

By: Representative Criswell

To: Public Health and Human Services

HOUSE BILL NO. 602

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, * * * and (* * *ii) does not rebuild in
1432 a different county; however, this paragraph does not restrict or
1433 prevent a health care facility from decreasing its bed capacity
1434 that it had before the Governor's or the President's proclamation,
1435 or from decreasing the levels of or decreasing or eliminating the
1436 types of health care services that it provided before the



1437 Governor's or the President's proclamation, when the damaged
1438 health care facility is repaired or rebuilt;

1439 (c) The exemption from Certificate of Need Law provided
1440 under this subsection (13) is valid for only five (5) years from
1441 the date of the Governor's or the President's proclamation. If
1442 actual construction has not begun within that five-year period,
1443 the exemption provided under this subsection is inapplicable; and

1444 (d) The Division of Health Facilities Licensure and
1445 Certification of the State Department of Health shall provide the
1446 same oversight for the repair or the rebuilding of the damaged
1447 health care facility that it provides to all health care facility
1448 construction projects in the state.

1449 For the purposes of this subsection (13), "significant
1450 damage" to a health care facility means damage to the health care
1451 facility requiring an expenditure of at least One Million Dollars
1452 (\$1,000,000.00).

1453 (14) The State Department of Health shall issue a
1454 certificate of need to any hospital which is currently licensed
1455 for two hundred fifty (250) or more acute care beds and is located
1456 in any general hospital service area not having a comprehensive
1457 cancer center, for the establishment and equipping of such a
1458 center which provides facilities and services for outpatient
1459 radiation oncology therapy, outpatient medical oncology therapy,
1460 and appropriate support services including the provision of
1461 radiation therapy services. The provisions of Section 41-7-193(1)



1462 regarding substantial compliance with the projection of need as
1463 reported in the current State Health Plan are waived for the
1464 purpose of this subsection.

1465 (15) The State Department of Health may authorize the
1466 transfer of hospital beds, not to exceed sixty (60) beds, from the
1467 North Panola Community Hospital to the South Panola Community
1468 Hospital. The authorization for the transfer of those beds shall
1469 be exempt from the certificate of need review process.

1470 (16) The State Department of Health shall issue any
1471 certificates of need necessary for Mississippi State University
1472 and a public or private health care provider to jointly acquire
1473 and operate a linear accelerator and a magnetic resonance imaging
1474 unit. Those certificates of need shall cover all capital
1475 expenditures related to the project between Mississippi State
1476 University and the health care provider, including, but not
1477 limited to, the acquisition of the linear accelerator, the
1478 magnetic resonance imaging unit and other radiological modalities;
1479 the offering of linear accelerator and magnetic resonance imaging
1480 services; and the cost of construction of facilities in which to
1481 locate these services. The linear accelerator and the magnetic
1482 resonance imaging unit shall be (a) located in the City of
1483 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1484 Mississippi State University and the public or private health care
1485 provider selected by Mississippi State University through a
1486 request for proposals (RFP) process in which Mississippi State



1487 University selects, and the Board of Trustees of State
1488 Institutions of Higher Learning approves, the health care provider
1489 that makes the best overall proposal; (c) available to Mississippi
1490 State University for research purposes two-thirds (2/3) of the
1491 time that the linear accelerator and magnetic resonance imaging
1492 unit are operational; and (d) available to the public or private
1493 health care provider selected by Mississippi State University and
1494 approved by the Board of Trustees of State Institutions of Higher
1495 Learning one-third (1/3) of the time for clinical, diagnostic and
1496 treatment purposes. For purposes of this subsection, the
1497 provisions of Section 41-7-193(1) requiring substantial compliance
1498 with the projection of need as reported in the current State
1499 Health Plan are waived.

1500 (17) The State Department of Health shall issue a
1501 certificate of need for the construction of an acute care hospital
1502 in Kemper County, not to exceed twenty-five (25) beds, which shall
1503 be named the "John C. Stennis Memorial Hospital." In issuing the
1504 certificate of need under this subsection, the department shall
1505 give priority to a hospital located in Lauderdale County that has
1506 two hundred fifteen (215) beds. For purposes of this subsection,
1507 the provisions of Section 41-7-193(1) requiring substantial
1508 compliance with the projection of need as reported in the current
1509 State Health Plan and the provisions of Section 41-7-197 requiring
1510 a formal certificate of need hearing process are waived. There
1511 shall be no prohibition or restrictions on participation in the



1512 Medicaid program (Section 43-13-101 et seq.) for the person or
1513 entity receiving the certificate of need authorized under this
1514 subsection or for the beds constructed under the authority of that
1515 certificate of need.

1516 (18) The planning, design, construction, renovation,
1517 addition, furnishing and equipping of a clinical research unit at
1518 any health care facility defined in Section 41-7-173(* * *e) that
1519 is under the direction and control of the University of
1520 Mississippi Medical Center and located in Jackson, Mississippi,
1521 and the addition of new beds or the conversion of beds from one
1522 (1) category to another in any such clinical research unit, shall
1523 not require the issuance of a certificate of need under Section
1524 41-7-171 et seq., notwithstanding any provision in Section
1525 41-7-171 et seq. to the contrary.

