be certified to the State Health Officer, who shall consider  
1607 only the record in making his decision, and shall not consider any  
1608 evidence or material \* \* \* that is not included \* \* \* in the  
1609 record. All final decisions regarding the issuance of a  
1610 certificate of need shall be made by the State Health Officer.  
1611 The State Health Officer shall make his or her written findings



1612 and issue his or her order after reviewing \* \* \* the record. The  
1613 findings and decision of the State Health Officer shall not be  
1614 deferred to any later date.

1615 (3) Unless a hearing is held, if review by the State  
1616 Department of Health concerning the issuance of a certificate of  
1617 need is not complete with a final decision issued by the State  
1618 Health Officer within the time specified by rule or regulation,  
1619 which shall not exceed ninety (90) days from the filing of the  
1620 application for a certificate of need, the proponent of the  
1621 proposal may, within thirty (30) days after the expiration of the  
1622 specified time for review, \* \* \* begin such legal action as is  
1623 necessary, in the Chancery Court of the First Judicial District of  
1624 Hinds County or in the chancery court of the county in which  
1625 the \* \* \* facility is proposed to be \* \* \* operated, to compel the  
1626 State Health Officer to issue written findings and written order  
1627 approving or disapproving the proposal in question.

1628 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is  
1629 amended as follows:

1630 41-7-201. (1) The provisions of this subsection (1) shall  
1631 apply to any party appealing any final order of the State  
1632 Department of Health pertaining to a certificate of need for a  
1633 home health agency, as defined in Section 41-7-173( \* \* \* e)(ix):

1634 (a) In addition to other remedies now available at law  
1635 or in equity, any party aggrieved by any such final order of the  
1636 State Department of Health shall have the right of appeal to the



1637 Chancery Court of the First Judicial District of Hinds County,  
1638 Mississippi, which appeal must be filed within thirty (30) days  
1639 after the date of the final order. \* \* \* However, \* \* \* any  
1640 appeal of an order disapproving an application for such a  
1641 certificate of need may be made to the chancery court of the  
1642 county where the proposed construction, expansion or alteration  
1643 was to be located \* \* \*. Such appeal must be filed in accordance  
1644 with the thirty (30) days for filing as \* \* \* provided in this  
1645 paragraph. Any appeal shall state briefly the nature of the  
1646 proceedings before the State Department of Health and shall  
1647 specify the order complained of. Any appeal shall state briefly  
1648 the nature of the proceedings before the State Department of  
1649 Health and shall specify the order complained of. Any person  
1650 whose rights may be materially affected by the action of the State  
1651 Department of Health may appear and become a party or the court  
1652 may, upon motion, order that any such person, organization or  
1653 entity be joined as a necessary party.

1654 (b) Upon the filing of such an appeal, the clerk of the  
1655 chancery court shall serve notice thereof upon the State  
1656 Department of Health, whereupon the State Department of Health  
1657 shall, within thirty (30) days or within such additional time as  
1658 the court may by order for cause allow from the service of such  
1659 notice, certify to the chancery court the record in the case,  
1660 which records shall include a transcript of all testimony,  
1661 together with all exhibits or copies thereof, all pleadings,



1662 proceedings, orders, findings and opinions entered in the  
1663 case; \* \* \* however, \* \* \* the parties and the State Department of  
1664 Health may stipulate that a specified portion only of the record  
1665 shall be certified to the court as the record on appeal.

1666 (c) The court may dispose of the appeal in termtime or  
1667 vacation and may sustain or dismiss the appeal, modify or vacate  
1668 the order complained of, in whole or in part, as the case may be;  
1669 but in case the order is wholly or partly vacated, the court may  
1670 also, in its discretion, remand the matter to the State Department  
1671 of Health for such further proceedings, not inconsistent with the  
1672 court's order, as, in the opinion of the court, justice may  
1673 require. The order shall not be vacated or set aside, either in  
1674 whole or in part, except for errors of law, unless the court finds  
1675 that the order of the State Department of Health is not supported  
1676 by substantial evidence, is contrary to the manifest weight of the  
1677 evidence, is in excess of the statutory authority or jurisdiction  
1678 of the State Department of Health, or violates any vested  
1679 constitutional rights of any party involved in the appeal. \* \* \*  
1680 However, an order of the chancery court reversing the denial of a  
1681 certificate of need by the State Department of Health shall not  
1682 entitle the applicant to effectuate the certificate of need until  
1683 either:

1684 (i) Such order of the chancery court has become  
1685 final and has not been appealed to the Supreme Court; or



1686 (ii) The Supreme Court has entered a final order  
1687 affirming the chancery court.

