

**Replace By Substitute
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 160

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

14 **SECTION 1.** Section 41-3-1.1, Mississippi Code of 1972, is
15 reenacted as follows:

16 41-3-1.1. (1) The State Board of Health is continued and
17 reconstituted as follows:

18 There is created the State Board of Health which, from and
19 after March 30, 2007, shall consist of eleven (11) members
20 appointed with the advice and consent of the Senate, as follows:

21 (a) Five (5) members of the board shall be currently
22 licensed physicians of good professional standing who have had at
23 least seven (7) years' experience in the practice of medicine in



24 this state. Three (3) members shall be appointed by the Governor,
25 one (1) member shall be appointed by the Lieutenant Governor, and
26 one (1) member shall be appointed by the Attorney General, in the
27 manner provided in paragraph (d) of this subsection (1).

28 (b) Six (6) members of the board shall be individuals
29 who have a background in public health or an interest in public
30 health who are not currently or formerly licensed physicians.

31 Four (4) of those members shall be appointed by the Governor, one
32 (1) of those members shall be appointed by the Lieutenant
33 Governor, and one (1) of those members shall be appointed by the
34 Attorney General, in the manner provided in paragraph (d) of this
35 subsection (1).

36 (c) The Governor, Lieutenant Governor and Attorney
37 General shall give due regard to geographic distribution, race and
38 gender in making their appointments to the board. It is the
39 intent of the Legislature that the membership of the board reflect
40 the population of the State of Mississippi. Of the Governor's
41 appointments, one (1) member of the board shall be appointed from
42 each of the four (4) congressional districts as constituted on
43 June 30, 2007, and one (1) member of the board shall be appointed
44 from each of the three (3) Supreme Court districts as constituted
45 on June 30, 2007. Of the Lieutenant Governor's appointments, one
46 (1) member of the board shall be appointed from the First
47 Congressional District and one (1) member of the board shall be
48 appointed from the Fourth Congressional District as constituted on



49 June 30, 2007. Of the Attorney General's appointments, one (1)
50 member of the board shall be appointed from the Second
51 Congressional District and one (1) member of the board shall be
52 appointed from the Third Congressional District as constituted on
53 June 30, 2007.

54 (d) The initial members of the board shall be appointed
55 for staggered terms, as follows: Of the Governor's appointments,
56 two (2) members shall be appointed for terms that end on June 30,
57 2009; two (2) members shall be appointed for terms that end on
58 June 30, 2011; and three (3) members shall be appointed for terms
59 that end on June 30, 2013. Of the Lieutenant Governor's
60 appointments, one (1) member shall be appointed for a term that
61 ends on June 30, 2009; and one (1) member shall be appointed for a
62 term that ends on June 30, 2013. Of the Attorney General's
63 appointments, one (1) member shall be appointed for a term that
64 ends on June 30, 2009; and one (1) member shall be appointed for a
65 term that ends on June 30, 2011.

66 A member of the board serving before January 1, 2007, shall
67 be eligible for reappointment to the reconstituted board unless
68 the person is disqualified under subsection (4) of this section.

69 (2) At the expiration of the terms of the initial members,
70 all members of the board shall be appointed by the Governor, in
71 the same manner and from the same districts prescribed in
72 subsection (1) of this section, for terms of six (6) years from
73 the expiration of the previous term and thereafter until his or



74 her successor is duly appointed. Vacancies in office shall be
75 filled by appointment in the same manner as the appointment to the
76 position that becomes vacant, subject to the advice and consent of
77 the Senate at the next regular session of the Legislature. An
78 appointment to fill a vacancy other than by expiration of a term
79 of office shall be for the balance of the unexpired term and
80 thereafter until his or her successor is duly appointed.

81 (3) The Lieutenant Governor may designate one (1) Senator
82 and the Speaker of the House of Representatives may designate one
83 (1) Representative to attend any meeting of the State Board of
84 Health. The appointing authorities may designate alternate
85 members from their respective houses to serve when the regular
86 designees are unable to attend the meetings of the board. Those
87 legislative designees shall have no jurisdiction or vote on any
88 matter within the jurisdiction of the board. For attending
89 meetings of the board, the legislators shall receive per diem and
90 expenses, which shall be paid from the contingent expense funds of
91 their respective houses in the same amounts as provided for
92 committee meetings when the Legislature is not in session;
93 however, no per diem and expenses for attending meetings of the
94 board will be paid while the Legislature is in session. No per
95 diem and expenses will be paid except for attending meetings of
96 the board without prior approval of the proper committee in their
97 respective houses.



98 (4) (a) All members of the State Board of Health shall file
99 with the Mississippi Ethics Commission, before the first day of
100 May each year, the statement of economic interest as required by
101 Sections 25-4-25 through 25-4-29.

102 (b) No member of the board shall participate in any
103 action by the board or department if that action could have any
104 monetary effect on any business with which that member is
105 associated, as defined in Section 25-4-103.

106 (c) When any matter in which a member may not
107 participate comes before the board or department, that member must
108 fully recuse himself or herself from the entire matter. The
109 member shall avoid debating, discussing or taking action on the
110 subject matter during official meetings or deliberations by
111 leaving the meeting room before the matter comes before the board
112 and by returning only after the discussion, vote or other action
113 is completed. The member shall not discuss the matter with other
114 members, department staff or any other person. Any minutes or
115 other record of the meeting shall accurately reflect the recusal.
116 If a member is uncertain whether recusal is required, the member
117 shall follow the determination of the Mississippi Ethics
118 Commission. The commission may delegate that determination to its
119 executive director.

120 (d) Upon a determination by the board or by any court
121 of competent jurisdiction that a member of the board has violated
122 the provisions of this subsection (4) regarding recusal, the



123 member shall be removed from office. Any member of the board who
124 violates the provisions of this section regarding recusal also
125 shall be subject to the penalties set forth in Sections 25-4-109
126 through 25-4-117. After removal from office, the member shall not
127 be eligible for appointment to any agency, board or commission of
128 the state for a period of two (2) years. Nothing in this section
129 shall be construed to limit the restrictions codified in Section
130 25-4-105.

131 **SECTION 2.** Section 41-3-3, Mississippi Code of 1972, is
132 reenacted as follows:

133 41-3-3. Each person appointed as a member of the State Board
134 of Health shall immediately take the oath prescribed by Section
135 268 of the Constitution and file a certificate thereof in the
136 Office of the Secretary of State. Thereupon a commission shall be
137 issued to him under the terms as specified in Section 41-3-1.

138 **SECTION 3.** Section 41-3-4, Mississippi Code of 1972, is
139 reenacted as follows:

140 41-3-4. (1) There shall be a Chairman and Vice Chairman of
141 the State Board of Health elected by and from its membership at
142 the first meeting of the board; and the chairman shall be the
143 presiding officer of the board. The chairman shall always be a
144 physician member of the board. The board shall adopt rules and
145 regulations governing times and places for meetings, and governing
146 the manner of conducting its business. The board shall meet not
147 less frequently than once each quarter, and at such other times as



148 determined to be necessary. The term of office of any member who
149 does not attend three (3) consecutive regular meetings of the
150 board shall be automatically terminated, and the position shall be
151 considered as vacant, except in cases of the serious illness of a
152 board member or of his or her immediate family member. All
153 meetings of the board shall be called by the chairman or by a
154 majority of the members of the board, except the first meeting of
155 the initial members of the reconstituted board, which shall be
156 called by the Governor.

157 (2) The members of the board shall receive no annual salary
158 but shall receive per diem compensation as is authorized by law
159 for each day devoted to the discharge of official board duties and
160 shall be entitled to reimbursement for all actual and necessary
161 expenses incurred in the discharge of their duties, including
162 mileage as authorized by Section 25-3-41.

163 **SECTION 4.** Section 41-3-5.1, Mississippi Code of 1972, is
164 reenacted as follows:

165 41-3-5.1. The State Department of Health shall be headed by
166 an executive officer who shall be appointed by the State Board of
167 Health. The executive officer shall be either a physician who has
168 earned a graduate degree in public health or health care
169 administration, or a physician who in the opinion of the board is
170 fitted and equipped to execute the duties incumbent upon him or
171 her by law. The executive officer shall not engage in the private
172 practice of medicine. The term of office of the executive officer



173 shall be six (6) years, and the executive officer may be removed
174 for cause by majority vote of the members of the board. The
175 executive officer shall be subject to such rules and regulations
176 as may be prescribed by the State Board of Health. The executive
177 officer shall be the State Health Officer with such authority and
178 responsibility as is prescribed by law.

179 **SECTION 5.** Section 41-3-6, Mississippi Code of 1972, is
180 reenacted as follows:

181 41-3-6. It shall be the duty of the State Board of Health to
182 review the statutes of the State of Mississippi affecting public
183 health and submit at least thirty (30) days prior to each regular
184 session of the Legislature any proposed legislation as may be
185 necessary to enhance the effective and efficient delivery of
186 public health services and to bring existing statutes into
187 compliance with modern technology and terminology. The board
188 shall formulate a plan for consolidating and reorganizing existing
189 state agencies having responsibilities in the field of public
190 health to eliminate any needless duplication in services which may
191 be found to exist. In carrying out the provisions of this
192 section, the State Board of Health shall cooperate with and may
193 utilize the services, facilities and personnel of any department
194 or agency of the state, any private citizen task force and the
195 committees on public health of both houses of the Legislature.
196 The State Board of Health is authorized to apply for and expend



197 funds made available to it by grant from any source in order to
198 perform its responsibilities under this section.

199 **SECTION 6.** Section 41-3-15, Mississippi Code of 1972, is
200 reenacted as follows:

201 41-3-15. (1) (a) There shall be a State Department of
202 Health.

203 (b) The State Board of Health shall have the following
204 powers and duties:

205 (i) To formulate the policy of the State
206 Department of Health regarding public health matters within the
207 jurisdiction of the department;

208 (ii) To adopt, modify, repeal and promulgate,
209 after due notice and hearing, and enforce rules and regulations
210 implementing or effectuating the powers and duties of the
211 department under any and all statutes within the department's
212 jurisdiction, and as the board may deem necessary;

213 (iii) To apply for, receive, accept and expend any
214 federal or state funds or contributions, gifts, trusts, devises,
215 bequests, grants, endowments or funds from any other source or
216 transfers of property of any kind;

217 (iv) To enter into, and to authorize the executive
218 officer to execute contracts, grants and cooperative agreements
219 with any federal or state agency or subdivision thereof, or any
220 public or private institution located inside or outside the State
221 of Mississippi, or any person, corporation or association in



222 connection with carrying out the provisions of this chapter, if it
223 finds those actions to be in the public interest and the contracts
224 or agreements do not have a financial cost that exceeds the
225 amounts appropriated for those purposes by the Legislature;

226 (v) To appoint, upon recommendation of the
227 Executive Officer of the State Department of Health, a Director of
228 Internal Audit who shall be either a Certified Public Accountant
229 or Certified Internal Auditor, and whose employment shall be
230 continued at the discretion of the board, and who shall report
231 directly to the board, or its designee; and

232 (vi) To discharge such other duties,
233 responsibilities and powers as are necessary to implement the
234 provisions of this chapter.

235 (c) The Executive Officer of the State Department of
236 Health shall have the following powers and duties:

237 (i) To administer the policies of the State Board
238 of Health within the authority granted by the board;

239 (ii) To supervise and direct all administrative
240 and technical activities of the department, except that the
241 department's internal auditor shall be subject to the sole
242 supervision and direction of the board;

243 (iii) To organize the administrative units of the
244 department in accordance with the plan adopted by the board and,
245 with board approval, alter the organizational plan and reassign



246 responsibilities as he or she may deem necessary to carry out the
247 policies of the board;

248 (iv) To coordinate the activities of the various
249 offices of the department;

250 (v) To employ, subject to regulations of the State
251 Personnel Board, qualified professional personnel in the subject
252 matter or fields of each office, and such other technical and
253 clerical staff as may be required for the operation of the
254 department. The executive officer shall be the appointing
255 authority for the department, and shall have the power to delegate
256 the authority to appoint or dismiss employees to appropriate
257 subordinates, subject to the rules and regulations of the State
258 Personnel Board;

259 (vi) To recommend to the board such studies and
260 investigations as he or she may deem appropriate, and to carry out
261 the approved recommendations in conjunction with the various
262 offices;

263 (vii) To prepare and deliver to the Legislature
264 and the Governor on or before January 1 of each year, and at such
265 other times as may be required by the Legislature or Governor, a
266 full report of the work of the department and the offices thereof,
267 including a detailed statement of expenditures of the department
268 and any recommendations the board may have;

269 (viii) To prepare and deliver to the Chairmen of
270 the Public Health and Welfare/Human Services Committees of the



271 Senate and House on or before January 1 of each year, a plan for
272 monitoring infant mortality in Mississippi and a full report of
273 the work of the department on reducing Mississippi's infant
274 mortality and morbidity rates and improving the status of maternal
275 and infant health; and

276 (ix) To enter into contracts, grants and
277 cooperative agreements with any federal or state agency or
278 subdivision thereof, or any public or private institution located
279 inside or outside the State of Mississippi, or any person,
280 corporation or association in connection with carrying out the
281 provisions of this chapter, if he or she finds those actions to be
282 in the public interest and the contracts or agreements do not have
283 a financial cost that exceeds the amounts appropriated for those
284 purposes by the Legislature. Each contract or agreement entered
285 into by the executive officer shall be submitted to the board
286 before its next meeting.

287 (2) The State Board of Health shall have the authority to
288 establish an Office of Rural Health within the department. The
289 duties and responsibilities of this office shall include the
290 following:

291 (a) To collect and evaluate data on rural health
292 conditions and needs;

293 (b) To engage in policy analysis, policy development
294 and economic impact studies with regard to rural health issues;



295 (c) To develop and implement plans and provide
296 technical assistance to enable community health systems to respond
297 to various changes in their circumstances;

298 (d) To plan and assist in professional recruitment and
299 retention of medical professionals and assistants; and

300 (e) To establish information clearinghouses to improve
301 access to and sharing of rural health care information.

302 (3) The State Board of Health shall have general supervision
303 of the health interests of the people of the state and to exercise
304 the rights, powers and duties of those acts which it is authorized
305 by law to enforce.

306 (4) The State Board of Health shall have authority:

307 (a) To make investigations and inquiries with respect
308 to the causes of disease and death, and to investigate the effect
309 of environment, including conditions of employment and other
310 conditions that may affect health, and to make such other
311 investigations as it may deem necessary for the preservation and
312 improvement of health.

313 (b) To make such sanitary investigations as it may,
314 from time to time, deem necessary for the protection and
315 improvement of health and to investigate nuisance questions that
316 affect the security of life and health within the state.

317 (c) To direct and control sanitary and quarantine
318 measures for dealing with all diseases within the state possible
319 to suppress same and prevent their spread.



320 (d) To obtain, collect and preserve such information
321 relative to mortality, morbidity, disease and health as may be
322 useful in the discharge of its duties or may contribute to the
323 prevention of disease or the promotion of health in this state.

324 (e) To charge and collect reasonable fees for health
325 services, including immunizations, inspections and related
326 activities, and the board shall charge fees for those services;
327 however, if it is determined that a person receiving services is
328 unable to pay the total fee, the board shall collect any amount
329 that the person is able to pay. Any increase in the fees charged
330 by the board under this paragraph shall be in accordance with the
331 provisions of Section 41-3-65.

332 (f) (i) To establish standards for, issue permits and
333 exercise control over, any cafes, restaurants, food or drink
334 stands, sandwich manufacturing establishments, and all other
335 establishments, other than churches, church-related and private
336 schools, and other nonprofit or charitable organizations, where
337 food or drink is regularly prepared, handled and served for pay;
338 and

339 (ii) To require that a permit be obtained from the
340 Department of Health before those persons begin operation. If any
341 such person fails to obtain the permit required in this
342 subparagraph (ii), the State Board of Health, after due notice and
343 opportunity for a hearing, may impose a monetary penalty not to
344 exceed One Thousand Dollars (\$1,000.00) for each violation.



345 However, the department is not authorized to impose a monetary
346 penalty against any person whose gross annual prepared food sales
347 are less than Five Thousand Dollars (\$5,000.00). Money collected
348 by the board under this subparagraph (ii) shall be deposited to
349 the credit of the State General Fund of the State Treasury.

350 (g) To promulgate rules and regulations and exercise
351 control over the production and sale of milk pursuant to the
352 provisions of Sections 75-31-41 through 75-31-49.

353 (h) On presentation of proper authority, to enter into
354 and inspect any public place or building where the State Health
355 Officer or his representative deems it necessary and proper to
356 enter for the discovery and suppression of disease and for the
357 enforcement of any health or sanitary laws and regulations in the
358 state.

359 (i) To conduct investigations, inquiries and hearings,
360 and to issue subpoenas for the attendance of witnesses and the
361 production of books and records at any hearing when authorized and
362 required by statute to be conducted by the State Health Officer or
363 the State Board of Health.

364 (j) To promulgate rules and regulations, and to collect
365 data and information, on (i) the delivery of services through the
366 practice of telemedicine; and (ii) the use of electronic records
367 for the delivery of telemedicine services.

368 (k) To enforce and regulate domestic and imported fish
369 as authorized under Section 69-7-601 et seq.



370 (5) (a) The State Board of Health shall have the authority,
371 in its discretion, to establish programs to promote the public
372 health, to be administered by the State Department of Health.
373 Specifically, those programs may include, but shall not be limited
374 to, programs in the following areas:

375 (i) Maternal and child health;
376 (ii) Family planning;
377 (iii) Pediatric services;
378 (iv) Services to crippled and disabled children;
379 (v) Control of communicable and noncommunicable
380 disease;

381 (vi) Chronic disease;
382 (vii) Accidental deaths and injuries;
383 (viii) Child care licensure;
384 (ix) Radiological health;
385 (x) Dental health;
386 (xi) Milk sanitation;
387 (xii) Occupational safety and health;
388 (xiii) Food, vector control and general
389 sanitation;

390 (xiv) Protection of drinking water;
391 (xv) Sanitation in food handling establishments
392 open to the public;

393 (xvi) Registration of births and deaths and other
394 vital events;



395 (xvii) Such public health programs and services as
396 may be assigned to the State Board of Health by the Legislature or
397 by executive order; and

398 (xviii) Regulation of domestic and imported fish
399 for human consumption.