1526 (19) [Repealed]

1527 (20) Nothing in this section or in any other provision of
1528 Section 41-7-171 et seq. shall prevent any nursing facility from
1529 designating an appropriate number of existing beds in the facility
1530 as beds for providing care exclusively to patients with
1531 Alzheimer's disease.

1532 (21) Nothing in this section or any other provision of
1533 Section 41-7-171 et seq. shall prevent any health care facility
1534 from the new construction, renovation, conversion or expansion of
1535 new beds in the facility designated as intensive care units,
1536 negative pressure rooms, or isolation rooms pursuant to the



1537 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1538 this subsection, the provisions of Section 41-7-193(1) requiring
1539 substantial compliance with the projection of need as reported in
1540 the current State Health Plan and the provisions of Section
1541 41-7-197 requiring a formal certificate of need hearing process
1542 are waived.

1543 **SECTION 8.** Section 41-7-193, Mississippi Code of 1972, is
1544 amended as follows:

1545 41-7-193. (1) No person may enter into any financing
1546 arrangement or commitment for financing a * * * project requiring
1547 a certificate of need unless such certificate has been granted for
1548 such purpose. A certificate of need shall not be granted or
1549 issued to any person for any proposal, cause or reason, unless the
1550 proposal has been reviewed for consistency with the specifications
1551 and the criteria established by the State Department of Health and
1552 substantially complies with the projection of need as reported in
1553 the state health plan in effect at the time the application for
1554 the proposal was submitted.

1555 (2) An application for a certificate of need for * * * a
1556 proposal requiring a certificate of need shall specify the time,
1557 within that granted, such shall be functional or operational
1558 according to a time schedule submitted with the application. Each
1559 certificate of need shall specify the maximum amount of capital
1560 expenditure that may be obligated. The State Department of Health



1561 shall periodically review the progress and time schedule of any
1562 person issued or granted a certificate of need for any purpose.

1563 (3) An application for a certificate of need may be filed at
1564 any time with the department after the applicant has given the
1565 department fifteen (15) days' written notice of its intent to
1566 apply for a certificate of need. The department shall not delay
1567 review of an application. The department shall make its
1568 recommendation approving or disapproving a complete application
1569 within forty-five (45) days of the date the application was filed
1570 or within fifteen (15) days of receipt of any requested
1571 information, whichever is later, * * * the request to be made by
1572 the department within fifteen (15) days of the filing of the
1573 application.

1574 **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is
1575 amended as follows:

1576 41-7-197. (1) The State Department of Health shall adopt
1577 and * * * use procedures for conducting certificate of need
1578 reviews. Such procedures shall include, inter alia, the
1579 following: (a) written notification to the applicant; (b) written
1580 notification to health care facilities in the same health service
1581 area as the proposed * * * health care facility; (c) written
1582 notification to other persons who * * * before the receipt of the
1583 application have filed a formal notice of intent to * * * operate
1584 a health care facility in the same service area; and (d)
1585 notification to members of the public who reside in the service



1586 area where the * * * facility is proposed, which may be provided
1587 through newspapers or public information channels.

1588 (2) All notices provided shall include, inter alia, the
1589 following: (a) the proposed schedule for the review; (b) written
1590 notification of the period within which a public hearing during
1591 the course of the review may be requested in writing by one or
1592 more affected persons, such request to be made within ten (10)
1593 days of the department's staff recommendation for approval or
1594 disapproval of an application; and (c) the manner in which
1595 notification will be provided of the time and place of any hearing
1596 so requested. Any such hearing shall be * * * begun by an
1597 independent hearing officer designated by the State Department of
1598 Health within sixty (60) days of the filing of the hearing request
1599 unless all parties to the hearing agree to extend the time for
1600 the * * * beginning of the hearing. At such hearing, the hearing
1601 officer and any person affected by the proposal being reviewed may
1602 conduct reasonable questioning of persons who make relevant
1603 factual allegations concerning the proposal. The hearing officer
1604 shall require that all persons be sworn before they may offer any
1605 testimony at the hearing, and the hearing officer is authorized to
1606 administer oaths. Any person so choosing may be represented by
1607 counsel at the hearing. A record of the hearing shall be made,
1608 which shall consist of a transcript of all testimony received, all
1609 documents and other material introduced by any interested person,
1610 the staff report and recommendation and such other material as the



1611 hearing officer considers relevant, including his own
1612 recommendation, which he shall make, after reviewing, studying and
1613 analyzing the evidence presented during the hearing, within a
1614 reasonable period of time after the hearing is closed, which in no
1615 event shall exceed forty-five (45) days. The completed record
1616 shall be certified to the State Health Officer, who shall consider
1617 only the record in making his decision, and shall not consider any
1618 evidence or material * * * that is not included * * * in the
1619 record. All final decisions regarding the issuance of a
1620 certificate of need shall be made by the State Health Officer.
1621 The State Health Officer shall make his or her written findings
1622 and issue his or her order after reviewing * * * the record. The
1623 findings and decision of the State Health Officer shall not be
1624 deferred to any later date.