1688 (d) Appeals in accordance with law may be had to the  
1689 Supreme Court of the State of Mississippi from any final judgment  
1690 of the chancery court.

1691 (2) The provisions of this subsection (2) shall apply to any  
1692 party appealing any final order of the State Department of Health  
1693 pertaining to a certificate of need for any health care facility  
1694 as defined in Section 41-7-173( \* \* \*e), with the exception of any  
1695 home health agency as defined in Section 41-7-173( \* \* \*e)(ix):

1696 (a) There shall be a "stay of proceedings" of any final  
1697 order issued by the State Department of Health pertaining to the  
1698 issuance of a certificate of need for the establishment,  
1699 construction, expansion or replacement of a health care facility  
1700 for a period of thirty (30) days from the date of the order, if an  
1701 existing provider located in the same service area where the  
1702 health care facility is or will be located has requested a hearing  
1703 during the course of review in opposition to the issuance of the  
1704 certificate of need. The stay of proceedings shall expire at the  
1705 termination of thirty (30) days; however, no construction,  
1706 renovation or other capital expenditure that is the subject of the  
1707 order shall be undertaken, no license to operate any facility that  
1708 is the subject of the order shall be issued by the licensing  
1709 agency, and no certification to participate in the Title XVII or  
1710 Title XIX programs of the Social Security Act shall be granted,



1711 until all statutory appeals have been exhausted or the time for  
1712 such appeals has expired. \* \* \*

1713 (b) In addition to other remedies now available at law  
1714 or in equity, any party aggrieved by such final order of the State  
1715 Department of Health shall have the right of appeal to the  
1716 Chancery Court of the First Judicial District of Hinds County,  
1717 Mississippi, which appeal must be filed within twenty (20) days  
1718 after the date of the final order. \* \* \* However, \* \* \* any  
1719 appeal of an order disapproving an application for such a  
1720 certificate of need may be made to the chancery court of the  
1721 county where the proposed construction, expansion or alteration  
1722 was to be located \* \* \*. Such appeal must be filed in accordance  
1723 with the twenty (20) days for filing as \* \* \* provided in this  
1724 paragraph. Any appeal shall state briefly the nature of the  
1725 proceedings before the State Department of Health and shall  
1726 specify the order complained of.

1727 (c) Upon the filing of such an appeal, the clerk of the  
1728 chancery court shall serve notice thereof upon the State  
1729 Department of Health, whereupon the State Department of Health  
1730 shall, within thirty (30) days of the date of the filing of the  
1731 appeal, certify to the chancery court the record in the case,  
1732 which records shall include a transcript of all testimony,  
1733 together with all exhibits or copies thereof, all proceedings,  
1734 orders, findings and opinions entered in the case; \* \* \*  
1735 however, \* \* \* the parties and the State Department of Health may



1736 stipulate that a specified portion only of the record shall be  
1737 certified to the court as the record on appeal. The chancery  
1738 court shall give preference to any such appeal from a final order  
1739 by the State Department of Health in a certificate of need  
1740 proceeding, and shall render a final order regarding such appeal  
1741 no later than one hundred twenty (120) days from the date of the  
1742 final order by the State Department of Health. If the chancery  
1743 court has not rendered a final order within this  
1744 one-hundred-twenty-day period, then the final order of the State  
1745 Department of Health shall be deemed to have been affirmed by the  
1746 chancery court, and any party to the appeal shall have the right  
1747 to appeal from the chancery court to the Supreme Court on the  
1748 record certified by the State Department of Health as otherwise  
1749 provided in paragraph (g) of this subsection. \* \* \* If the  
1750 chancery court has not rendered a final order within the  
1751 one-hundred-twenty-day period and an appeal is made to the Supreme  
1752 Court as provided \* \* \* in this paragraph, the Supreme Court shall  
1753 remand the case to the chancery court to make an award of costs,  
1754 fees, reasonable expenses and attorney's fees incurred in favor of  
1755 appellee payable by the appellant(s) \* \* \* if the Supreme Court  
1756 affirms the order of the State Department of Health.