400 (b) The State Board of Health and State Department of
401 Health shall not be authorized to sell, transfer, alienate or
402 otherwise dispose of any of the home health agencies owned and
403 operated by the department on January 1, 1995, and shall not be
404 authorized to sell, transfer, assign, alienate or otherwise
405 dispose of the license of any of those home health agencies,
406 except upon the specific authorization of the Legislature by an
407 amendment to this section. However, this paragraph (b) shall not
408 prevent the board or the department from closing or terminating
409 the operation of any home health agency owned and operated by the
410 department, or closing or terminating any office, branch office or
411 clinic of any such home health agency, or otherwise discontinuing
412 the providing of home health services through any such home health
413 agency, office, branch office or clinic, if the board first
414 demonstrates that there are other providers of home health
415 services in the area being served by the department's home health
416 agency, office, branch office or clinic that will be able to
417 provide adequate home health services to the residents of the area
418 if the department's home health agency, office, branch office or
419 clinic is closed or otherwise discontinues the providing of home



420 health services. This demonstration by the board that there are
421 other providers of adequate home health services in the area shall
422 be spread at length upon the minutes of the board at a regular or
423 special meeting of the board at least thirty (30) days before a
424 home health agency, office, branch office or clinic is proposed to
425 be closed or otherwise discontinue the providing of home health
426 services.

427 (c) The State Department of Health may undertake such
428 technical programs and activities as may be required for the
429 support and operation of those programs, including maintaining
430 physical, chemical, bacteriological and radiological laboratories,
431 and may make such diagnostic tests for diseases and tests for the
432 evaluation of health hazards as may be deemed necessary for the
433 protection of the people of the state.

434 (6) (a) The State Board of Health shall administer the
435 local governments and rural water systems improvements loan
436 program in accordance with the provisions of Section 41-3-16.

437 (b) The State Board of Health shall have authority:

438 (i) To enter into capitalization grant agreements
439 with the United States Environmental Protection Agency, or any
440 successor agency thereto;

441 (ii) To accept capitalization grant awards made
442 under the federal Safe Drinking Water Act, as amended;



443 (iii) To provide annual reports and audits to the
444 United States Environmental Protection Agency, as may be required
445 by federal capitalization grant agreements; and

446 (iv) To establish and collect fees to defray the
447 reasonable costs of administering the revolving fund or emergency
448 fund if the State Board of Health determines that those costs will
449 exceed the limitations established in the federal Safe Drinking
450 Water Act, as amended. The administration fees may be included in
451 loan amounts to loan recipients for the purpose of facilitating
452 payment to the board; however, those fees may not exceed five
453 percent (5%) of the loan amount.

454 (7) Notwithstanding any other provision to the contrary, the
455 State Department of Health shall have the following specific
456 powers: The department shall issue a license to Alexander Milne
457 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
458 construction, conversion, expansion and operation of not more than
459 forty-five (45) beds for developmentally disabled adults who have
460 been displaced from New Orleans, Louisiana, with the beds to be
461 located in a certified ICF-MR facility in the City of Laurel,
462 Mississippi. There shall be no prohibition or restrictions on
463 participation in the Medicaid program for the person receiving the
464 license under this subsection (7). The license described in this
465 subsection shall expire five (5) years from the date of its issue.
466 The license authorized by this subsection shall be issued upon the
467 initial payment by the licensee of an application fee of



468 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
469 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
470 the license, to be paid as long as the licensee continues to
471 operate. The initial and monthly licensing fees shall be
472 deposited by the State Department of Health into the special fund
473 created under Section 41-7-188.

474 (8) Notwithstanding any other provision to the contrary, the
475 State Department of Health shall have the following specific
476 powers: The State Department of Health is authorized to issue a
477 license to an existing home health agency for the transfer of a
478 county from that agency to another existing home health agency,
479 and to charge a fee for reviewing and making a determination on
480 the application for such transfer not to exceed one-half (1/2) of
481 the authorized fee assessed for the original application for the
482 home health agency, with the revenue to be deposited by the State
483 Department of Health into the special fund created under Section
484 41-7-188.

485 (9) Notwithstanding any other provision to the contrary, the
486 State Department of Health shall have the following specific
487 powers: For the period beginning July 1, 2010, through July 1,
488 2017, the State Department of Health is authorized and empowered
489 to assess a fee in addition to the fee prescribed in Section
490 41-7-188 for reviewing applications for certificates of need in an
491 amount not to exceed twenty-five one-hundredths of one percent
492 (.25 of 1%) of the amount of a proposed capital expenditure, but



493 shall be not less than Two Hundred Fifty Dollars (\$250.00)
494 regardless of the amount of the proposed capital expenditure, and
495 the maximum additional fee permitted shall not exceed Fifty
496 Thousand Dollars (\$50,000.00). Provided that the total
497 assessments of fees for certificate of need applications under
498 Section 41-7-188 and this section shall not exceed the actual cost
499 of operating the certificate of need program.

500 (10) Notwithstanding any other provision to the contrary,
501 the State Department of Health shall have the following specific
502 powers: The State Department of Health is authorized to extend
503 and renew any certificate of need that has expired, and to charge
504 a fee for reviewing and making a determination on the application
505 for such action not to exceed one-half (1/2) of the authorized fee
506 assessed for the original application for the certificate of need,
507 with the revenue to be deposited by the State Department of Health
508 into the special fund created under Section 41-7-188.

509 (11) Notwithstanding any other provision to the contrary,
510 the State Department of Health shall have the following specific
511 powers: The State Department of Health is authorized and
512 empowered, to revoke, immediately, the license and require closure
513 of any institution for the aged or infirm, including any other
514 remedy less than closure to protect the health and safety of the
515 residents of said institution or the health and safety of the
516 general public.



517 (12) Notwithstanding any other provision to the contrary,
518 the State Department of Health shall have the following specific
519 powers: The State Department of Health is authorized and
520 empowered, to require the temporary detainment of individuals for
521 disease control purposes based upon violation of any order of the
522 State Health Officer, as provided in Section 41-23-5. For the
523 purpose of enforcing such orders of the State Health Officer,
524 persons employed by the department as investigators shall have
525 general arrest powers. All law enforcement officers are
526 authorized and directed to assist in the enforcement of such
527 orders of the State Health Officer.

528 **SECTION 7.** Section 41-3-16, Mississippi Code of 1972, is
529 reenacted as follows:

530 41-3-16. (1) (a) There is established a local governments
531 and rural water systems improvements revolving loan and grant
532 program to be administered by the State Department of Health,
533 referred to in this section as "department," for the purpose of
534 assisting counties, incorporated municipalities, districts or
535 other water organizations that have been granted tax-exempt status
536 under either federal or state law, in making improvements to their
537 water systems, including construction of new water systems or
538 expansion or repair of existing water systems. Loan and grant
539 proceeds may be used by the recipient for planning, professional
540 services, acquisition of interests in land, acquisition of
541 personal property, construction, construction-related services,



542 maintenance, and any other reasonable use which the board, in its
543 discretion, may allow. For purposes of this section, "water
544 systems" has the same meaning as the term "public water system"
545 under Section 41-26-3.

546 (b) (i) There is created a board to be known as the
547 "Local Governments and Rural Water Systems Improvements Board,"
548 referred to in this section as "board," to be composed of the
549 following nine (9) members: the State Health Officer, or his
550 designee, who shall serve as chairman of the board; the Executive
551 Director of the Mississippi Development Authority, or his
552 designee; the Executive Director of the Department of
553 Environmental Quality, or his designee; the Executive Director of
554 the Department of Finance and Administration, or his designee; the
555 Executive Director of the Mississippi Association of Supervisors,
556 or his designee; the Executive Director of the Mississippi
557 Municipal League, or his designee; the Executive Director of the
558 American Council of Engineering Companies of Mississippi, or his
559 designee; the State Director of the United States Department of
560 Agriculture, Rural Development, or his designee; and a manager of
561 a rural water system.

562 The Governor shall appoint a manager of a rural water system
563 from a list of candidates provided by the Executive Director of
564 the Mississippi Rural Water Association. The Executive Director
565 of the Mississippi Rural Water Association shall provide the



566 Governor a list of candidates which shall contain a minimum of
567 three (3) candidates for each appointment.

568 (ii) Nonappointed members of the board may
569 designate another representative of their agency or association to
570 serve as an alternate.

571 (iii) The gubernatorial appointee shall serve a
572 term concurrent with the term of the Governor and until a
573 successor is appointed and qualified. No member, officer or
574 employee of the Board of Directors of the Mississippi Rural Water
575 Association shall be eligible for appointment.

576 (c) The department, if requested by the board, shall
577 furnish the board with facilities and staff as needed to
578 administer this section. The department may contract, upon
579 approval by the board, for those facilities and staff needed to
580 administer this section, including routine management, as it deems
581 necessary. The board may advertise for or solicit proposals from
582 public or private sources, or both, for administration of this
583 section or any services required for administration of this
584 section or any portion thereof. It is the intent of the
585 Legislature that the board endeavor to ensure that the costs of
586 administration of this section are as low as possible in order to
587 provide the water consumers of Mississippi safe drinking water at
588 affordable prices.



589 (d) Members of the board may not receive any salary,
590 compensation or per diem for the performance of their duties under
591 this section.

592 (2) (a) There is created a special fund in the State
593 Treasury to be designated as the "Local Governments and Rural
594 Water Systems Improvements Revolving Loan Fund," referred to in
595 this section as "revolving fund," which fund shall consist of
596 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
597 of 1995. The revolving fund may receive appropriations, bond
598 proceeds, grants, gifts, donations or funds from any source,
599 public or private. Except as otherwise provided in this section,
600 the revolving fund shall be credited with all repayments of
601 principal and interest derived from loans made from the revolving
602 fund. Except as otherwise provided in this section, the monies in
603 the revolving fund may be expended only in amounts appropriated by
604 the Legislature, and the different amounts specifically provided
605 for the loan program and the grant program shall be so designated.
606 Except as otherwise provided in this section, monies in the fund
607 may only be expended for the grant program from the amount
608 designated for such program. The revolving fund shall be
609 maintained in perpetuity for the purposes established in this
610 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
611 Unexpended amounts remaining in the revolving fund at the end of a
612 fiscal year shall not lapse into the State General Fund, and any
613 interest earned on amounts in the revolving fund shall be



614 deposited to the credit of the fund. Monies in the revolving fund
615 may not be used or expended for any purpose except as authorized
616 under this section and Sections 6 through 20 of Chapter 521, Laws
617 of 1995. Any monies in the fund may be used to match any federal
618 funds that are available for the same or related purposes for
619 which funds are used and expended under this section and Sections
620 6 through 20 of Chapter 521, Laws of 1995. Any federal funds
621 shall be used and expended only in accordance with federal laws,
622 rules and regulations governing the expenditure of those funds.
623 No person shall use any monies from the revolving fund for the
624 acquisition of real property or any interest in real property
625 unless that property is integral to the project funded under this
626 section and the purchase is made from a willing seller. No
627 county, incorporated municipality or district shall acquire any
628 real property or any interest in any real property for a project
629 funded through the revolving fund by condemnation. The board's
630 application of Sections 43-37-1 through 43-37-13 shall be no more
631 stringent or extensive in scope, coverage and effect than federal
632 property acquisition laws and regulations.

633 (b) There is created a special fund in the State
634 Treasury to be designated as the "Local Governments and Rural
635 Water Systems Emergency Loan Fund," hereinafter referred to as
636 "emergency fund," which fund shall consist of those monies as
637 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
638 emergency fund may receive appropriations, bond proceeds, grants,



639 gifts, donations or funds from any source, public or private.
640 Except as otherwise provided in this section, the emergency fund
641 shall be credited with all repayments of principal and interest
642 derived from loans made from the emergency fund. Except as
643 otherwise provided in this section, the monies in the emergency
644 fund may be expended only in amounts appropriated by the
645 Legislature. The emergency fund shall be maintained in perpetuity
646 for the purposes established in this section and Section 6 of
647 Chapter 521, Laws of 1995. Unexpended amounts remaining in the
648 emergency fund at the end of a fiscal year shall not lapse into
649 the State General Fund. Any interest earned on amounts in the
650 emergency fund shall be deposited to the credit of the fund.
651 Monies in the emergency fund may not be used or expended for any
652 purpose except as authorized under this section and Section 6 of
653 Chapter 521, Laws of 1995.

654 (c) The board created in subsection (1) shall establish
655 loan and grant programs by which loans and grants may be made
656 available to counties, incorporated municipalities, districts or
657 other water organizations that have been granted tax-exempt status
658 under either federal or state law, to assist those counties,
659 incorporated municipalities, districts or water organizations in
660 making water systems improvements, including the construction of
661 new water systems or expansion or repair of existing water
662 systems. Any entity eligible under this section may receive
663 either a loan or a grant, or both. No grant awarded under the



664 program established in this section may be made using funds from
665 the loan program. Grants may be awarded only when the Legislature
666 specifically appropriates funds for that particular purpose. The
667 interest rate on those loans may vary from time to time and from
668 loan to loan, and will be at or below market interest rates as
669 determined by the board. The board shall act as quickly as is
670 practicable and prudent in deciding on any loan request that it
671 receives. Loans from the revolving fund or emergency fund may be
672 made to counties, incorporated municipalities, districts or other
673 water organizations that have been granted tax-exempt status under
674 either federal or state law, as set forth in a loan agreement in
675 amounts not to exceed one hundred percent (100%) of eligible
676 project costs as established by the board. The board may require
677 county, municipal, district or other water organization
678 participation or funding from other sources, or otherwise limit
679 the percentage of costs covered by loans from the revolving fund
680 or the emergency fund. The board may establish a maximum amount
681 for any loan from the revolving fund or emergency fund in order to
682 provide for broad and equitable participation in the programs.

683 (d) A county that receives a loan from the revolving
684 fund or the emergency fund shall pledge for repayment of the loan
685 any part of the homestead exemption annual tax loss reimbursement
686 to which it may be entitled under Section 27-33-77, as may be
687 required to meet the repayment schedule contained in the loan
688 agreement. An incorporated municipality that receives a loan from



689 the revolving fund or the emergency fund shall pledge for
690 repayment of the loan any part of the sales tax revenue
691 distribution to which it may be entitled under Section 27-65-75,
692 as may be required to meet the repayment schedule contained in the
693 loan agreement. All recipients of such loans shall establish a
694 dedicated source of revenue for repayment of the loan. Before any
695 county or incorporated municipality shall receive any loan, it
696 shall have executed with the Department of Revenue and the board a
697 loan agreement evidencing that loan. The loan agreement shall not
698 be construed to prohibit any recipient from prepaying any part or
699 all of the funds received. The repayment schedule in each loan
700 agreement shall provide for (i) monthly payments, (ii) semiannual
701 payments, or (iii) other periodic payments, the annual total of
702 which shall not exceed the annual total for any other year of the
703 loan by more than fifteen percent (15%). Except as otherwise
704 provided in subsection (4) of this section, the loan agreement
705 shall provide for the repayment of all funds received from the
706 revolving fund within not more than fifteen (15) years or a term
707 as otherwise allowed by the federal Safe Drinking Water Act, and
708 all funds received from the emergency fund within not more than
709 five (5) years from the date of project completion, and any
710 repayment shall commence not later than one (1) year after project
711 completion. The Department of Revenue shall withhold semiannually
712 from counties and monthly from incorporated municipalities from



713 the amount to be remitted to the county or municipality, a sum
714 equal to the next repayment as provided in the loan agreement.

715 (e) Any county, incorporated municipality, district or
716 other water organization desiring to construct a project approved
717 by the board which receives a loan from the state for that purpose
718 but which is not eligible to pledge for repayment under the
719 provisions of paragraph (d) of this subsection shall repay that
720 loan by making payments each month to the State Treasurer through
721 the Department of Finance and Administration for and on behalf of
722 the board according to Section 7-7-15, to be credited to either
723 the revolving fund or the emergency fund, whichever is
724 appropriate, in lieu of pledging homestead exemption annual tax
725 loss reimbursement or sales tax revenue distribution.

726 Loan repayments shall be according to a repayment schedule
727 contained in each loan agreement as provided in paragraph (d) of
728 this subsection.

729 (f) Any district created pursuant to Sections 19-5-151
730 through 19-5-207 that receives a loan from the revolving fund or
731 the emergency fund shall pledge for repayment of the loan any part
732 of the revenues received by that district pursuant to Sections
733 19-5-151 through 19-5-207, as may be required to meet the
734 repayment schedule contained in the loan agreement.

735 (g) The State Auditor, upon request of the board, shall
736 audit the receipts and expenditures of a county, an incorporated
737 municipality, district or other water organization whose loan



738 repayments appear to be in arrears, and if the Auditor finds that
739 the county, incorporated municipality, district or other water
740 organization is in arrears in those repayments, the Auditor shall
741 immediately notify the chairman of the board who may take any
742 action as may be necessary to enforce the terms of the loan
743 agreement, including liquidation and enforcement of the security
744 given for repayment of the loan, and the Executive Director of the
745 Department of Finance and Administration who shall withhold all
746 future payments to the county of homestead exemption annual tax
747 loss reimbursements under Section 27-33-77 and all sums allocated
748 to the county or the incorporated municipality under Section
749 27-65-75 until such time as the county or the incorporated
750 municipality is again current in its loan repayments as certified
751 by the board.

752 (h) Except as otherwise provided in this section, all
753 monies deposited in the revolving fund or the emergency fund,
754 including loan repayments and interest earned on those repayments,
755 shall be used only for providing loans or other financial
756 assistance to water systems as the board deems appropriate. In
757 addition, any amounts in the revolving fund or the emergency fund
758 may be used to defray the reasonable costs of administering the
759 revolving fund or the emergency fund and conducting activities
760 under this section and Sections 6 through 20 of Chapter 521, Laws
761 of 1995, subject to any limitations established in the federal
762 Safe Drinking Water Act, as amended and subject to annual



763 appropriation by the Legislature. The department is authorized,
764 upon approval by the board, to use amounts available to it from
765 the revolving fund or the emergency fund to contract for those
766 facilities and staff needed to administer and provide routine
767 management for the funds and loan program. However,
768 notwithstanding any other provision of law to the contrary, all or
769 any portion of repayments of principal and interest derived from
770 the fund uses described in this section may be designated or
771 pledged for repayment of a loan as provided for in Section
772 31-25-28 in connection with a loan from the Mississippi
773 Development Bank.