1625 (3) Unless a hearing is held, if review by the State
1626 Department of Health concerning the issuance of a certificate of
1627 need is not complete with a final decision issued by the State
1628 Health Officer within the time specified by rule or regulation,
1629 which shall not exceed ninety (90) days from the filing of the
1630 application for a certificate of need, the proponent of the
1631 proposal may, within thirty (30) days after the expiration of the
1632 specified time for review, * * * begin such legal action as is
1633 necessary, in the Chancery Court of the First Judicial District of
1634 Hinds County or in the chancery court of the county in which
1635 the * * * facility is proposed to be * * * operated, to compel the



1636 State Health Officer to issue written findings and written order
1637 approving or disapproving the proposal in question.

1638 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is
1639 amended as follows:

1640 41-7-201. (1) The provisions of this subsection (1) shall
1641 apply to any party appealing any final order of the State
1642 Department of Health pertaining to a certificate of need for a
1643 home health agency, as defined in Section 41-7-173(* * *e)(ix):

1644 (a) In addition to other remedies now available at law
1645 or in equity, any party aggrieved by any such final order of the
1646 State Department of Health shall have the right of appeal to the
1647 Chancery Court of the First Judicial District of Hinds County,
1648 Mississippi, which appeal must be filed within thirty (30) days
1649 after the date of the final order. * * * However, * * * any
1650 appeal of an order disapproving an application for such a
1651 certificate of need may be made to the chancery court of the
1652 county where the proposed construction, expansion or alteration
1653 was to be located * * *. Such appeal must be filed in accordance
1654 with the thirty (30) days for filing as * * * provided in this
1655 paragraph. Any appeal shall state briefly the nature of the
1656 proceedings before the State Department of Health and shall
1657 specify the order complained of. Any appeal shall state briefly
1658 the nature of the proceedings before the State Department of
1659 Health and shall specify the order complained of. Any person
1660 whose rights may be materially affected by the action of the State



1661 Department of Health may appear and become a party or the court
1662 may, upon motion, order that any such person, organization or
1663 entity be joined as a necessary party.

1664 (b) Upon the filing of such an appeal, the clerk of the
1665 chancery court shall serve notice thereof upon the State
1666 Department of Health, whereupon the State Department of Health
1667 shall, within thirty (30) days or within such additional time as
1668 the court may by order for cause allow from the service of such
1669 notice, certify to the chancery court the record in the case,
1670 which records shall include a transcript of all testimony,
1671 together with all exhibits or copies thereof, all pleadings,
1672 proceedings, orders, findings and opinions entered in the
1673 case; * * * however, * * * the parties and the State Department of
1674 Health may stipulate that a specified portion only of the record
1675 shall be certified to the court as the record on appeal.

1676 (c) The court may dispose of the appeal in termtime or
1677 vacation and may sustain or dismiss the appeal, modify or vacate
1678 the order complained of, in whole or in part, as the case may be;
1679 but in case the order is wholly or partly vacated, the court may
1680 also, in its discretion, remand the matter to the State Department
1681 of Health for such further proceedings, not inconsistent with the
1682 court's order, as, in the opinion of the court, justice may
1683 require. The order shall not be vacated or set aside, either in
1684 whole or in part, except for errors of law, unless the court finds
1685 that the order of the State Department of Health is not supported



1686 by substantial evidence, is contrary to the manifest weight of the
1687 evidence, is in excess of the statutory authority or jurisdiction
1688 of the State Department of Health, or violates any vested
1689 constitutional rights of any party involved in the appeal. * * *
1690 However, an order of the chancery court reversing the denial of a
1691 certificate of need by the State Department of Health shall not
1692 entitle the applicant to effectuate the certificate of need until
1693 either:

1694 (i) Such order of the chancery court has become
1695 final and has not been appealed to the Supreme Court; or

1696 (ii) The Supreme Court has entered a final order
1697 affirming the chancery court.

1698 (d) Appeals in accordance with law may be had to the
1699 Supreme Court of the State of Mississippi from any final judgment
1700 of the chancery court.

1701 (2) The provisions of this subsection (2) shall apply to any
1702 party appealing any final order of the State Department of Health
1703 pertaining to a certificate of need for any health care facility
1704 as defined in Section 41-7-173(* * *e), with the exception of any
1705 home health agency as defined in Section 41-7-173(* * *e)(ix):

1706 (a) There shall be a "stay of proceedings" of any final
1707 order issued by the State Department of Health pertaining to the
1708 issuance of a certificate of need for the establishment,
1709 construction, expansion or replacement of a health care facility
1710 for a period of thirty (30) days from the date of the order, if an



1711 existing provider located in the same service area where the
1712 health care facility is or will be located has requested a hearing
1713 during the course of review in opposition to the issuance of the
1714 certificate of need. The stay of proceedings shall expire at the
1715 termination of thirty (30) days; however, no construction,
1716 renovation or other capital expenditure that is the subject of the
1717 order shall be undertaken, no license to operate any facility that
1718 is the subject of the order shall be issued by the licensing
1719 agency, and no certification to participate in the Title XVII or
1720 Title XIX programs of the Social Security Act shall be granted,
1721 until all statutory appeals have been exhausted or the time for
1722 such appeals has expired. * * *

1723 (b) In addition to other remedies now available at law
1724 or in equity, any party aggrieved by such final order of the State
1725 Department of Health shall have the right of appeal to the
1726 Chancery Court of the First Judicial District of Hinds County,
1727 Mississippi, which appeal must be filed within twenty (20) days
1728 after the date of the final order. * * * However, * * * any
1729 appeal of an order disapproving an application for such a
1730 certificate of need may be made to the chancery court of the
1731 county where the proposed construction, expansion or alteration
1732 was to be located * * *. Such appeal must be filed in accordance
1733 with the twenty (20) days for filing as * * * provided in this
1734 paragraph. Any appeal shall state briefly the nature of the



1735 proceedings before the State Department of Health and shall
1736 specify the order complained of.