1757 (d) Any appeal of a final order by the State Department  
1758 of Health in a certificate of need proceeding shall require the  
1759 giving of a bond by the appellant(s) sufficient to secure the  
1760 appellee against the loss of costs, fees, expenses and attorney's



1761 fees incurred in defense of the appeal, approved by the chancery  
1762 court within five (5) days of the date of filing the appeal.

1763 (e) No new or additional evidence shall be introduced  
1764 in the chancery court but the case shall be determined upon the  
1765 record certified to the court.

1766 (f) The court may dispose of the appeal in termtime or  
1767 vacation and may sustain or dismiss the appeal, modify or vacate  
1768 the order complained of in whole or in part and may make an award  
1769 of costs, fees, expenses and attorney's fees, as the case may be;  
1770 but in case the order is wholly or partly vacated, the court may  
1771 also, in its discretion, remand the matter to the State Department  
1772 of Health for such further proceedings, not inconsistent with the  
1773 court's order, as, in the opinion of the court, justice may  
1774 require. The court, as part of the final order, shall make an  
1775 award of costs, fees, reasonable expenses and attorney's fees  
1776 incurred in favor of appellee payable by the appellant(s) \* \* \* if  
1777 the court affirms the order of the State Department of Health.  
1778 The order shall not be vacated or set aside, either in whole or in  
1779 part, except for errors of law, unless the court finds that the  
1780 order of the State Department of Health is not supported by  
1781 substantial evidence, is contrary to the manifest weight of the  
1782 evidence, is in excess of the statutory authority or jurisdiction  
1783 of the State Department of Health, or violates any vested  
1784 constitutional rights of any party involved in the appeal. \* \* \*  
1785 However, an order of the chancery court reversing the denial of a





1786 certificate of need by the State Department of Health shall not  
1787 entitle the applicant to effectuate the certificate of need until  
1788 either:

1789 (i) Such order of the chancery court has become  
1790 final and has not been appealed to the Supreme Court; or

1791 (ii) The Supreme Court has entered a final order  
1792 affirming the chancery court.

1793 (g) Appeals in accordance with law may be had to the  
1794 Supreme Court of the State of Mississippi from any final judgment  
1795 of the chancery court. The Supreme Court must give preference and  
1796 conduct an expedited judicial review of an appeal of a final order  
1797 of the chancery court relating to a certificate of need proceeding  
1798 and must render a final order regarding the appeal no later than  
1799 one hundred twenty (120) days from the date the final order by the  
1800 chancery court is certified to the Supreme Court. The Supreme  
1801 Court shall consider such appeals in an expeditious manner without  
1802 regard to position on the court docket.

1803 (h) Within thirty (30) days from the date of a final  
1804 order by the Supreme Court or a final order of the chancery court  
1805 not appealed to the Supreme Court that modifies or wholly or  
1806 partly vacates the final order of the State Department of Health  
1807 granting a certificate of need, the State Department of Health  
1808 shall issue another order in conformity with the final order of  
1809 the Supreme Court, or the final order of the chancery court not  
1810 appealed to the Supreme Court.



1811           **SECTION 11.** Section 41-7-202, Mississippi Code of 1972, is  
1812 amended as follows:

1813           41-7-202. There shall be a "stay of proceedings" of any  
1814 written decision of the State Department of Health pertaining to a  
1815 certificate of need for a home health agency, as defined in  
1816 Section 41-7-173( \* \* \*e)(ix), for a period of thirty (30) days  
1817 from the date of that decision. The stay of proceedings shall  
1818 expire at the termination of thirty (30) days; however, no license  
1819 to operate any such home health agency that is the subject of the  
1820 decision shall be issued by the licensing agency, and no  
1821 certification for such home health agency to participate in the  
1822 Title XVIII or Title XIX programs of the Social Security Act shall  
1823 be granted until all statutory appeals have been exhausted or the  
1824 time for such appeals has expired. The stay of proceedings  
1825 provided for in this section shall not apply to any party  
1826 appealing any final order of the State Department of Health  
1827 pertaining to a certificate of need for any health care facility  
1828 as defined in Section 41-7-173( \* \* \*e), with the exception of any  
1829 home health agency as defined in Section 41-7-173( \* \* \*e)(ix).