774 (3) In administering this section and Sections 6 through 20
775 of Chapter 521, Laws of 1995, the board created in subsection (1)
776 of this section shall have the following powers and duties:

777 (a) To supervise the use of all funds made available
778 under this section and Sections 6 through 20 of Chapter 521, Laws
779 of 1995, for local governments and rural water systems
780 improvements;

781 (b) To promulgate rules and regulations, to make
782 variances and exceptions thereto, and to establish procedures in
783 accordance with this section and Sections 6 through 20 of Chapter
784 521, Laws of 1995, for the implementation of the local governments
785 and rural water systems improvements revolving loan program;

786 (c) To require, at the board's discretion, any loan or
787 grant recipient to impose a per connection fee or surcharge or



788 amended water rate schedule or tariff on each customer or any
789 class of customers, benefiting from an improvement financed by a
790 loan or grant made under this section, for repayment of any loan
791 funds provided under this section and Sections 6 through 20 of
792 Chapter 521, Laws of 1995. The board may require any loan or
793 grant recipient to undergo a water system viability analysis and
794 may require a loan or grant recipient to implement any result of
795 the viability analysis. If the loan recipient fails to implement
796 any result of a viability analysis as required by the board, the
797 board may impose a monetary penalty or increase the interest rate
798 on the loan, or both. If the grant recipient fails to implement
799 any result of a viability analysis as required by the board, the
800 board may impose a monetary penalty on the grant;

801 (d) To review and certify all projects for which funds
802 are authorized to be made available under this section and
803 Sections 6 through 20 of Chapter 521, Laws of 1995, for local
804 governments and rural water systems improvements;

805 (e) To requisition monies in the Local Governments and
806 Rural Water Systems Improvements Revolving Loan Fund and the Local
807 Governments and Rural Water Systems Emergency Loan Fund and
808 distribute those monies on a project-by-project basis in
809 accordance with this section;

810 (f) To ensure that the funds made available under this
811 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
812 a county, an incorporated municipality, a district or a water



813 organization that has been granted tax-exempt status under either
814 federal or state law provide for a distribution of projects and
815 funds among the entities under a priority system established by
816 the board;

817 (g) To maintain in accordance with generally accepted
818 government accounting standards an accurate record of all monies
819 in the revolving fund and the emergency fund made available to
820 counties, incorporated municipalities, districts or other water
821 organizations under this section and Sections 6 through 20 of
822 Chapter 521, Laws of 1995, and the costs for each project;

823 (h) To establish policies, procedures and requirements
824 concerning viability and financial capability to repay loans that
825 may be used in approving loans available under this section,
826 including a requirement that all loan recipients have a rate
827 structure which will be sufficient to cover the costs of
828 operation, maintenance, major equipment replacement and repayment
829 of any loans made under this section; and

830 (i) To file annually with the Legislature a report
831 detailing how monies in the Local Governments and Rural Water
832 Systems Improvements Revolving Loan Fund and the Local Governments
833 and Rural Water Systems Emergency Loan Fund were spent during the
834 preceding fiscal year in each county, incorporated municipality,
835 district or other water organization, the number of projects
836 approved and constructed, and the cost of each project.



837 For efficient and effective administration of the loan
838 program, revolving fund and emergency fund, the board may
839 authorize the department or the State Health Officer to carry out
840 any or all of the powers and duties enumerated above.

841 (4) The board may, on a case-by-case basis and to the extent
842 allowed by federal law, renegotiate the payment of principal and
843 interest on loans made under this section to the six (6) most
844 southern counties of the state covered by the Presidential
845 Declaration of Major Disaster for the State of Mississippi
846 (FEMA-1604-DR) dated August 29, 2005, and to incorporated
847 municipalities, districts or other water organizations located in
848 such counties; however, the interest on the loans shall not be
849 forgiven for a period of more than twenty-four (24) months and the
850 maturity of the loans shall not be extended for a period of more
851 than forty-eight (48) months.

852 **SECTION 8.** Section 41-3-17, Mississippi Code of 1972, is
853 reenacted as follows:

854 41-3-17. The State Board of Health is authorized to make and
855 publish all reasonable rules and regulations necessary to enable
856 it to discharge its duties and powers and to carry out the
857 purposes and objectives of its creation. It is further authorized
858 to make reasonable sanitary rules and regulations, to be enforced
859 in the several counties by the county health officer under the
860 supervision and control of the State Board of Health. The State
861 Board of Health shall not make or enforce any rule or regulation



862 that prohibits consumers from providing their own containers for
863 the purpose of purchasing or accepting water from any vending
864 machine or device which filters or treats water that has already
865 been tested and determined to meet or exceed the minimum health
866 protection standards prescribed for drinking water under the
867 Mississippi Safe Drinking Water Law, if that vending machine or
868 device meets or exceeds United States Environmental Protection
869 Agency or national automatic merchandising standards.

870 **SECTION 9.** Section 41-3-18, Mississippi Code of 1972, is
871 reenacted as follows:

872 41-3-18. (1) The board shall assess fees in the following
873 amounts and for the following purposes:

874 (a) Food establishment annual permit fee, based on the
875 assessment factors of the establishment as follows:

876	Assessment Category 1	\$ 30.00
877	Assessment Category 2	100.00
878	Assessment Category 3	150.00
879	Assessment Category 4	200.00
880	(b) Private water supply approval fee	\$ 10.00

881 The board may develop such reasonable standards, rules and
882 regulations to clearly define each assessment category.

883 Assessment categories shall be based upon the factors to the
884 public health implications of the category and type of food
885 preparation being utilized by the food establishment, utilizing



886 the model Food Code of 1995, or as may be amended by the federal
887 Food and Drug Administration.

888 Any increase in the fees charged by the board under this
889 subsection shall be in accordance with the provisions of Section
890 41-3-65.

891 (2) The fee authorized under subsection (1)(a) of this
892 section shall not be assessed for:

893 (a) Food establishments operated by public schools,
894 public junior and community colleges, or state agencies or
895 institutions, including, without limitation, the state
896 institutions of higher learning and the State Penitentiary; and

897 (b) Persons who make infrequent casual sales of honey
898 and who pack or sell less than five hundred (500) gallons of honey
899 per year, and those persons shall not be inspected by the State
900 Department of Health unless requested by the producer.

901 (3) The fee authorized under subsection (1)(b) of this
902 section shall not be assessed for private water supplies used by
903 foster homes licensed by the Department of Human Services.

904 **SECTION 10.** Section 41-3-19, Mississippi Code of 1972, is
905 reenacted as follows:

906 41-3-19. It is the duty of the State Board of Health to make
907 a report, in writing, to the Governor, on or before the first day
908 of December next preceding each session, not an extraordinary
909 session of the Legislature, upon the sanitary condition, prospect,
910 and needs of the state, setting forth the action of said board, of



911 its officers and agents, the names thereof, and all its
912 expenditures since the last preceding report, and such other
913 matters as it may deem proper for the promotion of health or the
914 prevention of disease. The report shall be laid before the
915 Legislature by the Governor at its ensuing term.

916 **SECTION 11.** Section 41-3-20, Mississippi Code of 1972, is
917 amended as follows:

918 41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,
919 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which
920 create the * * * State Board of Health, establish the position of
921 Executive Officer of the State Department of Health and establish
922 the State Department of Health and prescribe its powers and
923 duties, shall stand repealed on July 1, * * * 2024.

924 **SECTION 12.** Section 41-7-173, Mississippi Code of 1972, is
925 brought forward as follows:

926 41-7-173. For the purposes of Section 41-7-171 et seq., the
927 following words shall have the meanings ascribed herein, unless
928 the context otherwise requires:

929 (a) "Affected person" means (i) the applicant; (ii) a
930 person residing within the geographic area to be served by the
931 applicant's proposal; (iii) a person who regularly uses health
932 care facilities or HMOs located in the geographic area of the
933 proposal which provide similar service to that which is proposed;
934 (iv) health care facilities and HMOs which have, prior to receipt
935 of the application under review, formally indicated an intention



936 to provide service similar to that of the proposal being
937 considered at a future date; (v) third-party payers who reimburse
938 health care facilities located in the geographical area of the
939 proposal; or (vi) any agency that establishes rates for health
940 care services or HMOs located in the geographic area of the
941 proposal.

942 (b) "Certificate of need" means a written order of the
943 State Department of Health setting forth the affirmative finding
944 that a proposal in prescribed application form, sufficiently
945 satisfies the plans, standards and criteria prescribed for such
946 service or other project by Section 41-7-171 et seq., and by rules
947 and regulations promulgated thereunder by the State Department of
948 Health.

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

955 (ii) "Capital expenditure," when pertaining to
956 other than major medical equipment, shall mean any expenditure
957 which under generally accepted accounting principles consistently
958 applied is not properly chargeable as an expense of operation and
959 maintenance and which exceeds, for clinical health services, as
960 defined in * * * paragraph (k) below, Five Million Dollars



961 (\$5,000,000.00), adjusted for inflation as published by the State
962 Department of Health or which exceeds, for nonclinical health
963 services, as defined in * * * paragraph (k) below, Ten Million
964 Dollars (\$10,000,000.00), adjusted for inflation as published by
965 the State Department of Health.

966 (iii) A "capital expenditure" shall include the
967 acquisition, whether by lease, sufferance, gift, devise, legacy,
968 settlement of a trust or other means, of any facility or part
969 thereof, or equipment for a facility, the expenditure for which
970 would have been considered a capital expenditure if acquired by
971 purchase. Transactions which are separated in time but are
972 planned to be undertaken within twelve (12) months of each other
973 and are components of an overall plan for meeting patient care
974 objectives shall, for purposes of this definition, be viewed in
975 their entirety without regard to their timing.

976 (iv) In those instances where a health care
977 facility or other provider of health services proposes to provide
978 a service in which the capital expenditure for major medical
979 equipment or other than major medical equipment or a combination
980 of the two (2) may have been split between separate parties, the
981 total capital expenditure required to provide the proposed service
982 shall be considered in determining the necessity of certificate of
983 need review and in determining the appropriate certificate of need
984 review fee to be paid. The capital expenditure associated with
985 facilities and equipment to provide services in Mississippi shall



986 be considered regardless of where the capital expenditure was
987 made, in state or out of state, and regardless of the domicile of
988 the party making the capital expenditure, in state or out of
989 state.

990 (d) "Change of ownership" includes, but is not limited
991 to, inter vivos gifts, purchases, transfers, lease arrangements,
992 cash and/or stock transactions or other comparable arrangements
993 whenever any person or entity acquires or controls a majority
994 interest of an existing health care facility, and/or the change of
995 ownership of major medical equipment, a health service, or an
996 institutional health service. Changes of ownership from
997 partnerships, single proprietorships or corporations to another
998 form of ownership are specifically included. However, "change of
999 ownership" shall not include any inherited interest acquired as a
1000 result of a testamentary instrument or under the laws of descent
1001 and distribution of the State of Mississippi.

1002 (e) "Commencement of construction" means that all of
1003 the following have been completed with respect to a proposal or
1004 project proposing construction, renovating, remodeling or
1005 alteration:

1006 (i) A legally binding written contract has been
1007 consummated by the proponent and a lawfully licensed contractor to
1008 construct and/or complete the intent of the proposal within a
1009 specified period of time in accordance with final architectural



1010 plans which have been approved by the licensing authority of the
1011 State Department of Health;

1012 (ii) Any and all permits and/or approvals deemed
1013 lawfully necessary by all authorities with responsibility for such
1014 have been secured; and

1015 (iii) Actual bona fide undertaking of the subject
1016 proposal has commenced, and a progress payment of at least one
1017 percent (1%) of the total cost price of the contract has been paid
1018 to the contractor by the proponent, and the requirements of this
1019 paragraph (e) have been certified to in writing by the State
1020 Department of Health.

1021 Force account expenditures, such as deposits, securities,
1022 bonds, et cetera, may, in the discretion of the State Department
1023 of Health, be excluded from any or all of the provisions of
1024 defined commencement of construction.

1025 (f) "Consumer" means an individual who is not a
1026 provider of health care as defined in paragraph (q) of this
1027 section.

1028 (g) "Develop," when used in connection with health
1029 services, means to undertake those activities which, on their
1030 completion, will result in the offering of a new institutional
1031 health service or the incurring of a financial obligation as
1032 defined under applicable state law in relation to the offering of
1033 such services.



1034 (h) "Health care facility" includes hospitals,
1035 psychiatric hospitals, chemical dependency hospitals, skilled
1036 nursing facilities, end-stage renal disease (ESRD) facilities,
1037 including freestanding hemodialysis units, intermediate care
1038 facilities, ambulatory surgical facilities, intermediate care
1039 facilities for the mentally retarded, home health agencies,
1040 psychiatric residential treatment facilities, pediatric skilled
1041 nursing facilities, long-term care hospitals, comprehensive
1042 medical rehabilitation facilities, including facilities owned or
1043 operated by the state or a political subdivision or
1044 instrumentality of the state, but does not include Christian
1045 Science sanatoriums operated or listed and certified by the First
1046 Church of Christ, Scientist, Boston, Massachusetts. This
1047 definition shall not apply to facilities for the private practice,
1048 either independently or by incorporated medical groups, of
1049 physicians, dentists or health care professionals except where
1050 such facilities are an integral part of an institutional health
1051 service. The various health care facilities listed in this
1052 paragraph shall be defined as follows:

1053 (i) "Hospital" means an institution which is
1054 primarily engaged in providing to inpatients, by or under the
1055 supervision of physicians, diagnostic services and therapeutic
1056 services for medical diagnosis, treatment and care of injured,
1057 disabled or sick persons, or rehabilitation services for the



1058 rehabilitation of injured, disabled or sick persons. Such term
1059 does not include psychiatric hospitals.

1060 (ii) "Psychiatric hospital" means an institution
1061 which is primarily engaged in providing to inpatients, by or under
1062 the supervision of a physician, psychiatric services for the
1063 diagnosis and treatment of persons with mental illness.

1064 (iii) "Chemical dependency hospital" means an
1065 institution which is primarily engaged in providing to inpatients,
1066 by or under the supervision of a physician, medical and related
1067 services for the diagnosis and treatment of chemical dependency
1068 such as alcohol and drug abuse.

1069 (iv) "Skilled nursing facility" means an
1070 institution or a distinct part of an institution which is
1071 primarily engaged in providing to inpatients skilled nursing care
1072 and related services for patients who require medical or nursing
1073 care or rehabilitation services for the rehabilitation of injured,
1074 disabled or sick persons.

1075 (v) "End-stage renal disease (ESRD) facilities"
1076 means kidney disease treatment centers, which includes
1077 freestanding hemodialysis units and limited care facilities. The
1078 term "limited care facility" generally refers to an
1079 off-hospital-premises facility, regardless of whether it is
1080 provider or nonprovider operated, which is engaged primarily in
1081 furnishing maintenance hemodialysis services to stabilized
1082 patients.



1083 (vi) "Intermediate care facility" means an
1084 institution which provides, on a regular basis, health-related
1085 care and services to individuals who do not require the degree of
1086 care and treatment which a hospital or skilled nursing facility is
1087 designed to provide, but who, because of their mental or physical
1088 condition, require health-related care and services (above the
1089 level of room and board).

1090 (vii) "Ambulatory surgical facility" means a
1091 facility primarily organized or established for the purpose of
1092 performing surgery for outpatients and is a separate identifiable
1093 legal entity from any other health care facility. Such term does
1094 not include the offices of private physicians or dentists, whether
1095 for individual or group practice, and does not include any
1096 abortion facility as defined in Section 41-75-1(f).

1097 (viii) "Intermediate care facility for the
1098 mentally retarded" means an intermediate care facility that
1099 provides health or rehabilitative services in a planned program of
1100 activities to persons with an intellectual disability, also
1101 including, but not limited to, cerebral palsy and other conditions
1102 covered by the Federal Developmentally Disabled Assistance and
1103 Bill of Rights Act, Public Law 94-103.

1104 (ix) "Home health agency" means a public or
1105 privately owned agency or organization, or a subdivision of such
1106 an agency or organization, properly authorized to conduct business
1107 in Mississippi, which is primarily engaged in providing to



1108 individuals at the written direction of a licensed physician, in
1109 the individual's place of residence, skilled nursing services
1110 provided by or under the supervision of a registered nurse
1111 licensed to practice in Mississippi, and one or more of the
1112 following services or items:

- 1113 1. Physical, occupational or speech therapy;
- 1114 2. Medical social services;
- 1115 3. Part-time or intermittent services of a
1116 home health aide;
- 1117 4. Other services as approved by the
1118 licensing agency for home health agencies;
- 1119 5. Medical supplies, other than drugs and
1120 biologicals, and the use of medical appliances; or
- 1121 6. Medical services provided by an intern or
1122 resident-in-training at a hospital under a teaching program of
1123 such hospital.

1124 Further, all skilled nursing services and those services
1125 listed in items 1 through 4 of this subparagraph (ix) must be
1126 provided directly by the licensed home health agency. For
1127 purposes of this subparagraph, "directly" means either through an
1128 agency employee or by an arrangement with another individual not
1129 defined as a health care facility.

1130 This subparagraph (ix) shall not apply to health care
1131 facilities which had contracts for the above services with a home
1132 health agency on January 1, 1990.



1133 (x) "Psychiatric residential treatment facility"
1134 means any nonhospital establishment with permanent licensed
1135 facilities which provides a twenty-four-hour program of care by
1136 qualified therapists, including, but not limited to, duly licensed
1137 mental health professionals, psychiatrists, psychologists,
1138 psychotherapists and licensed certified social workers, for
1139 emotionally disturbed children and adolescents referred to such
1140 facility by a court, local school district or by the Department of
1141 Human Services, who are not in an acute phase of illness requiring
1142 the services of a psychiatric hospital, and are in need of such
1143 restorative treatment services. For purposes of this
1144 subparagraph, the term "emotionally disturbed" means a condition
1145 exhibiting one or more of the following characteristics over a
1146 long period of time and to a marked degree, which adversely
1147 affects educational performance:

- 1148 1. An inability to learn which cannot be
1149 explained by intellectual, sensory or health factors;
- 1150 2. An inability to build or maintain
1151 satisfactory relationships with peers and teachers;
- 1152 3. Inappropriate types of behavior or
1153 feelings under normal circumstances;
- 1154 4. A general pervasive mood of unhappiness or
1155 depression; or
- 1156 5. A tendency to develop physical symptoms or
1157 fears associated with personal or school problems. An



1158 establishment furnishing primarily domiciliary care is not within
1159 this definition.