1737 (c) Upon the filing of such an appeal, the clerk of the
1738 chancery court shall serve notice thereof upon the State
1739 Department of Health, whereupon the State Department of Health
1740 shall, within thirty (30) days of the date of the filing of the
1741 appeal, certify to the chancery court the record in the case,
1742 which records shall include a transcript of all testimony,
1743 together with all exhibits or copies thereof, all proceedings,
1744 orders, findings and opinions entered in the case; * * *
1745 however, * * * the parties and the State Department of Health may
1746 stipulate that a specified portion only of the record shall be
1747 certified to the court as the record on appeal. The chancery
1748 court shall give preference to any such appeal from a final order
1749 by the State Department of Health in a certificate of need
1750 proceeding, and shall render a final order regarding such appeal
1751 no later than one hundred twenty (120) days from the date of the
1752 final order by the State Department of Health. If the chancery
1753 court has not rendered a final order within this
1754 one-hundred-twenty-day period, then the final order of the State
1755 Department of Health shall be deemed to have been affirmed by the
1756 chancery court, and any party to the appeal shall have the right
1757 to appeal from the chancery court to the Supreme Court on the
1758 record certified by the State Department of Health as otherwise
1759 provided in paragraph (g) of this subsection. * * * If the



1760 chancery court has not rendered a final order within the
1761 one-hundred-twenty-day period and an appeal is made to the Supreme
1762 Court as provided * * * in this paragraph, the Supreme Court shall
1763 remand the case to the chancery court to make an award of costs,
1764 fees, reasonable expenses and attorney's fees incurred in favor of
1765 appellee payable by the appellant(s) * * * if the Supreme Court
1766 affirms the order of the State Department of Health.

1767 (d) Any appeal of a final order by the State Department
1768 of Health in a certificate of need proceeding shall require the
1769 giving of a bond by the appellant(s) sufficient to secure the
1770 appellee against the loss of costs, fees, expenses and attorney's
1771 fees incurred in defense of the appeal, approved by the chancery
1772 court within five (5) days of the date of filing the appeal.

1773 (e) No new or additional evidence shall be introduced
1774 in the chancery court but the case shall be determined upon the
1775 record certified to the court.

1776 (f) The court may dispose of the appeal in termtime or
1777 vacation and may sustain or dismiss the appeal, modify or vacate
1778 the order complained of in whole or in part and may make an award
1779 of costs, fees, expenses and attorney's fees, as the case may be;
1780 but in case the order is wholly or partly vacated, the court may
1781 also, in its discretion, remand the matter to the State Department
1782 of Health for such further proceedings, not inconsistent with the
1783 court's order, as, in the opinion of the court, justice may
1784 require. The court, as part of the final order, shall make an



1785 award of costs, fees, reasonable expenses and attorney's fees
1786 incurred in favor of appellee payable by the appellant(s) * * * if
1787 the court affirms the order of the State Department of Health.
1788 The order shall not be vacated or set aside, either in whole or in
1789 part, except for errors of law, unless the court finds that the
1790 order of the State Department of Health is not supported by
1791 substantial evidence, is contrary to the manifest weight of the
1792 evidence, is in excess of the statutory authority or jurisdiction
1793 of the State Department of Health, or violates any vested
1794 constitutional rights of any party involved in the appeal. * * *
1795 However, an order of the chancery court reversing the denial of a
1796 certificate of need by the State Department of Health shall not
1797 entitle the applicant to effectuate the certificate of need until
1798 either:

1799 (i) Such order of the chancery court has become
1800 final and has not been appealed to the Supreme Court; or

1801 (ii) The Supreme Court has entered a final order
1802 affirming the chancery court.

1803 (g) Appeals in accordance with law may be had to the
1804 Supreme Court of the State of Mississippi from any final judgment
1805 of the chancery court. The Supreme Court must give preference and
1806 conduct an expedited judicial review of an appeal of a final order
1807 of the chancery court relating to a certificate of need proceeding
1808 and must render a final order regarding the appeal no later than
1809 one hundred twenty (120) days from the date the final order by the



1810 chancery court is certified to the Supreme Court. The Supreme
1811 Court shall consider such appeals in an expeditious manner without
1812 regard to position on the court docket.

1813 (h) Within thirty (30) days from the date of a final
1814 order by the Supreme Court or a final order of the chancery court
1815 not appealed to the Supreme Court that modifies or wholly or
1816 partly vacates the final order of the State Department of Health
1817 granting a certificate of need, the State Department of Health
1818 shall issue another order in conformity with the final order of
1819 the Supreme Court, or the final order of the chancery court not
1820 appealed to the Supreme Court.