1830           **SECTION 12.** Section 41-7-207, Mississippi Code of 1972, is  
1831 amended as follows:

1832           41-7-207. Notwithstanding any other provisions of Sections  
1833 41-7-171 through 41-7-209, except when the owner of a damaged  
1834 health care facility applies to repair or rebuild the facility in  
1835 accordance with the provisions of Section 41-7-191(13), when the



1836 need for any emergency replacement occurs, the certificate of need  
1837 review process shall be expedited by promulgation of  
1838 administrative procedures for expenditures necessary to alleviate  
1839 an emergency condition and restore health care access. Emergency  
1840 replacement means the replacement, and/or a necessary relocation,  
1841 of all or the damaged part of the facilities \* \* \* without which  
1842 the operation of the facility and the health and safety of  
1843 patients would be immediately jeopardized and health care access  
1844 would be denied to such patients. Expenditures under this section  
1845 shall be limited to the replacement of those necessary  
1846 facilities \* \* \* the loss of which constitutes an emergency;  
1847 however, in the case of the destruction or major damage to a  
1848 health care facility, the department shall be authorized to issue  
1849 a certificate of need to address the current and future health  
1850 care needs of the community, including, but not limited to, the  
1851 expansion of the health care facility and/or the relocation of the  
1852 health care facility. In exercising the authority granted in this  
1853 section, the department may waive all or part of the required  
1854 certificate of need application fee for any application filed  
1855 under this section if the expenditure would create a further  
1856 hardship or undue burden on the health care facility.

1857       **SECTION 13.** Section 41-73-5, Mississippi Code of 1972, is  
1858 amended as follows:



1859 41-73-5. When used in this act, unless the context requires  
1860 a different definition, the following terms shall have the  
1861 following meanings:

1862 (a) "Act" means the Mississippi Hospital Equipment and  
1863 Facilities Authority Act.

1864 (b) "Authority" means the Mississippi Hospital  
1865 Equipment and Facilities Authority created by this act and any  
1866 successor to its functions.

1867 (c) "Bonds" means bonds, notes or other evidences of  
1868 indebtedness of the authority issued pursuant to this act,  
1869 including refunding bonds.

1870 (d) "Cost" as applied to hospital equipment means any  
1871 and all costs of such hospital equipment and, without limiting the  
1872 generality of the foregoing, shall include the following:

1873 (i) All costs of the acquisition, repair,  
1874 restoration, reconditioning, refinancing or installation of any  
1875 such hospital equipment and all costs incident or related thereto;

1876 (ii) The cost of any property interest in such  
1877 hospital equipment including an option to purchase or leasehold  
1878 interest;

1879 (iii) The cost of architectural, engineering,  
1880 legal and related services; the cost of the preparation of plans,  
1881 specifications, studies, surveys and estimates of cost and of  
1882 revenue; and all other expenses necessary or incident to planning,  
1883 providing or determining the need for or the feasibility and



1884 practicability of such hospital equipment; and the cost of  
1885 providing or establishing a reasonable reserve fund for the  
1886 payment of principal and interest on bonds;

1887 (iv) The cost of financing charges, including  
1888 premiums or prepayment penalties, if any, and interest accrued  
1889 prior to the acquisition and installation or refinancing of such  
1890 hospital equipment and after such acquisition and installation or  
1891 refinancing and start-up costs related to hospital equipment;

1892 (v) Any and all costs paid or incurred in  
1893 connection with the financing of such hospital equipment,  
1894 including out-of-pocket expenses, the cost of financing, legal,  
1895 accounting, financial advisory and consulting fees, expenses and  
1896 disbursements; the cost of any policy of insurance; the cost of  
1897 printing, engraving and reproduction services; and the cost of the  
1898 initial or acceptance fee of any trustee or paying agent;

1899 (vi) All direct or indirect costs of the authority  
1900 incurred in connection with providing such hospital equipment,  
1901 including, without limitation, reasonable sums to reimburse the  
1902 authority for time spent by its agents or employees with respect  
1903 to providing such hospital equipment and the financing thereof;  
1904 and

1905 (vii) Any and all costs paid or incurred for the  
1906 administration of any program for the purchase or lease of or the  
1907 making of loans for hospital equipment, by the authority and any



1908 program for the sale or lease of or the making of loans for such  
1909 hospital equipment to any participating hospital institution.