1160 (xi) "Pediatric skilled nursing facility" means an
1161 institution or a distinct part of an institution that is primarily
1162 engaged in providing to inpatients skilled nursing care and
1163 related services for persons under twenty-one (21) years of age
1164 who require medical or nursing care or rehabilitation services for
1165 the rehabilitation of injured, disabled or sick persons.

1166 (xii) "Long-term care hospital" means a
1167 freestanding, Medicare-certified hospital that has an average
1168 length of inpatient stay greater than twenty-five (25) days, which
1169 is primarily engaged in providing chronic or long-term medical
1170 care to patients who do not require more than three (3) hours of
1171 rehabilitation or comprehensive rehabilitation per day, and has a
1172 transfer agreement with an acute care medical center and a
1173 comprehensive medical rehabilitation facility. Long-term care
1174 hospitals shall not use rehabilitation, comprehensive medical
1175 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
1176 nursing home, skilled nursing facility or sub-acute care facility
1177 in association with its name.

1178 (xiii) "Comprehensive medical rehabilitation
1179 facility" means a hospital or hospital unit that is licensed
1180 and/or certified as a comprehensive medical rehabilitation
1181 facility which provides specialized programs that are accredited
1182 by the Commission on Accreditation of Rehabilitation Facilities



1183 and supervised by a physician board certified or board eligible in
1184 physiatry or other doctor of medicine or osteopathy with at least
1185 two (2) years of training in the medical direction of a
1186 comprehensive rehabilitation program that:

1187 1. Includes evaluation and treatment of
1188 individuals with physical disabilities;

1189 2. Emphasizes education and training of
1190 individuals with disabilities;

1191 3. Incorporates at least the following core
1192 disciplines:

1193 * * *a. Physical Therapy;

1194 * * *b. Occupational Therapy;

1195 * * *c. Speech and Language Therapy;

1196 * * *d. Rehabilitation Nursing; and

1197 4. Incorporates at least three (3) of the
1198 following disciplines:

1199 * * *a. Psychology;

1200 * * *b. Audiology;

1201 * * *c. Respiratory Therapy;

1202 * * *d. Therapeutic Recreation;

1203 * * *e. Orthotics;

1204 * * *f. Prosthetics;

1205 * * *g. Special Education;

1206 * * *h. Vocational Rehabilitation;

1207 * * *i. Psychotherapy;



1208 * * *j. Social Work;

1209 * * *k. Rehabilitation Engineering.

1210 These specialized programs include, but are not limited to:
1211 spinal cord injury programs, head injury programs and infant and
1212 early childhood development programs.

1213 (i) "Health maintenance organization" or "HMO" means a
1214 public or private organization organized under the laws of this
1215 state or the federal government which:

1216 (i) Provides or otherwise makes available to
1217 enrolled participants health care services, including
1218 substantially the following basic health care services: usual
1219 physician services, hospitalization, laboratory, x-ray, emergency
1220 and preventive services, and out-of-area coverage;

1221 (ii) Is compensated (except for copayments) for
1222 the provision of the basic health care services listed in
1223 subparagraph (i) of this paragraph to enrolled participants on a
1224 predetermined basis; and

1225 (iii) Provides physician services primarily:

1226 1. Directly through physicians who are either
1227 employees or partners of such organization; or

1228 2. Through arrangements with individual
1229 physicians or one or more groups of physicians (organized on a
1230 group practice or individual practice basis).

1231 (j) "Health service area" means a geographic area of
1232 the state designated in the State Health Plan as the area to be



1233 used in planning for specified health facilities and services and
1234 to be used when considering certificate of need applications to
1235 provide health facilities and services.

1236 (k) "Health services" means clinically related (i.e.,
1237 diagnostic, treatment or rehabilitative) services and includes
1238 alcohol, drug abuse, mental health and home health care services.
1239 "Clinical health services" shall only include those activities
1240 which contemplate any change in the existing bed complement of any
1241 health care facility through the addition or conversion of any
1242 beds, under Section 41-7-191(1)(c) or propose to offer any health
1243 services if those services have not been provided on a regular
1244 basis by the proposed provider of such services within the period
1245 of twelve (12) months prior to the time such services would be
1246 offered, under Section 41-7-191(1)(d). "Nonclinical health
1247 services" shall be all other services which do not involve any
1248 change in the existing bed complement or offering health services
1249 as described above.

1250 (l) "Institutional health services" shall mean health
1251 services provided in or through health care facilities and shall
1252 include the entities in or through which such services are
1253 provided.

1254 (m) "Major medical equipment" means medical equipment
1255 designed for providing medical or any health-related service which
1256 costs in excess of One Million Five Hundred Thousand Dollars
1257 (\$1,500,000.00). However, this definition shall not be applicable



1258 to clinical laboratories if they are determined by the State
1259 Department of Health to be independent of any physician's office,
1260 hospital or other health care facility or otherwise not so defined
1261 by federal or state law, or rules and regulations promulgated
1262 thereunder.

1263 (n) "State Department of Health" or "department" shall
1264 mean the state agency created under Section 41-3-15, which shall
1265 be considered to be the State Health Planning and Development
1266 Agency, as defined in paragraph (u) of this section.

1267 (o) "Offer," when used in connection with health
1268 services, means that it has been determined by the State
1269 Department of Health that the health care facility is capable of
1270 providing specified health services.

1271 (p) "Person" means an individual, a trust or estate,
1272 partnership, corporation (including associations, joint-stock
1273 companies and insurance companies), the state or a political
1274 subdivision or instrumentality of the state.

1275 (q) "Provider" shall mean any person who is a provider
1276 or representative of a provider of health care services requiring
1277 a certificate of need under Section 41-7-171 et seq., or who has
1278 any financial or indirect interest in any provider of services.

1279 (r) "Radiation therapy services" means the treatment of
1280 cancer and other diseases using ionizing radiation of either high
1281 energy photons (x-rays or gamma rays) or charged particles
1282 (electrons, protons or heavy nuclei). However, for purposes of a



1283 certificate of need, radiation therapy services shall not include
1284 low energy, superficial, external beam x-ray treatment of
1285 superficial skin lesions.

1286 (s) "Secretary" means the Secretary of Health and Human
1287 Services, and any officer or employee of the Department of Health
1288 and Human Services to whom the authority involved has been
1289 delegated.

1290 (t) "State Health Plan" means the sole and official
1291 statewide health plan for Mississippi which identifies priority
1292 state health needs and establishes standards and criteria for
1293 health-related activities which require certificate of need review
1294 in compliance with Section 41-7-191.

1295 (u) "State Health Planning and Development Agency"
1296 means the agency of state government designated to perform health
1297 planning and resource development programs for the State of
1298 Mississippi.

1299 **SECTION 13.** Section 41-7-185, Mississippi Code of 1972, is
1300 brought forward as follows:

1301 41-7-185. In carrying out its functions under Section
1302 41-7-171 et seq., the State Department of Health is hereby
1303 empowered to:

1304 (a) Make applications for and accept funds from the
1305 secretary and other federal and state agencies and to receive and
1306 administer such other funds for the planning or provision of
1307 health facilities or health care as are appropriate to the



1308 accomplishment of the purposes of Section 41-7-171 et seq. * * *,
1309 and to contract with the secretary to accept funds to administer
1310 planning activities on the community, regional or state level;

1311 (b) With the approval of the secretary, delegate to or
1312 contract with any mutually agreeable department, division or
1313 agency of the state, the federal government, or any political
1314 subdivision of either, or any private corporation, organization or
1315 association chartered by the Secretary of State of Mississippi,
1316 authority for administering any programs, duties or functions
1317 provided for in Section 41-7-171 * * * et seq.;

1318 (c) Prescribe and promulgate such reasonable rules and
1319 regulations as may be necessary to the implementation of the
1320 purposes of Section 41-7-171 * * * et seq., complying with Section
1321 25-43-1 * * * et seq.;

1322 (d) Require providers of institutional health services
1323 and home health care services provided through a home health
1324 agency and any other provider of health care requiring a
1325 certificate of need to submit or make available statistical
1326 information or such other information requested by the State
1327 Department of Health, but not information that would constitute an
1328 unwarranted invasion of the personal privacy of any individual
1329 person or place the provider in jeopardy of legal action by a
1330 third party;

1331 (e) Conduct such other hearing or hearings in addition
1332 to those provided for in Section 41-7-197, and enter such further



1333 order or orders, and with approval of the Governor enter into such
1334 agreement or agreements with the secretary as may be reasonably
1335 necessary to the realization by the people of Mississippi of the
1336 full benefits of Acts of Congress;

1337 (f) In its discretion, contract with the secretary, or
1338 terminate any such contract, for the administration of the
1339 provisions, programs, duties and functions of Section 1122 of
1340 Public Law 92-603; but the State Department of Health shall not be
1341 relieved of matters of accountability, obligation or
1342 responsibility that accrued to the department by virtue of prior
1343 contracts and/or statutes;

1344 (g) Prepare, review at least triennially, and revise,
1345 as necessary, a State Health Plan, as defined in Section 41-7-173,
1346 which shall be approved by the Governor before it becomes
1347 effective.

1348 **SECTION 14.** Section 41-7-191, Mississippi Code of 1972, is
1349 brought forward as follows:

1350 41-7-191. (1) No person shall engage in any of the
1351 following activities without obtaining the required certificate of
1352 need:

1353 (a) The construction, development or other
1354 establishment of a new health care facility, which establishment
1355 shall include the reopening of a health care facility that has
1356 ceased to operate for a period of sixty (60) months or more;



1357 (b) The relocation of a health care facility or portion
1358 thereof, or major medical equipment, unless such relocation of a
1359 health care facility or portion thereof, or major medical
1360 equipment, which does not involve a capital expenditure by or on
1361 behalf of a health care facility, is within five thousand two
1362 hundred eighty (5,280) feet from the main entrance of the health
1363 care facility;

1364 (c) Any change in the existing bed complement of any
1365 health care facility through the addition or conversion of any
1366 beds or the alteration, modernizing or refurbishing of any unit or
1367 department in which the beds may be located; however, if a health
1368 care facility has voluntarily delicensed some of its existing bed
1369 complement, it may later relicense some or all of its delicensed
1370 beds without the necessity of having to acquire a certificate of
1371 need. The State Department of Health shall maintain a record of
1372 the delicensing health care facility and its voluntarily
1373 delicensed beds and continue counting those beds as part of the
1374 state's total bed count for health care planning purposes. If a
1375 health care facility that has voluntarily delicensed some of its
1376 beds later desires to relicense some or all of its voluntarily
1377 delicensed beds, it shall notify the State Department of Health of
1378 its intent to increase the number of its licensed beds. The State
1379 Department of Health shall survey the health care facility within
1380 thirty (30) days of that notice and, if appropriate, issue the
1381 health care facility a new license reflecting the new contingent



1382 of beds. However, in no event may a health care facility that has
1383 voluntarily delicensed some of its beds be reissued a license to
1384 operate beds in excess of its bed count before the voluntary
1385 delicensure of some of its beds without seeking certificate of
1386 need approval;

1387 (d) Offering of the following health services if those
1388 services have not been provided on a regular basis by the proposed
1389 provider of such services within the period of twelve (12) months
1390 prior to the time such services would be offered:

- 1391 (i) Open-heart surgery services;
- 1392 (ii) Cardiac catheterization services;
- 1393 (iii) Comprehensive inpatient rehabilitation
1394 services;
- 1395 (iv) Licensed psychiatric services;
- 1396 (v) Licensed chemical dependency services;
- 1397 (vi) Radiation therapy services;
- 1398 (vii) Diagnostic imaging services of an invasive
1399 nature, i.e. invasive digital angiography;
- 1400 (viii) Nursing home care as defined in
1401 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 1402 (ix) Home health services;
- 1403 (x) Swing-bed services;
- 1404 (xi) Ambulatory surgical services;
- 1405 (xii) Magnetic resonance imaging services;
- 1406 (xiii) [Deleted]



1407 (xiv) Long-term care hospital services;

1408 (xv) Positron emission tomography (PET) services;

1409 (e) The relocation of one or more health services from

1410 one physical facility or site to another physical facility or

1411 site, unless such relocation, which does not involve a capital

1412 expenditure by or on behalf of a health care facility, (i) is to a

1413 physical facility or site within five thousand two hundred eighty

1414 (5,280) feet from the main entrance of the health care facility

1415 where the health care service is located, or (ii) is the result of

1416 an order of a court of appropriate jurisdiction or a result of

1417 pending litigation in such court, or by order of the State

1418 Department of Health, or by order of any other agency or legal

1419 entity of the state, the federal government, or any political

1420 subdivision of either, whose order is also approved by the State

1421 Department of Health;

1422 (f) The acquisition or otherwise control of any major

1423 medical equipment for the provision of medical services; however,

1424 (i) the acquisition of any major medical equipment used only for

1425 research purposes, and (ii) the acquisition of major medical

1426 equipment to replace medical equipment for which a facility is

1427 already providing medical services and for which the State

1428 Department of Health has been notified before the date of such

1429 acquisition shall be exempt from this paragraph; an acquisition

1430 for less than fair market value must be reviewed, if the

1431 acquisition at fair market value would be subject to review;



1432 (g) Changes of ownership of existing health care
1433 facilities in which a notice of intent is not filed with the State
1434 Department of Health at least thirty (30) days prior to the date
1435 such change of ownership occurs, or a change in services or bed
1436 capacity as prescribed in paragraph (c) or (d) of this subsection
1437 as a result of the change of ownership; an acquisition for less
1438 than fair market value must be reviewed, if the acquisition at
1439 fair market value would be subject to review;

1440 (h) The change of ownership of any health care facility
1441 defined in subparagraphs (iv), (vi) and (viii) of Section
1442 41-7-173(h), in which a notice of intent as described in paragraph
1443 (g) has not been filed and if the Executive Director, Division of
1444 Medicaid, Office of the Governor, has not certified in writing
1445 that there will be no increase in allowable costs to Medicaid from
1446 revaluation of the assets or from increased interest and
1447 depreciation as a result of the proposed change of ownership;

1448 (i) Any activity described in paragraphs (a) through
1449 (h) if undertaken by any person if that same activity would
1450 require certificate of need approval if undertaken by a health
1451 care facility;

1452 (j) Any capital expenditure or deferred capital
1453 expenditure by or on behalf of a health care facility not covered
1454 by paragraphs (a) through (h);

1455 (k) The contracting of a health care facility as
1456 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)



1457 to establish a home office, subunit, or branch office in the space
1458 operated as a health care facility through a formal arrangement
1459 with an existing health care facility as defined in subparagraph
1460 (ix) of Section 41-7-173(h);

1461 (l) The replacement or relocation of a health care
1462 facility designated as a critical access hospital shall be exempt
1463 from subsection (1) of this section so long as the critical access
1464 hospital complies with all applicable federal law and regulations
1465 regarding such replacement or relocation;

1466 (m) Reopening a health care facility that has ceased to
1467 operate for a period of sixty (60) months or more, which reopening
1468 requires a certificate of need for the establishment of a new
1469 health care facility.

1470 (2) The State Department of Health shall not grant approval
1471 for or issue a certificate of need to any person proposing the new
1472 construction of, addition to, or expansion of any health care
1473 facility defined in subparagraphs (iv) (skilled nursing facility)
1474 and (vi) (intermediate care facility) of Section 41-7-173(h) or
1475 the conversion of vacant hospital beds to provide skilled or
1476 intermediate nursing home care, except as hereinafter authorized:

1477 (a) The department may issue a certificate of need to
1478 any person proposing the new construction of any health care
1479 facility defined in subparagraphs (iv) and (vi) of Section
1480 41-7-173(h) as part of a life care retirement facility, in any
1481 county bordering on the Gulf of Mexico in which is located a



1482 National Aeronautics and Space Administration facility, not to
1483 exceed forty (40) beds. From and after July 1, 1999, there shall
1484 be no prohibition or restrictions on participation in the Medicaid
1485 program (Section 43-13-101 et seq.) for the beds in the health
1486 care facility that were authorized under this paragraph (a).

1487 (b) The department may issue certificates of need in
1488 Harrison County to provide skilled nursing home care for
1489 Alzheimer's disease patients and other patients, not to exceed one
1490 hundred fifty (150) beds. From and after July 1, 1999, there
1491 shall be no prohibition or restrictions on participation in the
1492 Medicaid program (Section 43-13-101 et seq.) for the beds in the
1493 nursing facilities that were authorized under this paragraph (b).

1494 (c) The department may issue a certificate of need for
1495 the addition to or expansion of any skilled nursing facility that
1496 is part of an existing continuing care retirement community
1497 located in Madison County, provided that the recipient of the
1498 certificate of need agrees in writing that the skilled nursing
1499 facility will not at any time participate in the Medicaid program
1500 (Section 43-13-101 et seq.) or admit or keep any patients in the
1501 skilled nursing facility who are participating in the Medicaid
1502 program. This written agreement by the recipient of the
1503 certificate of need shall be fully binding on any subsequent owner
1504 of the skilled nursing facility, if the ownership of the facility
1505 is transferred at any time after the issuance of the certificate
1506 of need. Agreement that the skilled nursing facility will not



1507 participate in the Medicaid program shall be a condition of the
1508 issuance of a certificate of need to any person under this
1509 paragraph (c), and if such skilled nursing facility at any time
1510 after the issuance of the certificate of need, regardless of the
1511 ownership of the facility, participates in the Medicaid program or
1512 admits or keeps any patients in the facility who are participating
1513 in the Medicaid program, the State Department of Health shall
1514 revoke the certificate of need, if it is still outstanding, and
1515 shall deny or revoke the license of the skilled nursing facility,
1516 at the time that the department determines, after a hearing
1517 complying with due process, that the facility has failed to comply
1518 with any of the conditions upon which the certificate of need was
1519 issued, as provided in this paragraph and in the written agreement
1520 by the recipient of the certificate of need. The total number of
1521 beds that may be authorized under the authority of this paragraph
1522 (c) shall not exceed sixty (60) beds.

1523 (d) The State Department of Health may issue a
1524 certificate of need to any hospital located in DeSoto County for
1525 the new construction of a skilled nursing facility, not to exceed
1526 one hundred twenty (120) beds, in DeSoto County. From and after
1527 July 1, 1999, there shall be no prohibition or restrictions on
1528 participation in the Medicaid program (Section 43-13-101 et seq.)
1529 for the beds in the nursing facility that were authorized under
1530 this paragraph (d).