1821 **SECTION 11.** Section 41-7-202, Mississippi Code of 1972, is
1822 amended as follows:

1823 41-7-202. There shall be a "stay of proceedings" of any
1824 written decision of the State Department of Health pertaining to a
1825 certificate of need for a home health agency, as defined in
1826 Section 41-7-173(* * *e)(ix), for a period of thirty (30) days
1827 from the date of that decision. The stay of proceedings shall
1828 expire at the termination of thirty (30) days; however, no license
1829 to operate any such home health agency that is the subject of the
1830 decision shall be issued by the licensing agency, and no
1831 certification for such home health agency to participate in the
1832 Title XVIII or Title XIX programs of the Social Security Act shall
1833 be granted until all statutory appeals have been exhausted or the
1834 time for such appeals has expired. The stay of proceedings



1835 provided for in this section shall not apply to any party
1836 appealing any final order of the State Department of Health
1837 pertaining to a certificate of need for any health care facility
1838 as defined in Section 41-7-173(* * *e), with the exception of any
1839 home health agency as defined in Section 41-7-173(* * *e)(ix).

1840 **SECTION 12.** Section 41-7-207, Mississippi Code of 1972, is
1841 amended as follows:

1842 41-7-207. Notwithstanding any other provisions of Sections
1843 41-7-171 through 41-7-209, except when the owner of a damaged
1844 health care facility applies to repair or rebuild the facility in
1845 accordance with the provisions of Section 41-7-191(13), when the
1846 need for any emergency replacement occurs, the certificate of need
1847 review process shall be expedited by promulgation of
1848 administrative procedures for expenditures necessary to alleviate
1849 an emergency condition and restore health care access. Emergency
1850 replacement means the replacement, and/or a necessary relocation,
1851 of all or the damaged part of the facilities * * * without which
1852 the operation of the facility and the health and safety of
1853 patients would be immediately jeopardized and health care access
1854 would be denied to such patients. Expenditures under this section
1855 shall be limited to the replacement of those necessary
1856 facilities * * * the loss of which constitutes an emergency;
1857 however, in the case of the destruction or major damage to a
1858 health care facility, the department shall be authorized to issue
1859 a certificate of need to address the current and future health



1860 care needs of the community, including, but not limited to, the
1861 expansion of the health care facility and/or the relocation of the
1862 health care facility. In exercising the authority granted in this
1863 section, the department may waive all or part of the required
1864 certificate of need application fee for any application filed
1865 under this section if the expenditure would create a further
1866 hardship or undue burden on the health care facility.

1867 **SECTION 13.** Section 41-73-5, Mississippi Code of 1972, is
1868 amended as follows:

1869 41-73-5. When used in this act, unless the context requires
1870 a different definition, the following terms shall have the
1871 following meanings:

1872 (a) "Act" means the Mississippi Hospital Equipment and
1873 Facilities Authority Act.

1874 (b) "Authority" means the Mississippi Hospital
1875 Equipment and Facilities Authority created by this act and any
1876 successor to its functions.

1877 (c) "Bonds" means bonds, notes or other evidences of
1878 indebtedness of the authority issued pursuant to this act,
1879 including refunding bonds.

1880 (d) "Cost" as applied to hospital equipment means any
1881 and all costs of such hospital equipment and, without limiting the
1882 generality of the foregoing, shall include the following:



1883 (i) All costs of the acquisition, repair,
1884 restoration, reconditioning, refinancing or installation of any
1885 such hospital equipment and all costs incident or related thereto;

1886 (ii) The cost of any property interest in such
1887 hospital equipment including an option to purchase or leasehold
1888 interest;

1889 (iii) The cost of architectural, engineering,
1890 legal and related services; the cost of the preparation of plans,
1891 specifications, studies, surveys and estimates of cost and of
1892 revenue; and all other expenses necessary or incident to planning,
1893 providing or determining the need for or the feasibility and
1894 practicability of such hospital equipment; and the cost of
1895 providing or establishing a reasonable reserve fund for the
1896 payment of principal and interest on bonds;

1897 (iv) The cost of financing charges, including
1898 premiums or prepayment penalties, if any, and interest accrued
1899 prior to the acquisition and installation or refinancing of such
1900 hospital equipment and after such acquisition and installation or
1901 refinancing and start-up costs related to hospital equipment;

1902 (v) Any and all costs paid or incurred in
1903 connection with the financing of such hospital equipment,
1904 including out-of-pocket expenses, the cost of financing, legal,
1905 accounting, financial advisory and consulting fees, expenses and
1906 disbursements; the cost of any policy of insurance; the cost of



1907 printing, engraving and reproduction services; and the cost of the
1908 initial or acceptance fee of any trustee or paying agent;

1909 (vi) All direct or indirect costs of the authority
1910 incurred in connection with providing such hospital equipment,
1911 including, without limitation, reasonable sums to reimburse the
1912 authority for time spent by its agents or employees with respect
1913 to providing such hospital equipment and the financing thereof;
1914 and

1915 (vii) Any and all costs paid or incurred for the
1916 administration of any program for the purchase or lease of or the
1917 making of loans for hospital equipment, by the authority and any
1918 program for the sale or lease of or the making of loans for such
1919 hospital equipment to any participating hospital institution.