1910 (e) "Cost," as applied to hospital facilities, means  
1911 any and all costs of such hospital facilities and, without  
1912 limiting the generality of the foregoing, shall include the  
1913 following:

1914 (i) All costs of the establishment, demolition,  
1915 site development of new and rehabilitated buildings,  
1916 rehabilitation, reconstruction repair, erection, building,  
1917 construction, remodeling, adding to and furnishing of any such  
1918 hospital facilities and all costs incident or related thereto;

1919 (ii) The cost of acquiring any property interest  
1920 in such hospital facilities including the purchase thereof, the  
1921 cost of an option to purchase or the cost of any leasehold  
1922 interest;

1923 (iii) The cost of architectural, engineering,  
1924 legal and related services; the cost of the preparation of plans,  
1925 specifications, studies, surveys and estimates of cost and of  
1926 revenue; all other expenses necessary or incident to planning,  
1927 providing or determining the need for or the feasibility and  
1928 practicability of such hospital facilities or the acquisition  
1929 thereof; and the cost of providing or establishing a reasonable  
1930 reserve fund for the payment of principal of and interest on  
1931 bonds;



1932                   (iv) The cost of financing charges, including  
1933 premiums or prepayment penalties, if any, and interest accrued  
1934 prior to the acquisition and completion or refinancing of such  
1935 hospital facilities and after such acquisition and completion or  
1936 refinancing and start-up costs related to hospital facilities;

1937                   (v) Any and all costs paid or incurred in  
1938 connection with the financing of such hospital facilities,  
1939 including out-of-pocket expenses, the cost of financing, legal,  
1940 accounting, financial advisory and consulting fees, expenses and  
1941 disbursement; the cost of any policy of insurance; the cost of  
1942 printing, engraving and reproduction services; and the cost of the  
1943 initial or acceptance fee of any trustee or paying agent;

1944                   (vi) All direct or indirect costs of the authority  
1945 incurred in connection with providing such hospital facilities,  
1946 including, without limitation, reasonable sums to reimburse the  
1947 authority for time spent by its agents or employees with respect  
1948 to providing such hospital facilities and the financing thereof;

1949                   (vii) Any and all costs paid or incurred for the  
1950 administration of any program for the purchase or lease of or the  
1951 making of loans for hospital facilities, by the authority and any  
1952 program for the sale or lease of or the making of loans for such  
1953 hospital facilities to any participating hospital institution; and

1954                   (viii) The cost of providing for the payment or  
1955 the making provision for the payment of, by the appropriate  
1956 escrowing of monies or securities, the principal of and interest



1957 on which when due will be adequate to make such payment, any  
1958 indebtedness encumbering the revenues or property of a  
1959 participating hospital institution, whether such payment is to be  
1960 effected by redemption of such indebtedness prior to maturity or  
1961 not.

1962 (f) "Hospital equipment" means any personal property  
1963 which is found and determined by the authority to be required or  
1964 necessary or helpful for medical care, research, training or  
1965 teaching, any one (1) or all, in hospital facilities located in  
1966 the state, irrespective of whether such property is in existence  
1967 at the time of, or is to be provided after the making of, such  
1968 finding. \* \* \*

1969 (g) "Hospital facility" or "hospital facilities" means  
1970 buildings and structures of any and all types used or useful, in  
1971 the discretion of the authority, for providing any types of care  
1972 to the sick, wounded, infirmed, needy, mentally incompetent or  
1973 elderly and shall include, without limiting the generality of the  
1974 foregoing, out-patient clinics, laboratories, laundries, nurses',  
1975 doctors' or interns' residences, administration buildings, office  
1976 buildings, facilities for research directly involved with hospital  
1977 care, maintenance, storage or utility facilities, parking lots,  
1978 and garages and all necessary, useful, or related furnishings, and  
1979 appurtenances and all lands necessary or convenient as a site for  
1980 the foregoing.