1531 (e) The State Department of Health may issue a
1532 certificate of need for the construction of a nursing facility or
1533 the conversion of beds to nursing facility beds at a personal care
1534 facility for the elderly in Lowndes County that is owned and
1535 operated by a Mississippi nonprofit corporation, not to exceed
1536 sixty (60) beds. From and after July 1, 1999, there shall be no
1537 prohibition or restrictions on participation in the Medicaid
1538 program (Section 43-13-101 et seq.) for the beds in the nursing
1539 facility that were authorized under this paragraph (e).

1540 (f) The State Department of Health may issue a
1541 certificate of need for conversion of a county hospital facility
1542 in Itawamba County to a nursing facility, not to exceed sixty (60)
1543 beds, including any necessary construction, renovation or
1544 expansion. From and after July 1, 1999, there shall be no
1545 prohibition or restrictions on participation in the Medicaid
1546 program (Section 43-13-101 et seq.) for the beds in the nursing
1547 facility that were authorized under this paragraph (f).

1548 (g) The State Department of Health may issue a
1549 certificate of need for the construction or expansion of nursing
1550 facility beds or the conversion of other beds to nursing facility
1551 beds in either Hinds, Madison or Rankin County, not to exceed
1552 sixty (60) beds. From and after July 1, 1999, there shall be no
1553 prohibition or restrictions on participation in the Medicaid
1554 program (Section 43-13-101 et seq.) for the beds in the nursing
1555 facility that were authorized under this paragraph (g).



1556 (h) The State Department of Health may issue a
1557 certificate of need for the construction or expansion of nursing
1558 facility beds or the conversion of other beds to nursing facility
1559 beds in either Hancock, Harrison or Jackson County, not to exceed
1560 sixty (60) beds. From and after July 1, 1999, there shall be no
1561 prohibition or restrictions on participation in the Medicaid
1562 program (Section 43-13-101 et seq.) for the beds in the facility
1563 that were authorized under this paragraph (h).

1564 (i) The department may issue a certificate of need for
1565 the new construction of a skilled nursing facility in Leake
1566 County, provided that the recipient of the certificate of need
1567 agrees in writing that the skilled nursing facility will not at
1568 any time participate in the Medicaid program (Section 43-13-101 et
1569 seq.) or admit or keep any patients in the skilled nursing
1570 facility who are participating in the Medicaid program. This
1571 written agreement by the recipient of the certificate of need
1572 shall be fully binding on any subsequent owner of the skilled
1573 nursing facility, if the ownership of the facility is transferred
1574 at any time after the issuance of the certificate of need.

1575 Agreement that the skilled nursing facility will not participate
1576 in the Medicaid program shall be a condition of the issuance of a
1577 certificate of need to any person under this paragraph (i), and if
1578 such skilled nursing facility at any time after the issuance of
1579 the certificate of need, regardless of the ownership of the
1580 facility, participates in the Medicaid program or admits or keeps



1581 any patients in the facility who are participating in the Medicaid
1582 program, the State Department of Health shall revoke the
1583 certificate of need, if it is still outstanding, and shall deny or
1584 revoke the license of the skilled nursing facility, at the time
1585 that the department determines, after a hearing complying with due
1586 process, that the facility has failed to comply with any of the
1587 conditions upon which the certificate of need was issued, as
1588 provided in this paragraph and in the written agreement by the
1589 recipient of the certificate of need. The provision of Section
1590 41-7-193(1) regarding substantial compliance of the projection of
1591 need as reported in the current State Health Plan is waived for
1592 the purposes of this paragraph. The total number of nursing
1593 facility beds that may be authorized by any certificate of need
1594 issued under this paragraph (i) shall not exceed sixty (60) beds.
1595 If the skilled nursing facility authorized by the certificate of
1596 need issued under this paragraph is not constructed and fully
1597 operational within eighteen (18) months after July 1, 1994, the
1598 State Department of Health, after a hearing complying with due
1599 process, shall revoke the certificate of need, if it is still
1600 outstanding, and shall not issue a license for the skilled nursing
1601 facility at any time after the expiration of the eighteen-month
1602 period.

1603 (j) The department may issue certificates of need to
1604 allow any existing freestanding long-term care facility in
1605 Tishomingo County and Hancock County that on July 1, 1995, is



1606 licensed with fewer than sixty (60) beds. For the purposes of
1607 this paragraph (j), the provisions of Section 41-7-193(1)
1608 requiring substantial compliance with the projection of need as
1609 reported in the current State Health Plan are waived. From and
1610 after July 1, 1999, there shall be no prohibition or restrictions
1611 on participation in the Medicaid program (Section 43-13-101 et
1612 seq.) for the beds in the long-term care facilities that were
1613 authorized under this paragraph (j).

1614 (k) The department may issue a certificate of need for
1615 the construction of a nursing facility at a continuing care
1616 retirement community in Lowndes County. The total number of beds
1617 that may be authorized under the authority of this paragraph (k)
1618 shall not exceed sixty (60) beds. From and after July 1, 2001,
1619 the prohibition on the facility participating in the Medicaid
1620 program (Section 43-13-101 et seq.) that was a condition of
1621 issuance of the certificate of need under this paragraph (k) shall
1622 be revised as follows: The nursing facility may participate in
1623 the Medicaid program from and after July 1, 2001, if the owner of
1624 the facility on July 1, 2001, agrees in writing that no more than
1625 thirty (30) of the beds at the facility will be certified for
1626 participation in the Medicaid program, and that no claim will be
1627 submitted for Medicaid reimbursement for more than thirty (30)
1628 patients in the facility in any month or for any patient in the
1629 facility who is in a bed that is not Medicaid-certified. This
1630 written agreement by the owner of the facility shall be a



1631 condition of licensure of the facility, and the agreement shall be
1632 fully binding on any subsequent owner of the facility if the
1633 ownership of the facility is transferred at any time after July 1,
1634 2001. After this written agreement is executed, the Division of
1635 Medicaid and the State Department of Health shall not certify more
1636 than thirty (30) of the beds in the facility for participation in
1637 the Medicaid program. If the facility violates the terms of the
1638 written agreement by admitting or keeping in the facility on a
1639 regular or continuing basis more than thirty (30) patients who are
1640 participating in the Medicaid program, the State Department of
1641 Health shall revoke the license of the facility, at the time that
1642 the department determines, after a hearing complying with due
1643 process, that the facility has violated the written agreement.

1644 (1) Provided that funds are specifically appropriated
1645 therefor by the Legislature, the department may issue a
1646 certificate of need to a rehabilitation hospital in Hinds County
1647 for the construction of a sixty-bed long-term care nursing
1648 facility dedicated to the care and treatment of persons with
1649 severe disabilities including persons with spinal cord and
1650 closed-head injuries and ventilator dependent patients. The
1651 provisions of Section 41-7-193(1) regarding substantial compliance
1652 with projection of need as reported in the current State Health
1653 Plan are waived for the purpose of this paragraph.

1654 (m) The State Department of Health may issue a
1655 certificate of need to a county-owned hospital in the Second



1656 Judicial District of Panola County for the conversion of not more
1657 than seventy-two (72) hospital beds to nursing facility beds,
1658 provided that the recipient of the certificate of need agrees in
1659 writing that none of the beds at the nursing facility will be
1660 certified for participation in the Medicaid program (Section
1661 43-13-101 et seq.), and that no claim will be submitted for
1662 Medicaid reimbursement in the nursing facility in any day or for
1663 any patient in the nursing facility. This written agreement by
1664 the recipient of the certificate of need shall be a condition of
1665 the issuance of the certificate of need under this paragraph, and
1666 the agreement shall be fully binding on any subsequent owner of
1667 the nursing facility if the ownership of the nursing facility is
1668 transferred at any time after the issuance of the certificate of
1669 need. After this written agreement is executed, the Division of
1670 Medicaid and the State Department of Health shall not certify any
1671 of the beds in the nursing facility for participation in the
1672 Medicaid program. If the nursing facility violates the terms of
1673 the written agreement by admitting or keeping in the nursing
1674 facility on a regular or continuing basis any patients who are
1675 participating in the Medicaid program, the State Department of
1676 Health shall revoke the license of the nursing facility, at the
1677 time that the department determines, after a hearing complying
1678 with due process, that the nursing facility has violated the
1679 condition upon which the certificate of need was issued, as
1680 provided in this paragraph and in the written agreement. If the



1681 certificate of need authorized under this paragraph is not issued
1682 within twelve (12) months after July 1, 2001, the department shall
1683 deny the application for the certificate of need and shall not
1684 issue the certificate of need at any time after the twelve-month
1685 period, unless the issuance is contested. If the certificate of
1686 need is issued and substantial construction of the nursing
1687 facility beds has not commenced within eighteen (18) months after
1688 July 1, 2001, the State Department of Health, after a hearing
1689 complying with due process, shall revoke the certificate of need
1690 if it is still outstanding, and the department shall not issue a
1691 license for the nursing facility at any time after the
1692 eighteen-month period. However, if the issuance of the
1693 certificate of need is contested, the department shall require
1694 substantial construction of the nursing facility beds within six
1695 (6) months after final adjudication on the issuance of the
1696 certificate of need.

1697 (n) The department may issue a certificate of need for
1698 the new construction, addition or conversion of skilled nursing
1699 facility beds in Madison County, provided that the recipient of
1700 the certificate of need agrees in writing that the skilled nursing
1701 facility will not at any time participate in the Medicaid program
1702 (Section 43-13-101 et seq.) or admit or keep any patients in the
1703 skilled nursing facility who are participating in the Medicaid
1704 program. This written agreement by the recipient of the
1705 certificate of need shall be fully binding on any subsequent owner



1706 of the skilled nursing facility, if the ownership of the facility
1707 is transferred at any time after the issuance of the certificate
1708 of need. Agreement that the skilled nursing facility will not
1709 participate in the Medicaid program shall be a condition of the
1710 issuance of a certificate of need to any person under this
1711 paragraph (n), and if such skilled nursing facility at any time
1712 after the issuance of the certificate of need, regardless of the
1713 ownership of the facility, participates in the Medicaid program or
1714 admits or keeps any patients in the facility who are participating
1715 in the Medicaid program, the State Department of Health shall
1716 revoke the certificate of need, if it is still outstanding, and
1717 shall deny or revoke the license of the skilled nursing facility,
1718 at the time that the department determines, after a hearing
1719 complying with due process, that the facility has failed to comply
1720 with any of the conditions upon which the certificate of need was
1721 issued, as provided in this paragraph and in the written agreement
1722 by the recipient of the certificate of need. The total number of
1723 nursing facility beds that may be authorized by any certificate of
1724 need issued under this paragraph (n) shall not exceed sixty (60)
1725 beds. If the certificate of need authorized under this paragraph
1726 is not issued within twelve (12) months after July 1, 1998, the
1727 department shall deny the application for the certificate of need
1728 and shall not issue the certificate of need at any time after the
1729 twelve-month period, unless the issuance is contested. If the
1730 certificate of need is issued and substantial construction of the



1731 nursing facility beds has not commenced within eighteen (18)
1732 months after July 1, 1998, the State Department of Health, after a
1733 hearing complying with due process, shall revoke the certificate
1734 of need if it is still outstanding, and the department shall not
1735 issue a license for the nursing facility at any time after the
1736 eighteen-month period. However, if the issuance of the
1737 certificate of need is contested, the department shall require
1738 substantial construction of the nursing facility beds within six
1739 (6) months after final adjudication on the issuance of the
1740 certificate of need.

1741 (o) The department may issue a certificate of need for
1742 the new construction, addition or conversion of skilled nursing
1743 facility beds in Leake County, provided that the recipient of the
1744 certificate of need agrees in writing that the skilled nursing
1745 facility will not at any time participate in the Medicaid program
1746 (Section 43-13-101 et seq.) or admit or keep any patients in the
1747 skilled nursing facility who are participating in the Medicaid
1748 program. This written agreement by the recipient of the
1749 certificate of need shall be fully binding on any subsequent owner
1750 of the skilled nursing facility, if the ownership of the facility
1751 is transferred at any time after the issuance of the certificate
1752 of need. Agreement that the skilled nursing facility will not
1753 participate in the Medicaid program shall be a condition of the
1754 issuance of a certificate of need to any person under this
1755 paragraph (o), and if such skilled nursing facility at any time



1756 after the issuance of the certificate of need, regardless of the
1757 ownership of the facility, participates in the Medicaid program or
1758 admits or keeps any patients in the facility who are participating
1759 in the Medicaid program, the State Department of Health shall
1760 revoke the certificate of need, if it is still outstanding, and
1761 shall deny or revoke the license of the skilled nursing facility,
1762 at the time that the department determines, after a hearing
1763 complying with due process, that the facility has failed to comply
1764 with any of the conditions upon which the certificate of need was
1765 issued, as provided in this paragraph and in the written agreement
1766 by the recipient of the certificate of need. The total number of
1767 nursing facility beds that may be authorized by any certificate of
1768 need issued under this paragraph (o) shall not exceed sixty (60)
1769 beds. If the certificate of need authorized under this paragraph
1770 is not issued within twelve (12) months after July 1, 2001, the
1771 department shall deny the application for the certificate of need
1772 and shall not issue the certificate of need at any time after the
1773 twelve-month period, unless the issuance is contested. If the
1774 certificate of need is issued and substantial construction of the
1775 nursing facility beds has not commenced within eighteen (18)
1776 months after July 1, 2001, the State Department of Health, after a
1777 hearing complying with due process, shall revoke the certificate
1778 of need if it is still outstanding, and the department shall not
1779 issue a license for the nursing facility at any time after the
1780 eighteen-month period. However, if the issuance of the



1781 certificate of need is contested, the department shall require
1782 substantial construction of the nursing facility beds within six
1783 (6) months after final adjudication on the issuance of the
1784 certificate of need.

1785 (p) The department may issue a certificate of need for
1786 the construction of a municipally owned nursing facility within
1787 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1788 beds, provided that the recipient of the certificate of need
1789 agrees in writing that the skilled nursing facility will not at
1790 any time participate in the Medicaid program (Section 43-13-101 et
1791 seq.) or admit or keep any patients in the skilled nursing
1792 facility who are participating in the Medicaid program. This
1793 written agreement by the recipient of the certificate of need
1794 shall be fully binding on any subsequent owner of the skilled
1795 nursing facility, if the ownership of the facility is transferred
1796 at any time after the issuance of the certificate of need.
1797 Agreement that the skilled nursing facility will not participate
1798 in the Medicaid program shall be a condition of the issuance of a
1799 certificate of need to any person under this paragraph (p), and if
1800 such skilled nursing facility at any time after the issuance of
1801 the certificate of need, regardless of the ownership of the
1802 facility, participates in the Medicaid program or admits or keeps
1803 any patients in the facility who are participating in the Medicaid
1804 program, the State Department of Health shall revoke the
1805 certificate of need, if it is still outstanding, and shall deny or



1806 revoke the license of the skilled nursing facility, at the time
1807 that the department determines, after a hearing complying with due
1808 process, that the facility has failed to comply with any of the
1809 conditions upon which the certificate of need was issued, as
1810 provided in this paragraph and in the written agreement by the
1811 recipient of the certificate of need. The provision of Section
1812 41-7-193(1) regarding substantial compliance of the projection of
1813 need as reported in the current State Health Plan is waived for
1814 the purposes of this paragraph. If the certificate of need
1815 authorized under this paragraph is not issued within twelve (12)
1816 months after July 1, 1998, the department shall deny the
1817 application for the certificate of need and shall not issue the
1818 certificate of need at any time after the twelve-month period,
1819 unless the issuance is contested. If the certificate of need is
1820 issued and substantial construction of the nursing facility beds
1821 has not commenced within eighteen (18) months after July 1, 1998,
1822 the State Department of Health, after a hearing complying with due
1823 process, shall revoke the certificate of need if it is still
1824 outstanding, and the department shall not issue a license for the
1825 nursing facility at any time after the eighteen-month period.
1826 However, if the issuance of the certificate of need is contested,
1827 the department shall require substantial construction of the
1828 nursing facility beds within six (6) months after final
1829 adjudication on the issuance of the certificate of need.



1830 (q) (i) Beginning on July 1, 1999, the State
1831 Department of Health shall issue certificates of need during each
1832 of the next four (4) fiscal years for the construction or
1833 expansion of nursing facility beds or the conversion of other beds
1834 to nursing facility beds in each county in the state having a need
1835 for fifty (50) or more additional nursing facility beds, as shown
1836 in the fiscal year 1999 State Health Plan, in the manner provided
1837 in this paragraph (q). The total number of nursing facility beds
1838 that may be authorized by any certificate of need authorized under
1839 this paragraph (q) shall not exceed sixty (60) beds.

1840 (ii) Subject to the provisions of subparagraph
1841 (v), during each of the next four (4) fiscal years, the department
1842 shall issue six (6) certificates of need for new nursing facility
1843 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1844 (1) certificate of need shall be issued for new nursing facility
1845 beds in the county in each of the four (4) Long-Term Care Planning
1846 Districts designated in the fiscal year 1999 State Health Plan
1847 that has the highest need in the district for those beds; and two
1848 (2) certificates of need shall be issued for new nursing facility
1849 beds in the two (2) counties from the state at large that have the
1850 highest need in the state for those beds, when considering the
1851 need on a statewide basis and without regard to the Long-Term Care
1852 Planning Districts in which the counties are located. During
1853 fiscal year 2003, one (1) certificate of need shall be issued for
1854 new nursing facility beds in any county having a need for fifty



1855 (50) or more additional nursing facility beds, as shown in the
1856 fiscal year 1999 State Health Plan, that has not received a
1857 certificate of need under this paragraph (q) during the three (3)
1858 previous fiscal years. During fiscal year 2000, in addition to
1859 the six (6) certificates of need authorized in this subparagraph,
1860 the department also shall issue a certificate of need for new
1861 nursing facility beds in Amite County and a certificate of need
1862 for new nursing facility beds in Carroll County.