1920 (e) "Cost," as applied to hospital facilities, means
1921 any and all costs of such hospital facilities and, without
1922 limiting the generality of the foregoing, shall include the
1923 following:

1924 (i) All costs of the establishment, demolition,
1925 site development of new and rehabilitated buildings,
1926 rehabilitation, reconstruction repair, erection, building,
1927 construction, remodeling, adding to and furnishing of any such
1928 hospital facilities and all costs incident or related thereto;

1929 (ii) The cost of acquiring any property interest
1930 in such hospital facilities including the purchase thereof, the



1931 cost of an option to purchase or the cost of any leasehold
1932 interest;

1933 (iii) The cost of architectural, engineering,
1934 legal and related services; the cost of the preparation of plans,
1935 specifications, studies, surveys and estimates of cost and of
1936 revenue; all other expenses necessary or incident to planning,
1937 providing or determining the need for or the feasibility and
1938 practicability of such hospital facilities or the acquisition
1939 thereof; and the cost of providing or establishing a reasonable
1940 reserve fund for the payment of principal of and interest on
1941 bonds;

1942 (iv) The cost of financing charges, including
1943 premiums or prepayment penalties, if any, and interest accrued
1944 prior to the acquisition and completion or refinancing of such
1945 hospital facilities and after such acquisition and completion or
1946 refinancing and start-up costs related to hospital facilities;

1947 (v) Any and all costs paid or incurred in
1948 connection with the financing of such hospital facilities,
1949 including out-of-pocket expenses, the cost of financing, legal,
1950 accounting, financial advisory and consulting fees, expenses and
1951 disbursement; the cost of any policy of insurance; the cost of
1952 printing, engraving and reproduction services; and the cost of the
1953 initial or acceptance fee of any trustee or paying agent;

1954 (vi) All direct or indirect costs of the authority
1955 incurred in connection with providing such hospital facilities,



1956 including, without limitation, reasonable sums to reimburse the
1957 authority for time spent by its agents or employees with respect
1958 to providing such hospital facilities and the financing thereof;

1959 (vii) Any and all costs paid or incurred for the
1960 administration of any program for the purchase or lease of or the
1961 making of loans for hospital facilities, by the authority and any
1962 program for the sale or lease of or the making of loans for such
1963 hospital facilities to any participating hospital institution; and

1964 (viii) The cost of providing for the payment or
1965 the making provision for the payment of, by the appropriate
1966 escrowing of monies or securities, the principal of and interest
1967 on which when due will be adequate to make such payment, any
1968 indebtedness encumbering the revenues or property of a
1969 participating hospital institution, whether such payment is to be
1970 effected by redemption of such indebtedness prior to maturity or
1971 not.

1972 (f) "Hospital equipment" means any personal property
1973 which is found and determined by the authority to be required or
1974 necessary or helpful for medical care, research, training or
1975 teaching, any one (1) or all, in hospital facilities located in
1976 the state, irrespective of whether such property is in existence
1977 at the time of, or is to be provided after the making of, such
1978 finding. * * *

1979 (g) "Hospital facility" or "hospital facilities" means
1980 buildings and structures of any and all types used or useful, in



1981 the discretion of the authority, for providing any types of care
1982 to the sick, wounded, infirmed, needy, mentally incompetent or
1983 elderly and shall include, without limiting the generality of the
1984 foregoing, out-patient clinics, laboratories, laundries, nurses',
1985 doctors' or interns' residences, administration buildings, office
1986 buildings, facilities for research directly involved with hospital
1987 care, maintenance, storage or utility facilities, parking lots,
1988 and garages and all necessary, useful, or related furnishings, and
1989 appurtenances and all lands necessary or convenient as a site for
1990 the foregoing.

1991 (h) "Participating hospital institution" or "hospital
1992 institution" means a public or private corporation, association,
1993 foundation, trust, cooperative, agency, body politic, or other
1994 person or organization which provides or operates or proposes to
1995 provide or operate hospital facilities not for profit, and which,
1996 pursuant to the provisions of this act, contracts with the
1997 authority for the financing or refinancing of the lease or other
1998 acquisition of hospital equipment or hospital facilities, or both.

1999 (i) "State" means the State of Mississippi.

2000 The use of singular terms herein shall also include the
2001 plural of such term and the use of a plural term herein shall also
2002 include the singular of such term unless the context clearly
2003 requires a different connotation.

2004 **SECTION 14.** Section 41-75-1, Mississippi Code of 1972, is
2005 amended as follows:



2006 41-75-1. For the purpose of this chapter:

2007 (a) "Ambulatory surgical facility" means a publicly or
2008 privately owned institution that is primarily organized,
2009 constructed, renovated or otherwise established for the purpose of
2010 providing elective surgical treatment of "outpatients" whose
2011 recovery, under normal and routine circumstances, will not require
2012 "inpatient" care. The facility defined in this paragraph does not
2013 include the offices of private physicians or dentists, whether
2014 practicing individually or in groups, but does include
2015 organizations or facilities primarily engaged in that outpatient
2016 surgery, whether using the name "ambulatory surgical facility" or
2017 a similar or different name. That organization or facility, if in
2018 any manner considered to be operated or owned by a hospital or a
2019 hospital holding, leasing or management company, either for profit
2020 or not for profit, is required to comply with all licensing agency
2021 ambulatory surgical licensure standards governing a "hospital
2022 affiliated" facility as adopted under Section 41-9-1 et seq.,
2023 provided that the organization or facility does not intend to seek
2024 federal certification as an ambulatory surgical facility as
2025 provided for at 42 CFR, Parts 405 and 416. If the organization or
2026 facility is to be operated or owned by a hospital or a hospital
2027 holding, leasing or management company and intends to seek federal
2028 certification as an ambulatory facility, then the facility is
2029 considered to be "freestanding" and must comply with all licensing



2030 agency ambulatory surgical licensure standards governing a
2031 "freestanding" facility.