1981 (h) "Participating hospital institution" or "hospital  
1982 institution" means a public or private corporation, association,  
1983 foundation, trust, cooperative, agency, body politic, or other  
1984 person or organization which provides or operates or proposes to  
1985 provide or operate hospital facilities not for profit, and which,  
1986 pursuant to the provisions of this act, contracts with the  
1987 authority for the financing or refinancing of the lease or other  
1988 acquisition of hospital equipment or hospital facilities, or both.

1989 (i) "State" means the State of Mississippi.

1990 The use of singular terms herein shall also include the  
1991 plural of such term and the use of a plural term herein shall also  
1992 include the singular of such term unless the context clearly  
1993 requires a different connotation.

1994 **SECTION 14.** Section 41-75-1, Mississippi Code of 1972, is  
1995 amended as follows:

1996 41-75-1. For the purpose of this chapter:

1997 (a) "Ambulatory surgical facility" means a publicly or  
1998 privately owned institution that is primarily organized,  
1999 constructed, renovated or otherwise established for the purpose of  
2000 providing elective surgical treatment of "outpatients" whose  
2001 recovery, under normal and routine circumstances, will not require  
2002 "inpatient" care. The facility defined in this paragraph does not  
2003 include the offices of private physicians or dentists, whether  
2004 practicing individually or in groups, but does include  
2005 organizations or facilities primarily engaged in that outpatient



2006 surgery, whether using the name "ambulatory surgical facility" or  
2007 a similar or different name. That organization or facility, if in  
2008 any manner considered to be operated or owned by a hospital or a  
2009 hospital holding, leasing or management company, either for profit  
2010 or not for profit, is required to comply with all licensing agency  
2011 ambulatory surgical licensure standards governing a "hospital  
2012 affiliated" facility as adopted under Section 41-9-1 et seq.,  
2013 provided that the organization or facility does not intend to seek  
2014 federal certification as an ambulatory surgical facility as  
2015 provided for at 42 CFR, Parts 405 and 416. If the organization or  
2016 facility is to be operated or owned by a hospital or a hospital  
2017 holding, leasing or management company and intends to seek federal  
2018 certification as an ambulatory facility, then the facility is  
2019 considered to be "freestanding" and must comply with all licensing  
2020 agency ambulatory surgical licensure standards governing a  
2021 "freestanding" facility.

2022 If the organization or facility is to be owned or operated by  
2023 an entity or person other than a hospital or hospital holding,  
2024 leasing or management company, then the organization or facility  
2025 must comply with all licensing agency ambulatory surgical facility  
2026 standards governing a "freestanding" facility.

2027 (b) "Hospital affiliated" ambulatory surgical facility  
2028 means a separate and distinct organized unit of a hospital or a  
2029 building owned, leased, rented or utilized by a hospital and  
2030 located in the same county in which the hospital is located, for



2031 the primary purpose of performing ambulatory surgery procedures.  
2032 The facility is not required to be separately licensed under this  
2033 chapter and may operate under the hospital's license in compliance  
2034 with all applicable requirements of Section 41-9-1 et seq.

2035 (c) "Freestanding" ambulatory surgical facility means a  
2036 separate and distinct facility or a separate and distinct  
2037 organized unit of a hospital owned, leased, rented or utilized by  
2038 a hospital or other persons for the primary purpose of performing  
2039 ambulatory surgery procedures. The facility must be separately  
2040 licensed as defined in this section and must comply with all  
2041 licensing standards promulgated by the licensing agency under this  
2042 chapter regarding a "freestanding" ambulatory surgical facility.  
2043 Further, the facility must be a separate, identifiable entity and  
2044 must be physically, administratively and financially independent  
2045 and distinct from other operations of any other health facility,  
2046 and shall maintain a separate organized medical and administrative  
2047 staff. \* \* \*

2048 (d) "Ambulatory surgery" means surgical procedures that  
2049 are more complex than office procedures performed under local  
2050 anesthesia, but less complex than major procedures requiring  
2051 prolonged postoperative monitoring and hospital care to ensure  
2052 safe recovery and desirable results. General anesthesia is used  
2053 in most cases. The patient must arrive at the facility and expect  
2054 to be discharged on the same day. Ambulatory surgery shall only



2055 be performed by physicians or dentists licensed to practice in the  
2056 State of Mississippi.