1863 (iii) Subject to the provisions of subparagraph
1864 (v), the certificate of need issued under subparagraph (ii) for
1865 nursing facility beds in each Long-Term Care Planning District
1866 during each fiscal year shall first be available for nursing
1867 facility beds in the county in the district having the highest
1868 need for those beds, as shown in the fiscal year 1999 State Health
1869 Plan. If there are no applications for a certificate of need for
1870 nursing facility beds in the county having the highest need for
1871 those beds by the date specified by the department, then the
1872 certificate of need shall be available for nursing facility beds
1873 in other counties in the district in descending order of the need
1874 for those beds, from the county with the second highest need to
1875 the county with the lowest need, until an application is received
1876 for nursing facility beds in an eligible county in the district.

1877 (iv) Subject to the provisions of subparagraph
1878 (v), the certificate of need issued under subparagraph (ii) for
1879 nursing facility beds in the two (2) counties from the state at



1880 large during each fiscal year shall first be available for nursing
1881 facility beds in the two (2) counties that have the highest need
1882 in the state for those beds, as shown in the fiscal year 1999
1883 State Health Plan, when considering the need on a statewide basis
1884 and without regard to the Long-Term Care Planning Districts in
1885 which the counties are located. If there are no applications for
1886 a certificate of need for nursing facility beds in either of the
1887 two (2) counties having the highest need for those beds on a
1888 statewide basis by the date specified by the department, then the
1889 certificate of need shall be available for nursing facility beds
1890 in other counties from the state at large in descending order of
1891 the need for those beds on a statewide basis, from the county with
1892 the second highest need to the county with the lowest need, until
1893 an application is received for nursing facility beds in an
1894 eligible county from the state at large.

1895 (v) If a certificate of need is authorized to be
1896 issued under this paragraph (q) for nursing facility beds in a
1897 county on the basis of the need in the Long-Term Care Planning
1898 District during any fiscal year of the four-year period, a
1899 certificate of need shall not also be available under this
1900 paragraph (q) for additional nursing facility beds in that county
1901 on the basis of the need in the state at large, and that county
1902 shall be excluded in determining which counties have the highest
1903 need for nursing facility beds in the state at large for that
1904 fiscal year. After a certificate of need has been issued under



1905 this paragraph (q) for nursing facility beds in a county during
1906 any fiscal year of the four-year period, a certificate of need
1907 shall not be available again under this paragraph (q) for
1908 additional nursing facility beds in that county during the
1909 four-year period, and that county shall be excluded in determining
1910 which counties have the highest need for nursing facility beds in
1911 succeeding fiscal years.

1912 (vi) If more than one (1) application is made for
1913 a certificate of need for nursing home facility beds available
1914 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1915 County, and one (1) of the applicants is a county-owned hospital
1916 located in the county where the nursing facility beds are
1917 available, the department shall give priority to the county-owned
1918 hospital in granting the certificate of need if the following
1919 conditions are met:

1920 1. The county-owned hospital fully meets all
1921 applicable criteria and standards required to obtain a certificate
1922 of need for the nursing facility beds; and

1923 2. The county-owned hospital's qualifications
1924 for the certificate of need, as shown in its application and as
1925 determined by the department, are at least equal to the
1926 qualifications of the other applicants for the certificate of
1927 need.

1928 (r) (i) Beginning on July 1, 1999, the State
1929 Department of Health shall issue certificates of need during each



1930 of the next two (2) fiscal years for the construction or expansion
1931 of nursing facility beds or the conversion of other beds to
1932 nursing facility beds in each of the four (4) Long-Term Care
1933 Planning Districts designated in the fiscal year 1999 State Health
1934 Plan, to provide care exclusively to patients with Alzheimer's
1935 disease.

1936 (ii) Not more than twenty (20) beds may be
1937 authorized by any certificate of need issued under this paragraph
1938 (r), and not more than a total of sixty (60) beds may be
1939 authorized in any Long-Term Care Planning District by all
1940 certificates of need issued under this paragraph (r). However,
1941 the total number of beds that may be authorized by all
1942 certificates of need issued under this paragraph (r) during any
1943 fiscal year shall not exceed one hundred twenty (120) beds, and
1944 the total number of beds that may be authorized in any Long-Term
1945 Care Planning District during any fiscal year shall not exceed
1946 forty (40) beds. Of the certificates of need that are issued for
1947 each Long-Term Care Planning District during the next two (2)
1948 fiscal years, at least one (1) shall be issued for beds in the
1949 northern part of the district, at least one (1) shall be issued
1950 for beds in the central part of the district, and at least one (1)
1951 shall be issued for beds in the southern part of the district.

1952 (iii) The State Department of Health, in
1953 consultation with the Department of Mental Health and the Division
1954 of Medicaid, shall develop and prescribe the staffing levels,



1955 space requirements and other standards and requirements that must
1956 be met with regard to the nursing facility beds authorized under
1957 this paragraph (r) to provide care exclusively to patients with
1958 Alzheimer's disease.

1959 (s) The State Department of Health may issue a
1960 certificate of need to a nonprofit skilled nursing facility using
1961 the Green House model of skilled nursing care and located in Yazoo
1962 City, Yazoo County, Mississippi, for the construction, expansion
1963 or conversion of not more than nineteen (19) nursing facility
1964 beds. For purposes of this paragraph (s), the provisions of
1965 Section 41-7-193(1) requiring substantial compliance with the
1966 projection of need as reported in the current State Health Plan
1967 and the provisions of Section 41-7-197 requiring a formal
1968 certificate of need hearing process are waived. There shall be no
1969 prohibition or restrictions on participation in the Medicaid
1970 program for the person receiving the certificate of need
1971 authorized under this paragraph (s).

1972 (t) The State Department of Health shall issue
1973 certificates of need to the owner of a nursing facility in
1974 operation at the time of Hurricane Katrina in Hancock County that
1975 was not operational on December 31, 2005, because of damage
1976 sustained from Hurricane Katrina to authorize the following: (i)
1977 the construction of a new nursing facility in Harrison County;
1978 (ii) the relocation of forty-nine (49) nursing facility beds from
1979 the Hancock County facility to the new Harrison County facility;



1980 (iii) the establishment of not more than twenty (20) non-Medicaid
1981 nursing facility beds at the Hancock County facility; and (iv) the
1982 establishment of not more than twenty (20) non-Medicaid beds at
1983 the new Harrison County facility. The certificates of need that
1984 authorize the non-Medicaid nursing facility beds under
1985 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1986 subject to the following conditions: The owner of the Hancock
1987 County facility and the new Harrison County facility must agree in
1988 writing that no more than fifty (50) of the beds at the Hancock
1989 County facility and no more than forty-nine (49) of the beds at
1990 the Harrison County facility will be certified for participation
1991 in the Medicaid program, and that no claim will be submitted for
1992 Medicaid reimbursement for more than fifty (50) patients in the
1993 Hancock County facility in any month, or for more than forty-nine
1994 (49) patients in the Harrison County facility in any month, or for
1995 any patient in either facility who is in a bed that is not
1996 Medicaid-certified. This written agreement by the owner of the
1997 nursing facilities shall be a condition of the issuance of the
1998 certificates of need under this paragraph (t), and the agreement
1999 shall be fully binding on any later owner or owners of either
2000 facility if the ownership of either facility is transferred at any
2001 time after the certificates of need are issued. After this
2002 written agreement is executed, the Division of Medicaid and the
2003 State Department of Health shall not certify more than fifty (50)
2004 of the beds at the Hancock County facility or more than forty-nine



2005 (49) of the beds at the Harrison County facility for participation
2006 in the Medicaid program. If the Hancock County facility violates
2007 the terms of the written agreement by admitting or keeping in the
2008 facility on a regular or continuing basis more than fifty (50)
2009 patients who are participating in the Medicaid program, or if the
2010 Harrison County facility violates the terms of the written
2011 agreement by admitting or keeping in the facility on a regular or
2012 continuing basis more than forty-nine (49) patients who are
2013 participating in the Medicaid program, the State Department of
2014 Health shall revoke the license of the facility that is in
2015 violation of the agreement, at the time that the department
2016 determines, after a hearing complying with due process, that the
2017 facility has violated the agreement.

2018 (u) The State Department of Health shall issue a
2019 certificate of need to a nonprofit venture for the establishment,
2020 construction and operation of a skilled nursing facility of not
2021 more than sixty (60) beds to provide skilled nursing care for
2022 ventilator dependent or otherwise medically dependent pediatric
2023 patients who require medical and nursing care or rehabilitation
2024 services to be located in a county in which an academic medical
2025 center and a children's hospital are located, and for any
2026 construction and for the acquisition of equipment related to those
2027 beds. The facility shall be authorized to keep such ventilator
2028 dependent or otherwise medically dependent pediatric patients
2029 beyond age twenty-one (21) in accordance with regulations of the



2030 State Board of Health. For purposes of this paragraph (u), the
2031 provisions of Section 41-7-193(1) requiring substantial compliance
2032 with the projection of need as reported in the current State
2033 Health Plan are waived, and the provisions of Section 41-7-197
2034 requiring a formal certificate of need hearing process are waived.
2035 The beds authorized by this paragraph shall be counted as
2036 pediatric skilled nursing facility beds for health planning
2037 purposes under Section 41-7-171 et seq. There shall be no
2038 prohibition of or restrictions on participation in the Medicaid
2039 program for the person receiving the certificate of need
2040 authorized by this paragraph.

2041 (3) The State Department of Health may grant approval for
2042 and issue certificates of need to any person proposing the new
2043 construction of, addition to, conversion of beds of or expansion
2044 of any health care facility defined in subparagraph (x)
2045 (psychiatric residential treatment facility) of Section
2046 41-7-173(h). The total number of beds which may be authorized by
2047 such certificates of need shall not exceed three hundred
2048 thirty-four (334) beds for the entire state.

2049 (a) Of the total number of beds authorized under this
2050 subsection, the department shall issue a certificate of need to a
2051 privately owned psychiatric residential treatment facility in
2052 Simpson County for the conversion of sixteen (16) intermediate
2053 care facility for the mentally retarded (ICF-MR) beds to
2054 psychiatric residential treatment facility beds, provided that



2055 facility agrees in writing that the facility shall give priority
2056 for the use of those sixteen (16) beds to Mississippi residents
2057 who are presently being treated in out-of-state facilities.

2058 (b) Of the total number of beds authorized under this
2059 subsection, the department may issue a certificate or certificates
2060 of need for the construction or expansion of psychiatric
2061 residential treatment facility beds or the conversion of other
2062 beds to psychiatric residential treatment facility beds in Warren
2063 County, not to exceed sixty (60) psychiatric residential treatment
2064 facility beds, provided that the facility agrees in writing that
2065 no more than thirty (30) of the beds at the psychiatric
2066 residential treatment facility will be certified for participation
2067 in the Medicaid program (Section 43-13-101 et seq.) for the use of
2068 any patients other than those who are participating only in the
2069 Medicaid program of another state, and that no claim will be
2070 submitted to the Division of Medicaid for Medicaid reimbursement
2071 for more than thirty (30) patients in the psychiatric residential
2072 treatment facility in any day or for any patient in the
2073 psychiatric residential treatment facility who is in a bed that is
2074 not Medicaid-certified. This written agreement by the recipient
2075 of the certificate of need shall be a condition of the issuance of
2076 the certificate of need under this paragraph, and the agreement
2077 shall be fully binding on any subsequent owner of the psychiatric
2078 residential treatment facility if the ownership of the facility is
2079 transferred at any time after the issuance of the certificate of



2080 need. After this written agreement is executed, the Division of
2081 Medicaid and the State Department of Health shall not certify more
2082 than thirty (30) of the beds in the psychiatric residential
2083 treatment facility for participation in the Medicaid program for
2084 the use of any patients other than those who are participating
2085 only in the Medicaid program of another state. If the psychiatric
2086 residential treatment facility violates the terms of the written
2087 agreement by admitting or keeping in the facility on a regular or
2088 continuing basis more than thirty (30) patients who are
2089 participating in the Mississippi Medicaid program, the State
2090 Department of Health shall revoke the license of the facility, at
2091 the time that the department determines, after a hearing complying
2092 with due process, that the facility has violated the condition
2093 upon which the certificate of need was issued, as provided in this
2094 paragraph and in the written agreement.

2095 The State Department of Health, on or before July 1, 2002,
2096 shall transfer the certificate of need authorized under the
2097 authority of this paragraph (b), or reissue the certificate of
2098 need if it has expired, to River Region Health System.

2099 (c) Of the total number of beds authorized under this
2100 subsection, the department shall issue a certificate of need to a
2101 hospital currently operating Medicaid-certified acute psychiatric
2102 beds for adolescents in DeSoto County, for the establishment of a
2103 forty-bed psychiatric residential treatment facility in DeSoto
2104 County, provided that the hospital agrees in writing (i) that the



2105 hospital shall give priority for the use of those forty (40) beds
2106 to Mississippi residents who are presently being treated in
2107 out-of-state facilities, and (ii) that no more than fifteen (15)
2108 of the beds at the psychiatric residential treatment facility will
2109 be certified for participation in the Medicaid program (Section
2110 43-13-101 et seq.), and that no claim will be submitted for
2111 Medicaid reimbursement for more than fifteen (15) patients in the
2112 psychiatric residential treatment facility in any day or for any
2113 patient in the psychiatric residential treatment facility who is
2114 in a bed that is not Medicaid-certified. This written agreement
2115 by the recipient of the certificate of need shall be a condition
2116 of the issuance of the certificate of need under this paragraph,
2117 and the agreement shall be fully binding on any subsequent owner
2118 of the psychiatric residential treatment facility if the ownership
2119 of the facility is transferred at any time after the issuance of
2120 the certificate of need. After this written agreement is
2121 executed, the Division of Medicaid and the State Department of
2122 Health shall not certify more than fifteen (15) of the beds in the
2123 psychiatric residential treatment facility for participation in
2124 the Medicaid program. If the psychiatric residential treatment
2125 facility violates the terms of the written agreement by admitting
2126 or keeping in the facility on a regular or continuing basis more
2127 than fifteen (15) patients who are participating in the Medicaid
2128 program, the State Department of Health shall revoke the license
2129 of the facility, at the time that the department determines, after



2130 a hearing complying with due process, that the facility has
2131 violated the condition upon which the certificate of need was
2132 issued, as provided in this paragraph and in the written
2133 agreement.

2134 (d) Of the total number of beds authorized under this
2135 subsection, the department may issue a certificate or certificates
2136 of need for the construction or expansion of psychiatric
2137 residential treatment facility beds or the conversion of other
2138 beds to psychiatric treatment facility beds, not to exceed thirty
2139 (30) psychiatric residential treatment facility beds, in either
2140 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
2141 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

2142 (e) Of the total number of beds authorized under this
2143 subsection (3) the department shall issue a certificate of need to
2144 a privately owned, nonprofit psychiatric residential treatment
2145 facility in Hinds County for an eight-bed expansion of the
2146 facility, provided that the facility agrees in writing that the
2147 facility shall give priority for the use of those eight (8) beds
2148 to Mississippi residents who are presently being treated in
2149 out-of-state facilities.

2150 (f) The department shall issue a certificate of need to
2151 a one-hundred-thirty-four-bed specialty hospital located on
2152 twenty-nine and forty-four one-hundredths (29.44) commercial acres
2153 at 5900 Highway 39 North in Meridian (Lauderdale County),
2154 Mississippi, for the addition, construction or expansion of



2155 child/adolescent psychiatric residential treatment facility beds
2156 in Lauderdale County. As a condition of issuance of the
2157 certificate of need under this paragraph, the facility shall give
2158 priority in admissions to the child/adolescent psychiatric
2159 residential treatment facility beds authorized under this
2160 paragraph to patients who otherwise would require out-of-state
2161 placement. The Division of Medicaid, in conjunction with the
2162 Department of Human Services, shall furnish the facility a list of
2163 all out-of-state patients on a quarterly basis. Furthermore,
2164 notice shall also be provided to the parent, custodial parent or
2165 guardian of each out-of-state patient notifying them of the
2166 priority status granted by this paragraph. For purposes of this
2167 paragraph, the provisions of Section 41-7-193(1) requiring
2168 substantial compliance with the projection of need as reported in
2169 the current State Health Plan are waived. The total number of
2170 child/adolescent psychiatric residential treatment facility beds
2171 that may be authorized under the authority of this paragraph shall
2172 be sixty (60) beds. There shall be no prohibition or restrictions
2173 on participation in the Medicaid program (Section 43-13-101 et
2174 seq.) for the person receiving the certificate of need authorized
2175 under this paragraph or for the beds converted pursuant to the
2176 authority of that certificate of need.

2177 (4) (a) From and after July 1, 1993, the department shall
2178 not issue a certificate of need to any person for the new
2179 construction of any hospital, psychiatric hospital or chemical



2180 dependency hospital that will contain any child/adolescent
2181 psychiatric or child/adolescent chemical dependency beds, or for
2182 the conversion of any other health care facility to a hospital,
2183 psychiatric hospital or chemical dependency hospital that will
2184 contain any child/adolescent psychiatric or child/adolescent
2185 chemical dependency beds, or for the addition of any
2186 child/adolescent psychiatric or child/adolescent chemical
2187 dependency beds in any hospital, psychiatric hospital or chemical
2188 dependency hospital, or for the conversion of any beds of another
2189 category in any hospital, psychiatric hospital or chemical
2190 dependency hospital to child/adolescent psychiatric or
2191 child/adolescent chemical dependency beds, except as hereinafter
2192 authorized:

2193 (i) The department may issue certificates of need
2194 to any person for any purpose described in this subsection,
2195 provided that the hospital, psychiatric hospital or chemical
2196 dependency hospital does not participate in the Medicaid program
2197 (Section 43-13-101 et seq.) at the time of the application for the
2198 certificate of need and the owner of the hospital, psychiatric
2199 hospital or chemical dependency hospital agrees in writing that
2200 the hospital, psychiatric hospital or chemical dependency hospital
2201 will not at any time participate in the Medicaid program or admit
2202 or keep any patients who are participating in the Medicaid program
2203 in the hospital, psychiatric hospital or chemical dependency
2204 hospital. This written agreement by the recipient of the



2205 certificate of need shall be fully binding on any subsequent owner
2206 of the hospital, psychiatric hospital or chemical dependency
2207 hospital, if the ownership of the facility is transferred at any
2208 time after the issuance of the certificate of need. Agreement
2209 that the hospital, psychiatric hospital or chemical dependency
2210 hospital will not participate in the Medicaid program shall be a
2211 condition of the issuance of a certificate of need to any person
2212 under this subparagraph (i), and if such hospital, psychiatric
2213 hospital or chemical dependency hospital at any time after the
2214 issuance of the certificate of need, regardless of the ownership
2215 of the facility, participates in the Medicaid program or admits or
2216 keeps any patients in the hospital, psychiatric hospital or
2217 chemical dependency hospital who are participating in the Medicaid
2218 program, the State Department of Health shall revoke the
2219 certificate of need, if it is still outstanding, and shall deny or
2220 revoke the license of the hospital, psychiatric hospital or
2221 chemical dependency hospital, at the time that the department
2222 determines, after a hearing complying with due process, that the
2223 hospital, psychiatric hospital or chemical dependency hospital has
2224 failed to comply with any of the conditions upon which the
2225 certificate of need was issued, as provided in this subparagraph
2226 (i) and in the written agreement by the recipient of the
2227 certificate of need.