2032 If the organization or facility is to be owned or operated by
2033 an entity or person other than a hospital or hospital holding,
2034 leasing or management company, then the organization or facility
2035 must comply with all licensing agency ambulatory surgical facility
2036 standards governing a "freestanding" facility.

2037 (b) "Hospital affiliated" ambulatory surgical facility
2038 means a separate and distinct organized unit of a hospital or a
2039 building owned, leased, rented or utilized by a hospital and
2040 located in the same county in which the hospital is located, for
2041 the primary purpose of performing ambulatory surgery procedures.
2042 The facility is not required to be separately licensed under this
2043 chapter and may operate under the hospital's license in compliance
2044 with all applicable requirements of Section 41-9-1 et seq.

2045 (c) "Freestanding" ambulatory surgical facility means a
2046 separate and distinct facility or a separate and distinct
2047 organized unit of a hospital owned, leased, rented or utilized by
2048 a hospital or other persons for the primary purpose of performing
2049 ambulatory surgery procedures. The facility must be separately
2050 licensed as defined in this section and must comply with all
2051 licensing standards promulgated by the licensing agency under this
2052 chapter regarding a "freestanding" ambulatory surgical facility.
2053 Further, the facility must be a separate, identifiable entity and
2054 must be physically, administratively and financially independent



2055 and distinct from other operations of any other health facility,
2056 and shall maintain a separate organized medical and administrative
2057 staff. * * *

2058 (d) "Ambulatory surgery" means surgical procedures that
2059 are more complex than office procedures performed under local
2060 anesthesia, but less complex than major procedures requiring
2061 prolonged postoperative monitoring and hospital care to ensure
2062 safe recovery and desirable results. General anesthesia is used
2063 in most cases. The patient must arrive at the facility and expect
2064 to be discharged on the same day. Ambulatory surgery shall only
2065 be performed by physicians or dentists licensed to practice in the
2066 State of Mississippi.

2067 (e) "Abortion" means the use or prescription of any
2068 instrument, medicine, drug or any other substances or device to
2069 terminate the pregnancy of a woman known to be pregnant with an
2070 intention other than to increase the probability of a live birth,
2071 to preserve the life or health of the child after live birth or to
2072 remove a dead fetus. Abortion procedures after the first
2073 trimester shall only be performed at a Level I abortion facility
2074 or an ambulatory surgical facility or hospital licensed to perform
2075 that service.

2076 (f) "Abortion facility" means a facility operating
2077 substantially for the purpose of performing abortions and is a
2078 separate identifiable legal entity from any other health care
2079 facility. Abortions shall only be performed by physicians



2080 licensed to practice in the State of Mississippi. All physicians
2081 associated with the abortion facility must have admitting
2082 privileges at a local hospital and staff privileges to replace
2083 local hospital on-staff physicians. All physicians associated
2084 with an abortion facility must be board certified or eligible in
2085 obstetrics and gynecology, and a staff member trained in CPR shall
2086 always be present at the abortion facility when it is open. The
2087 term "abortion facility" includes physicians' offices that are
2088 used substantially for the purpose of performing abortions. An
2089 abortion facility operates substantially for the purpose of
2090 performing abortions if any of the following conditions are met:

2091 (i) The abortion facility is a provider for
2092 performing ten (10) or more abortion procedures per calendar month
2093 during any month of a calendar year, or one hundred (100) or more
2094 in a calendar year.

2095 (ii) The abortion facility, if operating less than
2096 twenty (20) days per calendar month, is a provider for performing
2097 ten (10) or more abortion procedures, or performing a number of
2098 abortion procedures that would be equivalent to ten (10)
2099 procedures per month, if the facility were operating twenty (20)
2100 or more days per calendar month, in any month of a calendar year.

2101 (iii) The abortion facility holds itself out to
2102 the public as an abortion provider by advertising by any public
2103 means, such as newspaper, telephone directory, magazine or
2104 electronic media, that it performs abortions.



2105 (iv) The facility applies to the licensing agency
2106 for licensure as an abortion facility.

2107 (g) "Licensing agency" means the State Department of
2108 Health.

2109 (h) "Operating" an abortion facility means that the
2110 facility is open for any period of time during a day and has on
2111 site at the facility or on call a physician licensed to practice
2112 in the State of Mississippi available to provide abortions.

2113 An abortion facility may apply to be licensed as a Level I
2114 facility or a Level II facility by the licensing agency. Level II
2115 abortion facilities shall be required to meet minimum standards
2116 for abortion facilities as established by the licensing agency.
2117 Level I abortion facilities shall be required to meet minimum
2118 standards for abortion facilities and minimum standards for
2119 ambulatory surgical facilities as established by the licensing
2120 agency.

2121 Any abortion facility that begins operation after June 30,
2122 1996, shall not be located within one thousand five hundred
2123 (1,500) feet from the property on which any church, school or
2124 kindergarten is located. An abortion facility shall not be in
2125 violation of this paragraph if it is in compliance with this
2126 paragraph on the date it begins operation and the property on
2127 which a church, school or kindergarten is located within one
2128 thousand five hundred (1,500) feet from the facility.