2057 (e) "Abortion" means the use or prescription of any  
2058 instrument, medicine, drug or any other substances or device to  
2059 terminate the pregnancy of a woman known to be pregnant with an  
2060 intention other than to increase the probability of a live birth,  
2061 to preserve the life or health of the child after live birth or to  
2062 remove a dead fetus. Abortion procedures after the first  
2063 trimester shall only be performed at a Level I abortion facility  
2064 or an ambulatory surgical facility or hospital licensed to perform  
2065 that service.

2066 (f) "Abortion facility" means a facility operating  
2067 substantially for the purpose of performing abortions and is a  
2068 separate identifiable legal entity from any other health care  
2069 facility. Abortions shall only be performed by physicians  
2070 licensed to practice in the State of Mississippi. All physicians  
2071 associated with the abortion facility must have admitting  
2072 privileges at a local hospital and staff privileges to replace  
2073 local hospital on-staff physicians. All physicians associated  
2074 with an abortion facility must be board certified or eligible in  
2075 obstetrics and gynecology, and a staff member trained in CPR shall  
2076 always be present at the abortion facility when it is open. The  
2077 term "abortion facility" includes physicians' offices that are  
2078 used substantially for the purpose of performing abortions. An



2079 abortion facility operates substantially for the purpose of  
2080 performing abortions if any of the following conditions are met:

2081 (i) The abortion facility is a provider for  
2082 performing ten (10) or more abortion procedures per calendar month  
2083 during any month of a calendar year, or one hundred (100) or more  
2084 in a calendar year.

2085 (ii) The abortion facility, if operating less than  
2086 twenty (20) days per calendar month, is a provider for performing  
2087 ten (10) or more abortion procedures, or performing a number of  
2088 abortion procedures that would be equivalent to ten (10)  
2089 procedures per month, if the facility were operating twenty (20)  
2090 or more days per calendar month, in any month of a calendar year.

2091 (iii) The abortion facility holds itself out to  
2092 the public as an abortion provider by advertising by any public  
2093 means, such as newspaper, telephone directory, magazine or  
2094 electronic media, that it performs abortions.

2095 (iv) The facility applies to the licensing agency  
2096 for licensure as an abortion facility.

2097 (g) "Licensing agency" means the State Department of  
2098 Health.

2099 (h) "Operating" an abortion facility means that the  
2100 facility is open for any period of time during a day and has on  
2101 site at the facility or on call a physician licensed to practice  
2102 in the State of Mississippi available to provide abortions.



2103           An abortion facility may apply to be licensed as a Level I  
2104 facility or a Level II facility by the licensing agency. Level II  
2105 abortion facilities shall be required to meet minimum standards  
2106 for abortion facilities as established by the licensing agency.  
2107 Level I abortion facilities shall be required to meet minimum  
2108 standards for abortion facilities and minimum standards for  
2109 ambulatory surgical facilities as established by the licensing  
2110 agency.

2111           Any abortion facility that begins operation after June 30,  
2112 1996, shall not be located within one thousand five hundred  
2113 (1,500) feet from the property on which any church, school or  
2114 kindergarten is located. An abortion facility shall not be in  
2115 violation of this paragraph if it is in compliance with this  
2116 paragraph on the date it begins operation and the property on  
2117 which a church, school or kindergarten is located within one  
2118 thousand five hundred (1,500) feet from the facility.

2119           (i) "Freestanding emergency room" is a facility open  
2120 twenty-four (24) hours a day for the treatment of urgent and  
2121 emergent medical conditions which is not located on a hospital  
2122 campus. In order to be eligible for licensure under this chapter,  
2123 the freestanding emergency room shall be located at least fifteen  
2124 (15) miles from the nearest hospital-based emergency room in any  
2125 rural community where the federal CMMS had previously designated a  
2126 rural hospital as a critical access hospital and that designation  
2127 has been revoked.



2128 (j) "Post-acute residential brain injury rehabilitation  
2129 facility" is a facility containing no more than twelve (12) beds  
2130 providing medically directed long-term but nonacute rehabilitation  
2131 to patients who have acquired brain injury. In order to be  
2132 eligible for licensure under this chapter, the post-acute  
2133 residential brain injury rehabilitation facility shall be located  
2134 at least twenty-five (25) miles from the nearest acute care  
2135 rehabilitation hospital and at least five (5) miles from the  
2136 boundaries of any municipality having a population of ten thousand  
2137 (10,000) or more, according to the most recent federal decennial  
2138 census, at the time that facility is established.