2228 (ii) The department may issue a certificate of
2229 need for the conversion of existing beds in a county hospital in



2230 Choctaw County from acute care beds to child/adolescent chemical
2231 dependency beds. For purposes of this subparagraph (ii), the
2232 provisions of Section 41-7-193(1) requiring substantial compliance
2233 with the projection of need as reported in the current State
2234 Health Plan are waived. The total number of beds that may be
2235 authorized under authority of this subparagraph shall not exceed
2236 twenty (20) beds. There shall be no prohibition or restrictions
2237 on participation in the Medicaid program (Section 43-13-101 et
2238 seq.) for the hospital receiving the certificate of need
2239 authorized under this subparagraph or for the beds converted
2240 pursuant to the authority of that certificate of need.

2241 (iii) The department may issue a certificate or
2242 certificates of need for the construction or expansion of
2243 child/adolescent psychiatric beds or the conversion of other beds
2244 to child/adolescent psychiatric beds in Warren County. For
2245 purposes of this subparagraph (iii), the provisions of Section
2246 41-7-193(1) requiring substantial compliance with the projection
2247 of need as reported in the current State Health Plan are waived.
2248 The total number of beds that may be authorized under the
2249 authority of this subparagraph shall not exceed twenty (20) beds.
2250 There shall be no prohibition or restrictions on participation in
2251 the Medicaid program (Section 43-13-101 et seq.) for the person
2252 receiving the certificate of need authorized under this
2253 subparagraph or for the beds converted pursuant to the authority
2254 of that certificate of need.



2255 If by January 1, 2002, there has been no significant
2256 commencement of construction of the beds authorized under this
2257 subparagraph (iii), or no significant action taken to convert
2258 existing beds to the beds authorized under this subparagraph, then
2259 the certificate of need that was previously issued under this
2260 subparagraph shall expire. If the previously issued certificate
2261 of need expires, the department may accept applications for
2262 issuance of another certificate of need for the beds authorized
2263 under this subparagraph, and may issue a certificate of need to
2264 authorize the construction, expansion or conversion of the beds
2265 authorized under this subparagraph.

2266 (iv) The department shall issue a certificate of
2267 need to the Region 7 Mental Health/Retardation Commission for the
2268 construction or expansion of child/adolescent psychiatric beds or
2269 the conversion of other beds to child/adolescent psychiatric beds
2270 in any of the counties served by the commission. For purposes of
2271 this subparagraph (iv), the provisions of Section 41-7-193(1)
2272 requiring substantial compliance with the projection of need as
2273 reported in the current State Health Plan are waived. The total
2274 number of beds that may be authorized under the authority of this
2275 subparagraph shall not exceed twenty (20) beds. There shall be no
2276 prohibition or restrictions on participation in the Medicaid
2277 program (Section 43-13-101 et seq.) for the person receiving the
2278 certificate of need authorized under this subparagraph or for the



2279 beds converted pursuant to the authority of that certificate of
2280 need.

2281 (v) The department may issue a certificate of need
2282 to any county hospital located in Leflore County for the
2283 construction or expansion of adult psychiatric beds or the
2284 conversion of other beds to adult psychiatric beds, not to exceed
2285 twenty (20) beds, provided that the recipient of the certificate
2286 of need agrees in writing that the adult psychiatric beds will not
2287 at any time be certified for participation in the Medicaid program
2288 and that the hospital will not admit or keep any patients who are
2289 participating in the Medicaid program in any of such adult
2290 psychiatric beds. This written agreement by the recipient of the
2291 certificate of need shall be fully binding on any subsequent owner
2292 of the hospital if the ownership of the hospital is transferred at
2293 any time after the issuance of the certificate of need. Agreement
2294 that the adult psychiatric beds will not be certified for
2295 participation in the Medicaid program shall be a condition of the
2296 issuance of a certificate of need to any person under this
2297 subparagraph (v), and if such hospital at any time after the
2298 issuance of the certificate of need, regardless of the ownership
2299 of the hospital, has any of such adult psychiatric beds certified
2300 for participation in the Medicaid program or admits or keeps any
2301 Medicaid patients in such adult psychiatric beds, the State
2302 Department of Health shall revoke the certificate of need, if it
2303 is still outstanding, and shall deny or revoke the license of the



2304 hospital at the time that the department determines, after a
2305 hearing complying with due process, that the hospital has failed
2306 to comply with any of the conditions upon which the certificate of
2307 need was issued, as provided in this subparagraph and in the
2308 written agreement by the recipient of the certificate of need.

2309 (vi) The department may issue a certificate or
2310 certificates of need for the expansion of child psychiatric beds
2311 or the conversion of other beds to child psychiatric beds at the
2312 University of Mississippi Medical Center. For purposes of this
2313 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
2314 substantial compliance with the projection of need as reported in
2315 the current State Health Plan are waived. The total number of
2316 beds that may be authorized under the authority of this
2317 subparagraph shall not exceed fifteen (15) beds. There shall be
2318 no prohibition or restrictions on participation in the Medicaid
2319 program (Section 43-13-101 et seq.) for the hospital receiving the
2320 certificate of need authorized under this subparagraph or for the
2321 beds converted pursuant to the authority of that certificate of
2322 need.

2323 (b) From and after July 1, 1990, no hospital,
2324 psychiatric hospital or chemical dependency hospital shall be
2325 authorized to add any child/adolescent psychiatric or
2326 child/adolescent chemical dependency beds or convert any beds of
2327 another category to child/adolescent psychiatric or



2328 child/adolescent chemical dependency beds without a certificate of
2329 need under the authority of subsection (1)(c) of this section.

2330 (5) The department may issue a certificate of need to a
2331 county hospital in Winston County for the conversion of fifteen
2332 (15) acute care beds to geriatric psychiatric care beds.

2333 (6) The State Department of Health shall issue a certificate
2334 of need to a Mississippi corporation qualified to manage a
2335 long-term care hospital as defined in Section 41-7-173(h)(xii) in
2336 Harrison County, not to exceed eighty (80) beds, including any
2337 necessary renovation or construction required for licensure and
2338 certification, provided that the recipient of the certificate of
2339 need agrees in writing that the long-term care hospital will not
2340 at any time participate in the Medicaid program (Section 43-13-101
2341 et seq.) or admit or keep any patients in the long-term care
2342 hospital who are participating in the Medicaid program. This
2343 written agreement by the recipient of the certificate of need
2344 shall be fully binding on any subsequent owner of the long-term
2345 care hospital, if the ownership of the facility is transferred at
2346 any time after the issuance of the certificate of need. Agreement
2347 that the long-term care hospital will not participate in the
2348 Medicaid program shall be a condition of the issuance of a
2349 certificate of need to any person under this subsection (6), and
2350 if such long-term care hospital at any time after the issuance of
2351 the certificate of need, regardless of the ownership of the
2352 facility, participates in the Medicaid program or admits or keeps



2353 any patients in the facility who are participating in the Medicaid
2354 program, the State Department of Health shall revoke the
2355 certificate of need, if it is still outstanding, and shall deny or
2356 revoke the license of the long-term care hospital, at the time
2357 that the department determines, after a hearing complying with due
2358 process, that the facility has failed to comply with any of the
2359 conditions upon which the certificate of need was issued, as
2360 provided in this subsection and in the written agreement by the
2361 recipient of the certificate of need. For purposes of this
2362 subsection, the provisions of Section 41-7-193(1) requiring
2363 substantial compliance with the projection of need as reported in
2364 the current State Health Plan are waived.

2365 (7) The State Department of Health may issue a certificate
2366 of need to any hospital in the state to utilize a portion of its
2367 beds for the "swing-bed" concept. Any such hospital must be in
2368 conformance with the federal regulations regarding such swing-bed
2369 concept at the time it submits its application for a certificate
2370 of need to the State Department of Health, except that such
2371 hospital may have more licensed beds or a higher average daily
2372 census (ADC) than the maximum number specified in federal
2373 regulations for participation in the swing-bed program. Any
2374 hospital meeting all federal requirements for participation in the
2375 swing-bed program which receives such certificate of need shall
2376 render services provided under the swing-bed concept to any
2377 patient eligible for Medicare (Title XVIII of the Social Security



2378 Act) who is certified by a physician to be in need of such
2379 services, and no such hospital shall permit any patient who is
2380 eligible for both Medicaid and Medicare or eligible only for
2381 Medicaid to stay in the swing beds of the hospital for more than
2382 thirty (30) days per admission unless the hospital receives prior
2383 approval for such patient from the Division of Medicaid, Office of
2384 the Governor. Any hospital having more licensed beds or a higher
2385 average daily census (ADC) than the maximum number specified in
2386 federal regulations for participation in the swing-bed program
2387 which receives such certificate of need shall develop a procedure
2388 to insure that before a patient is allowed to stay in the swing
2389 beds of the hospital, there are no vacant nursing home beds
2390 available for that patient located within a fifty-mile radius of
2391 the hospital. When any such hospital has a patient staying in the
2392 swing beds of the hospital and the hospital receives notice from a
2393 nursing home located within such radius that there is a vacant bed
2394 available for that patient, the hospital shall transfer the
2395 patient to the nursing home within a reasonable time after receipt
2396 of the notice. Any hospital which is subject to the requirements
2397 of the two (2) preceding sentences of this subsection may be
2398 suspended from participation in the swing-bed program for a
2399 reasonable period of time by the State Department of Health if the
2400 department, after a hearing complying with due process, determines
2401 that the hospital has failed to comply with any of those
2402 requirements.



2403 (8) The Department of Health shall not grant approval for or
2404 issue a certificate of need to any person proposing the new
2405 construction of, addition to or expansion of a health care
2406 facility as defined in subparagraph (viii) of Section 41-7-173(h),
2407 except as hereinafter provided: The department may issue a
2408 certificate of need to a nonprofit corporation located in Madison
2409 County, Mississippi, for the construction, expansion or conversion
2410 of not more than twenty (20) beds in a community living program
2411 for developmentally disabled adults in a facility as defined in
2412 subparagraph (viii) of Section 41-7-173(h). For purposes of this
2413 subsection (8), the provisions of Section 41-7-193(1) requiring
2414 substantial compliance with the projection of need as reported in
2415 the current State Health Plan and the provisions of Section
2416 41-7-197 requiring a formal certificate of need hearing process
2417 are waived. There shall be no prohibition or restrictions on
2418 participation in the Medicaid program for the person receiving the
2419 certificate of need authorized under this subsection (8).

2420 (9) The Department of Health shall not grant approval for or
2421 issue a certificate of need to any person proposing the
2422 establishment of, or expansion of the currently approved territory
2423 of, or the contracting to establish a home office, subunit or
2424 branch office within the space operated as a health care facility
2425 as defined in Section 41-7-173(h) (i) through (viii) by a health
2426 care facility as defined in subparagraph (ix) of Section
2427 41-7-173(h).



2428 (10) Health care facilities owned and/or operated by the
2429 state or its agencies are exempt from the restraints in this
2430 section against issuance of a certificate of need if such addition
2431 or expansion consists of repairing or renovation necessary to
2432 comply with the state licensure law. This exception shall not
2433 apply to the new construction of any building by such state
2434 facility. This exception shall not apply to any health care
2435 facilities owned and/or operated by counties, municipalities,
2436 districts, unincorporated areas, other defined persons, or any
2437 combination thereof.

2438 (11) The new construction, renovation or expansion of or
2439 addition to any health care facility defined in subparagraph (ii)
2440 (psychiatric hospital), subparagraph (iv) (skilled nursing
2441 facility), subparagraph (vi) (intermediate care facility),
2442 subparagraph (viii) (intermediate care facility for the mentally
2443 retarded) and subparagraph (x) (psychiatric residential treatment
2444 facility) of Section 41-7-173(h) which is owned by the State of
2445 Mississippi and under the direction and control of the State
2446 Department of Mental Health, and the addition of new beds or the
2447 conversion of beds from one category to another in any such
2448 defined health care facility which is owned by the State of
2449 Mississippi and under the direction and control of the State
2450 Department of Mental Health, shall not require the issuance of a
2451 certificate of need under Section 41-7-171 et seq.,



2452 notwithstanding any provision in Section 41-7-171 et seq. to the
2453 contrary.

2454 (12) The new construction, renovation or expansion of or
2455 addition to any veterans homes or domiciliaries for eligible
2456 veterans of the State of Mississippi as authorized under Section
2457 35-1-19 shall not require the issuance of a certificate of need,
2458 notwithstanding any provision in Section 41-7-171 et seq. to the
2459 contrary.

2460 (13) The repair or the rebuilding of an existing, operating
2461 health care facility that sustained significant damage from a
2462 natural disaster that occurred after April 15, 2014, in an area
2463 that is proclaimed a disaster area or subject to a state of
2464 emergency by the Governor or by the President of the United States
2465 shall be exempt from all of the requirements of the Mississippi
2466 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
2467 rules and regulations promulgated under that law, subject to the
2468 following conditions:

2469 (a) The repair or the rebuilding of any such damaged
2470 health care facility must be within one (1) mile of the
2471 pre-disaster location of the campus of the damaged health care
2472 facility, except that any temporary post-disaster health care
2473 facility operating location may be within five (5) miles of the
2474 pre-disaster location of the damaged health care facility;

2475 (b) The repair or the rebuilding of the damaged health
2476 care facility (i) does not increase or change the complement of



2477 its bed capacity that it had before the Governor's or the
2478 President's proclamation, (ii) does not increase or change its
2479 levels and types of health care services that it provided before
2480 the Governor's or the President's proclamation, and (iii) does not
2481 rebuild in a different county; however, this paragraph does not
2482 restrict or prevent a health care facility from decreasing its bed
2483 capacity that it had before the Governor's or the President's
2484 proclamation, or from decreasing the levels of or decreasing or
2485 eliminating the types of health care services that it provided
2486 before the Governor's or the President's proclamation, when the
2487 damaged health care facility is repaired or rebuilt;

2488 (c) The exemption from Certificate of Need Law provided
2489 under this subsection (13) is valid for only five (5) years from
2490 the date of the Governor's or the President's proclamation. If
2491 actual construction has not begun within that five-year period,
2492 the exemption provided under this subsection is inapplicable; and

2493 (d) The Division of Health Facilities Licensure and
2494 Certification of the State Department of Health shall provide the
2495 same oversight for the repair or the rebuilding of the damaged
2496 health care facility that it provides to all health care facility
2497 construction projects in the state.

2498 For the purposes of this subsection (13), "significant
2499 damage" to a health care facility means damage to the health care
2500 facility requiring an expenditure of at least One Million Dollars
2501 (\$1,000,000.00).



2502 (14) The State Department of Health shall issue a
2503 certificate of need to any hospital which is currently licensed
2504 for two hundred fifty (250) or more acute care beds and is located
2505 in any general hospital service area not having a comprehensive
2506 cancer center, for the establishment and equipping of such a
2507 center which provides facilities and services for outpatient
2508 radiation oncology therapy, outpatient medical oncology therapy,
2509 and appropriate support services including the provision of
2510 radiation therapy services. The provisions of Section 41-7-193(1)
2511 regarding substantial compliance with the projection of need as
2512 reported in the current State Health Plan are waived for the
2513 purpose of this subsection.

2514 (15) The State Department of Health may authorize the
2515 transfer of hospital beds, not to exceed sixty (60) beds, from the
2516 North Panola Community Hospital to the South Panola Community
2517 Hospital. The authorization for the transfer of those beds shall
2518 be exempt from the certificate of need review process.

2519 (16) The State Department of Health shall issue any
2520 certificates of need necessary for Mississippi State University
2521 and a public or private health care provider to jointly acquire
2522 and operate a linear accelerator and a magnetic resonance imaging
2523 unit. Those certificates of need shall cover all capital
2524 expenditures related to the project between Mississippi State
2525 University and the health care provider, including, but not
2526 limited to, the acquisition of the linear accelerator, the



2527 magnetic resonance imaging unit and other radiological modalities;
2528 the offering of linear accelerator and magnetic resonance imaging
2529 services; and the cost of construction of facilities in which to
2530 locate these services. The linear accelerator and the magnetic
2531 resonance imaging unit shall be (a) located in the City of
2532 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
2533 Mississippi State University and the public or private health care
2534 provider selected by Mississippi State University through a
2535 request for proposals (RFP) process in which Mississippi State
2536 University selects, and the Board of Trustees of State
2537 Institutions of Higher Learning approves, the health care provider
2538 that makes the best overall proposal; (c) available to Mississippi
2539 State University for research purposes two-thirds (2/3) of the
2540 time that the linear accelerator and magnetic resonance imaging
2541 unit are operational; and (d) available to the public or private
2542 health care provider selected by Mississippi State University and
2543 approved by the Board of Trustees of State Institutions of Higher
2544 Learning one-third (1/3) of the time for clinical, diagnostic and
2545 treatment purposes. For purposes of this subsection, the
2546 provisions of Section 41-7-193(1) requiring substantial compliance
2547 with the projection of need as reported in the current State
2548 Health Plan are waived.

2549 (17) The State Department of Health shall issue a
2550 certificate of need for the construction of an acute care hospital
2551 in Kemper County, not to exceed twenty-five (25) beds, which shall



2552 be named the "John C. Stennis Memorial Hospital." In issuing the
2553 certificate of need under this subsection, the department shall
2554 give priority to a hospital located in Lauderdale County that has
2555 two hundred fifteen (215) beds. For purposes of this subsection,
2556 the provisions of Section 41-7-193(1) requiring substantial
2557 compliance with the projection of need as reported in the current
2558 State Health Plan and the provisions of Section 41-7-197 requiring
2559 a formal certificate of need hearing process are waived. There
2560 shall be no prohibition or restrictions on participation in the
2561 Medicaid program (Section 43-13-101 et seq.) for the person or
2562 entity receiving the certificate of need authorized under this
2563 subsection or for the beds constructed under the authority of that
2564 certificate of need.