2129 (i) "Freestanding emergency room" is a facility open
2130 twenty-four (24) hours a day for the treatment of urgent and
2131 emergent medical conditions which is not located on a hospital
2132 campus. In order to be eligible for licensure under this chapter,
2133 the freestanding emergency room shall be located at least fifteen
2134 (15) miles from the nearest hospital-based emergency room in any
2135 rural community where the federal CMMS had previously designated a
2136 rural hospital as a critical access hospital and that designation
2137 has been revoked.

2138 (j) "Post-acute residential brain injury rehabilitation
2139 facility" is a facility containing no more than twelve (12) beds
2140 providing medically directed long-term but nonacute rehabilitation
2141 to patients who have acquired brain injury. In order to be
2142 eligible for licensure under this chapter, the post-acute
2143 residential brain injury rehabilitation facility shall be located
2144 at least twenty-five (25) miles from the nearest acute care
2145 rehabilitation hospital and at least five (5) miles from the
2146 boundaries of any municipality having a population of ten thousand
2147 (10,000) or more, according to the most recent federal decennial
2148 census, at the time that facility is established.

2149 **SECTION 15.** Section 41-75-5, Mississippi Code of 1972, is
2150 amended as follows:

2151 41-75-5. No person * * * or other entity, acting severally
2152 or jointly with any other person or entity, shall establish,
2153 conduct, operate or maintain an ambulatory surgical facility or an



2154 abortion facility or a freestanding emergency room or a post-acute
2155 residential brain injury rehabilitation facility in this state
2156 without a license under this chapter.

2157 In order to receive a license for a post-acute residential
2158 brain injury rehabilitation facility under this chapter, the
2159 recipient of the license must agree in writing that the facility
2160 will not at any time participate in the Medicaid program (Section
2161 43-13-101 et seq.) or admit or keep any patients in the facility
2162 who are participating in the Medicaid program. This written
2163 agreement by the recipient of the license shall be fully binding
2164 on any later owner of the facility, if the ownership of the
2165 facility is transferred at any time after the issuance of the
2166 license. Agreement that the facility will not participate in the
2167 Medicaid program shall be a condition of the issuance of a license
2168 for a post-acute residential brain injury rehabilitation facility
2169 to any person under this chapter, and if such facility at any time
2170 after the issuance of the license, regardless of the ownership of
2171 the facility, participates in the Medicaid program or admits or
2172 keeps any patients in the facility who are participating in the
2173 Medicaid program, the licensing agency shall revoke the license of
2174 the facility, at the time that the department determines, after a
2175 hearing complying with due process, that the facility has failed
2176 to comply with any of the conditions upon which the license was
2177 issued, as provided in this section and in the written agreement
2178 by the recipient of the license.



2179 **SECTION 16.** Section 41-75-9, Mississippi Code of 1972, is
2180 amended as follows:

2181 41-75-9. Upon receipt of an application for license and the
2182 license fee, the licensing agency shall issue a license if the
2183 applicant and the institutional facilities meet the requirements
2184 established under this chapter * * *. A license, unless suspended
2185 or revoked, shall be renewable annually upon payment of a renewal
2186 fee of Three Thousand Dollars (\$3,000.00), which shall be paid to
2187 the licensing agency, and upon filing by the licensee and approval
2188 by the licensing agency of an annual report upon such uniform
2189 dates and containing such information in such form as the
2190 licensing agency requires. Any increase in the fee charged by the
2191 licensing agency under this section shall be in accordance with
2192 the provisions of Section 41-3-65. Each license shall be issued
2193 only for the premises and person or persons named in the
2194 application and shall not be transferable or assignable. Licenses
2195 shall be posted in a conspicuous place on the licensed premises.

2196 **SECTION 17.** Section 41-75-25, Mississippi Code of 1972, is
2197 amended as follows:

2198 41-75-25. Any person or persons or other entity or entities
2199 establishing, managing or operating an ambulatory surgical
2200 facility or conducting the business of an ambulatory surgical
2201 facility without the required license, or which otherwise violate
2202 any of the provisions of this chapter * * * or the rules,
2203 regulations or standards promulgated in furtherance of any law in



2204 which the * * * licensing agency has authority therefor shall be
2205 subject to the following penalties and sanctions * * *:

2206 (a) Revocation of the license of the ambulatory
2207 surgical facility or a designated section, component or service
2208 thereof; or

2209 (b) Nonlicensure of a specific or designated service
2210 offered by the ambulatory surgical facility.

2211 In addition, any violation of any provision of this chapter
2212 or any rules or regulations promulgated in furtherance of this
2213 chapter by intent, fraud, deceit, unlawful design, willful and/or
2214 deliberate misrepresentation, or by careless, negligent or
2215 incautious disregard for those statutes or rules and regulations,
2216 either by persons acting individually or in concert with others,
2217 is a misdemeanor and shall be punishable by a fine not to exceed
2218 One Thousand Dollars (\$1,000.00) for each such offense. Each day
2219 of continuing violation shall be considered a separate offense.
2220 The venue for prosecution of any such violation shall be in any
2221 county of the state in which any such violation, or portion
2222 thereof, occurred.

2223 **SECTION 18.** This act shall take effect and be in force from
2224 and after July 1, 2021.