2139 **SECTION 15.** Section 41-75-5, Mississippi Code of 1972, is  
2140 amended as follows:

2141 41-75-5. No person \* \* \* or other entity, acting severally  
2142 or jointly with any other person or entity, shall establish,  
2143 conduct, operate or maintain an ambulatory surgical facility or an  
2144 abortion facility or a freestanding emergency room or a post-acute  
2145 residential brain injury rehabilitation facility in this state  
2146 without a license under this chapter.

2147 In order to receive a license for a post-acute residential  
2148 brain injury rehabilitation facility under this chapter, the  
2149 recipient of the license must agree in writing that the facility  
2150 will not at any time participate in the Medicaid program (Section  
2151 43-13-101 et seq.) or admit or keep any patients in the facility  
2152 who are participating in the Medicaid program. This written



2153 agreement by the recipient of the license shall be fully binding  
2154 on any later owner of the facility, if the ownership of the  
2155 facility is transferred at any time after the issuance of the  
2156 license. Agreement that the facility will not participate in the  
2157 Medicaid program shall be a condition of the issuance of a license  
2158 for a post-acute residential brain injury rehabilitation facility  
2159 to any person under this chapter, and if such facility at any time  
2160 after the issuance of the license, regardless of the ownership of  
2161 the facility, participates in the Medicaid program or admits or  
2162 keeps any patients in the facility who are participating in the  
2163 Medicaid program, the licensing agency shall revoke the license of  
2164 the facility, at the time that the department determines, after a  
2165 hearing complying with due process, that the facility has failed  
2166 to comply with any of the conditions upon which the license was  
2167 issued, as provided in this section and in the written agreement  
2168 by the recipient of the license.

2169       **SECTION 16.** Section 41-75-9, Mississippi Code of 1972, is  
2170 amended as follows:

2171       41-75-9. Upon receipt of an application for license and the  
2172 license fee, the licensing agency shall issue a license if the  
2173 applicant and the institutional facilities meet the requirements  
2174 established under this chapter \* \* \*. A license, unless suspended  
2175 or revoked, shall be renewable annually upon payment of a renewal  
2176 fee of Three Thousand Dollars (\$3,000.00), which shall be paid to  
2177 the licensing agency, and upon filing by the licensee and approval





2178 by the licensing agency of an annual report upon such uniform  
2179 dates and containing such information in such form as the  
2180 licensing agency requires. Each license shall be issued only for  
2181 the premises and person or persons named in the application and  
2182 shall not be transferable or assignable. Licenses shall be posted  
2183 in a conspicuous place on the licensed premises.

2184 **SECTION 17.** Section 41-75-25, Mississippi Code of 1972, is  
2185 amended as follows:

2186 41-75-25. Any person or persons or other entity or entities  
2187 establishing, managing or operating an ambulatory surgical  
2188 facility or conducting the business of an ambulatory surgical  
2189 facility without the required license, or which otherwise violate  
2190 any of the provisions of this chapter \* \* \* or the rules,  
2191 regulations or standards promulgated in furtherance of any law in  
2192 which the \* \* \* licensing agency has authority therefor shall be  
2193 subject to the following penalties and sanctions \* \* \*:

2194 (a) Revocation of the license of the ambulatory  
2195 surgical facility or a designated section, component or service  
2196 thereof; or

2197 (b) Nonlicensure of a specific or designated service  
2198 offered by the ambulatory surgical facility.

2199 In addition, any violation of any provision of this chapter  
2200 or any rules or regulations promulgated in furtherance of this  
2201 chapter by intent, fraud, deceit, unlawful design, willful and/or  
2202 deliberate misrepresentation, or by careless, negligent or



2203 incautious disregard for those statutes or rules and regulations,  
2204 either by persons acting individually or in concert with others,  
2205 is a misdemeanor and shall be punishable by a fine not to exceed  
2206 One Thousand Dollars (\$1,000.00) for each such offense. Each day  
2207 of continuing violation shall be considered a separate offense.  
2208 The venue for prosecution of any such violation shall be in any  
2209 county of the state in which any such violation, or portion  
2210 thereof, occurred.

2211       **SECTION 18.** This act shall take effect and be in force from  
2212 and after July 1, 2020.