2565 (18) The planning, design, construction, renovation,
2566 addition, furnishing and equipping of a clinical research unit at
2567 any health care facility defined in Section 41-7-173(h) that is
2568 under the direction and control of the University of Mississippi
2569 Medical Center and located in Jackson, Mississippi, and the
2570 addition of new beds or the conversion of beds from one (1)
2571 category to another in any such clinical research unit, shall not
2572 require the issuance of a certificate of need under Section
2573 41-7-171 et seq., notwithstanding any provision in Section
2574 41-7-171 et seq. to the contrary.

2575 (19) [Repealed]



2576 (20) Nothing in this section or in any other provision of
2577 Section 41-7-171 et seq. shall prevent any nursing facility from
2578 designating an appropriate number of existing beds in the facility
2579 as beds for providing care exclusively to patients with
2580 Alzheimer's disease.

2581 (21) Nothing in this section or any other provision of
2582 Section 41-7-171 et seq. shall prevent any health care facility
2583 from the new construction, renovation, conversion or expansion of
2584 new beds in the facility designated as intensive care units,
2585 negative pressure rooms, or isolation rooms pursuant to the
2586 provisions of Sections 41-14-1 through 41-14-11. For purposes of
2587 this subsection, the provisions of Section 41-7-193(1) requiring
2588 substantial compliance with the projection of need as reported in
2589 the current State Health Plan and the provisions of Section
2590 41-7-197 requiring a formal certificate of need hearing process
2591 are waived.

2592 **SECTION 15.** Section 41-7-195, Mississippi Code of 1972, is
2593 brought forward as follows:

2594 41-7-195. (1) A certificate of need shall be valid only for
2595 the defined scope, physical location and person named in the
2596 application. A certificate of need shall not be transferable or
2597 assignable nor shall a project or capital expenditure project be
2598 transferred from one person to another, except with the approval
2599 of the State Department of Health. A certificate of need shall be
2600 valid for the period of time specified therein.



2601 (2) A certificate of need shall be issued for a period of
2602 twelve (12) months, or such other lesser period as specified by
2603 the State Department of Health.

2604 (3) The State Department of Health may define by regulation,
2605 not to exceed six (6) months, the time for which a certificate of
2606 need may be extended.

2607 (4) If commencement of construction or other preparation is
2608 not substantially undertaken during a valid certificate of need
2609 period or the State Department of Health determines the applicant
2610 is not making a good faith effort to obligate such approved
2611 expenditure, the State Department of Health shall have the right
2612 to withdraw, revoke or rescind the certificate.

2613 (5) The State Department of Health may approve or disapprove
2614 a proposal for a certificate of need as originally presented in
2615 final form, or it may approve a certificate of need by a
2616 modification, by reduction only, of such proposal provided the
2617 proponent agrees to such modification.

2618 **SECTION 16.** Section 41-29-113, Mississippi Code of 1972, is
2619 brought forward as follows:

2620 41-29-113.

2621 **SCHEDULE I**

2622 (a) Schedule I consists of the drugs and other substances,
2623 by whatever official name, common or usual name, chemical name, or
2624 brand name designated, that is listed in this section.



2625 (b) **Opiates.** Unless specifically excepted or unless listed
2626 in another schedule, any of the following opiates, including their
2627 isomers, esters, ethers, salts and salts of isomers, esters and
2628 ethers, whenever the existence of these isomers, esters, ethers
2629 and salts is possible within the specific chemical designation:

2630 (1) Acetyl-alpha-methylfentanyl;

2631 (2) Acetyl Fentanyl

2632 N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide;

2633 (3) AH-7921 (3,4-dichloro-N-[(1-dimethylamino)
2634 cyclohexylmethyl]benzamide);

2635 (4) Acetylmethadol;

2636 (5) Allylprodine;

2637 (6) Alphacetylmethadol, except levo-alphacetylmethadol
2638 (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

2639 (7) Alphameprodine;

2640 (8) Alphamethadol;

2641 (9) Alpha-methylfentanyl;

2642 (10) Alpha-methylthiofentanyl;

2643 (11) Benzethidine;

2644 (12) Betacetylmethadol;

2645 (13) Beta-hydroxyfentanyl;

2646 (14) Beta-hydroxy-3-methylfentanyl;

2647 (15) Betameprodine;

2648 (16) Betamethadol;

2649 (17) Betaprodine;



- 2650 (18) Butyrl fentanyl
2651 (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutyramide);
- 2652 (19) Clonitazene;
- 2653 (20) Dextromoramide;
- 2654 (21) Diampromide;
- 2655 (22) Diethylthiambutene;
- 2656 (23) Difenoquin;
- 2657 (24) Dimenoxadol;
- 2658 (25) Dimepheptanol;
- 2659 (26) Dimethylthiambutene;
- 2660 (27) Dioxaphetyl butyrate;
- 2661 (28) Dipipanone;
- 2662 (29) Ethylmethylthiambutene;
- 2663 (30) Etonitazene;
- 2664 (31) Etoxadine;
- 2665 (32) Fentanyl-related substances, meaning any substance
2666 not otherwise listed under another schedule and for which no
2667 exemption or approval is in effect under Section 505 of the
2668 Federal Food, Drug, and Cosmetic Act [21 USC 355] that is
2669 structurally related to fentanyl by one or more of the following
2670 modifications:
- 2671 (A) Replacement of the phenyl portion of the
2672 phenethyl group by any monocycle, whether or not further
2673 substituted in or on the monocycle;



2674 (B) Substitution in or on the phenethyl group with
2675 alkyl, alkenyl, alkoxy, hydroxy, halo, haloalkyl, amino or nitro
2676 groups;

2677 (C) Substitution in or on the piperidine ring with
2678 alkyl, alkenyl, alkoxy, ester, ether, hydroxy, halo, haloalkyl,
2679 amino or nitro groups;

2680 (D) Replacement of the aniline ring with any
2681 aromatic monocycle whether or not further substituted in or on the
2682 aromatic monocycle; and/or

2683 (E) Replacement of the N-propionyl group by
2684 another acyl group.

2685 Fentanyl-related substances include, but are not limited to,
2686 cyclopropyl fentanyl,

2687 (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

2688 Furanyl-Fentanyl,

2689 (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide);

2690 valeryl fentanyl,

2691 (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide);

2692 para-fluorobutyryl fentanyl,

2693 (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide);

2694 para-methoxybutyryl fentanyl,

2695 (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide);

2696 para-chloroisobutyryl fentanyl,

2697 (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);



2698 isobutyryl fentanyl,
2699 (N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide);
2700 cyclopentyl fentanyl,
2701 (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);
2702 and
2703 ocfentanil,
2704 (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetami
2705 de);
2706 (33) Furethidine;
2707 (34) Hydroxypethidine;
2708 (35) Ketobemidone (including the optical and geometric
2709 isomers);
2710 (36) Levomoramide;
2711 (37) Levophenacylmorphan;
2712 (38) 3-methylfentanyl;
2713 (39) 3-methylthiofentanyl;
2714 (40) Morpheridine;
2715 (41) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
2716 (42)
2717 *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpro
2718 pionamide, its isomers, esters, ethers, salts and salts of
2719 isomers, esters and ethers (other names:
2720 beta-hydroxythiofentanyl);
2721 (43) Noracymethadol;
2722 (44) Norlevorphanol;



- 2723 (45) Normethadone;
- 2724 (46) Norpipanone;
- 2725 (47) Para-fluorofentanyl;
- 2726 (48) PEPAP
- 2727 (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 2728 (49) Phenadoxone;
- 2729 (50) Phenampromide;
- 2730 (51) Phenomorphan;
- 2731 (52) Phenoperidine;
- 2732 (53) Piritramide;
- 2733 (54) Proheptazine;
- 2734 (55) Properidine;
- 2735 (56) Propiram;
- 2736 (57) Racemoramide;
- 2737 (58) Thiofentanyl;
- 2738 (59) Tilidine;
- 2739 (60) Trimeperidine;
- 2740 (61) U-47700,
- 2741 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide.
- 2742 (c) **Opium derivatives.** Unless specifically excepted or
- 2743 unless listed in another schedule, any of the following opium
- 2744 derivatives, their salts, isomers and salts of isomers, whenever
- 2745 the existence of these salts, isomers and salts of isomers is
- 2746 possible within the specific chemical designation:
- 2747 (1) Acetorphine;



- 2748 (2) Acetyldihydrocodeine;
 - 2749 (3) Benzylmorphine;
 - 2750 (4) Codeine methylbromide;
 - 2751 (5) Codeine-N-Oxide;
 - 2752 (6) Cyprenorphine;
 - 2753 (7) Desomorphine;
 - 2754 (8) Dihydromorphine;
 - 2755 (9) Drotebanol;
 - 2756 (10) Etorphine (except hydrochloride salt);
 - 2757 (11) Heroin;
 - 2758 (12) Hydromorphanol;
 - 2759 (13) Methyldesorphine;
 - 2760 (14) Methyldihydromorphine;
 - 2761 (15) Monoacetylmorphine;
 - 2762 (16) Morphine methylbromide;
 - 2763 (17) Morphine methylsulfonate;
 - 2764 (18) Morphine-N-Oxide;
 - 2765 (19) Myrophine;
 - 2766 (20) Nicocodeine;
 - 2767 (21) Nicomorphine;
 - 2768 (22) Normorphine;
 - 2769 (23) Pholcodine;
 - 2770 (24) Thebacon.
- 2771 (d) **Hallucinogenic substances.** Unless specifically excepted
2772 or unless listed in another schedule, any material, compound,



2773 mixture or preparation which contains any quantity of the
2774 following substances, their salts, isomers (whether optical,
2775 positional, or geometric) and salts of isomers, whenever the
2776 existence of these salts, isomers and salts of isomers is possible
2777 within the specific chemical designation:

- 2778 (1) Alpha-ethyltryptamine;
- 2779 (2) 4-bromo-2,5-dimethoxy-amphetamine;
- 2780 (3) 4-bromo-2,5-dimethoxyphenethylamine;
- 2781 (4) 2,5-dimethoxyamphetamine;
- 2782 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 2783 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine
2784 (2C-T-7);
- 2785 (7) 4-methoxyamphetamine;
- 2786 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 2787 (9) 4-methyl-2,5-dimethoxy-amphetamine;
- 2788 (10) 3,4-methylenedioxy amphetamine;
- 2789 (11) 3,4-methylenedioxymethamphetamine (MDMA);
- 2790 (12) 3,4-methylenedioxy-N-ethylamphetamine (also known
2791 as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl
2792 MDA, MDE, MDEA);
- 2793 (13) N-hydroxy-3,4-methylenedioxyamphetamine (also
2794 known as N-hydroxy MDA, N-OHMDA, and
2795 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine);
- 2796 (14) 3,4,5-trimethoxy amphetamine;
- 2797 (15) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);



- 2798 (16) Alpha-methyltryptamine (also known as AMT);
- 2799 (17) Bufotenine;
- 2800 (18) Diethyltryptamine;
- 2801 (19) Dimethyltryptamine;
- 2802 (20) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
- 2803 (21) Ibogaine;
- 2804 (22) Lysergic acid diethylamide (LSD);
- 2805 (23) (A) Marijuana (Hemp as defined and regulated
- 2806 under Sections 69-25-201 through 69-25-221 and Cannabidiol
- 2807 contained in a legend drug product approved by the Federal Food
- 2808 and Drug Administration or obtained under Section 41-29-136 are
- 2809 exempt under Schedule I);
- 2810 (B) Hashish;
- 2811 (24) Mescaline;
- 2812 (25) Parahexyl;
- 2813 (26) Peyote;
- 2814 (27) N-ethyl-3-piperidyl benzilate;
- 2815 (28) N-methyl-3-piperidyl benzilate;
- 2816 (29) Psilocybin;
- 2817 (30) Psilocyn;
- 2818 (31) Tetrahydrocannabinols, meaning
- 2819 tetrahydrocannabinols contained in a plant of the genus Cannabis
- 2820 (cannabis plant), as well as the synthetic equivalents of the
- 2821 substances contained in the cannabis plant, or in the resinous
- 2822 extractives of such plant, and/or synthetic substances,



2823 derivatives, and their isomers with similar chemical structure and
2824 pharmacological activity to those substances contained in the
2825 plant such as the following:

2826 (A) 1 cis or trans tetrahydrocannabinol;

2827 (B) 6 cis or trans tetrahydrocannabinol;

2828 (C) 3,4 cis or trans tetrahydrocannabinol.

2829 (Since nomenclature of these substances is not
2830 internationally standardized, compounds of these structures,
2831 regardless of atomic positions, are covered.)

2832 ("Tetrahydrocannabinols" excludes dronabinol and nabilone.)

2833 For purposes of this paragraph, tetrahydrocannabinols do not
2834 include hemp or hemp products regulated under Sections 69-25-201
2835 through 69-25-221.

2836 However, the following products are exempted from control:

2837 (i) THC-containing industrial products made
2838 from cannabis stalks (e.g., paper, rope and clothing);

2839 (ii) Processed cannabis plant materials used
2840 for industrial purposes, such as fiber retted from cannabis stalks
2841 for use in manufacturing textiles or rope;

2842 (iii) Animal feed mixtures that contain
2843 sterilized cannabis seeds and other ingredients (not derived from
2844 the cannabis plant) in a formula designed, marketed and
2845 distributed for nonhuman consumption;

2846 (iv) Personal care products that contain oil
2847 from sterilized cannabis seeds, such as shampoos, soaps, and body



2848 lotions (if the products do not cause THC to enter the human
2849 body);

2850 (v) Hemp as regulated under Sections
2851 69-25-201 through 69-25-221; and

2852 (vi) Any product derived from the hemp plant
2853 designed for human ingestion and/or consumption that is approved
2854 by the United States Food and Drug Administration;

2855 (32) Phencyclidine;

2856 (33) Ethylamine analog of phencyclidine (PCE);

2857 (34) Pyrrolidine analog of phencyclidine (PHP, PCPy);

2858 (35) Thiophene analog of phencyclidine;

2859 (36) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine (TCPy);

2860 (37) 4-methylmethcathinone (mephedrone);

2861 (38) 3,4-methylenedioxypropylvalerone (MDPV);

2862 (39) 2-(2,5-dimethoxy-4-ethylphenyl)ethanamine (2C-E);

2863 (40) 2-(2,5-dimethoxy-4-methylphenyl)ethanamine (2C-D);

2864 (41) 2-(4-chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

2865 (42) 2-(4-iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

2866 or 2,5-dimethoxy-4-iodophenethylamine;

2867 (43) 2-[4-(ethylthio)-2,5-dimethoxyphenyl]ethanamine

2868 (2C-T-2);

2869 (44)

2870 2-[4-(isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

2871 (45) 2-(2,5-dimethoxyphenyl)ethanamine (2C-H);

2872 (46) 2-(2,5-dimethoxy-4-nitro-phenyl)ethanamine (2C-N);



2873 (47) 2-(2,5-dimethoxy-4-(n)-propylphenyl)ethanamine
2874 (2C-P);
2875 (48) 3,4-methylenedioxy-N-methylcathinone (methydone);
2876 (49)
2877 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
2878 (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);
2879 (50)
2880 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
2881 (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);
2882 (51)
2883 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine or
2884 N-[(2-methoxyphenyl)methyl]ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I;
2885 Cimbi-5);
2886 (52) 7-bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,
2887 4-benzodiazepin-2-one (also known as Phenazepam);
2888 (53) 7-(2-chlorophenyl)-4-ethyl-13-methyl-3-thia-1,8,
2889 11,12-tetraazatricyclo[8.3.0.0]trideca-2(6),4,7,10,12-pentaene
2890 (also known as Etizolam);
2891 (54) Salvia divinorum;
2892 (55) Synthetic cannabinoids. Unless specifically
2893 excepted or unless listed in another schedule, any material,
2894 compound, mixture, or preparation which contains any quantity of a
2895 synthetic cannabinoid found in any of the following chemical
2896 groups, whether or not substituted to any extent, or any of those
2897 groups which contain any synthetic cannabinoid salts, isomers, or



2898 salts of isomers, whenever the existence of such salts, isomers,
2899 or salts of isomers is possible within the specific chemical
2900 designation, including all synthetic cannabinoid chemical
2901 analogues in such groups:

2902 (A) (6aR,10aR)-9-(hydroxymethyl)-6,
2903 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]
2904 chromen-1-ol (also known as HU-210 or
2905 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);

2906 (B) Naphthoylindoles and naphthylmethylindoles,
2907 being any compound structurally derived from 3-(1-naphthoyl)indole
2908 or 1H-indol-3-yl-(1-naphthyl)methane, whether or not substituted
2909 in the indole ring to any extent, or in the naphthyl ring to any
2910 extent;

2911 (C) Naphthoylpyrroles, being any compound
2912 structurally derived from 3-(1-naphthoyl)pyrrole, whether or not
2913 substituted in the pyrrole ring to any extent, or in the naphthyl
2914 ring to any extent;

2915 (D) Naphthylmethylindenes, being any compound
2916 structurally derived from 1-(1-naphthylmethyl)indene, whether or
2917 not substituted in the indene ring to any extent or in the
2918 naphthyl ring to any extent;

2919 (E) Phenylacetylindoles, being any compound
2920 structurally derived from 3-phenylacetylindole, whether or not
2921 substituted in the indole ring to any extent or in the phenyl ring
2922 to any extent;



2923 (F) Cyclohexylphenols, being any compound
2924 structurally derived from 2-(3-hydroxycyclohexyl)phenol, whether
2925 or not substituted in the cyclohexyl ring to any extent or in the
2926 phenolic ring to any extent;

2927 (G) Benzoylindoles, whether or not substituted in
2928 the indole ring to any extent or in the phenyl ring to any extent;

2929 (H) Adamantoylindoles, whether or not substituted
2930 in the indole ring to any extent or in the adamantoyl ring system
2931 to any extent;

2932 (I) Tetrahydro derivatives of cannabinal and
2933 3-alkyl homologues of cannabinal or of its tetrahydro derivatives,
2934 except where contained in cannabis or cannabis resin;

2935 (J) 3-Cyclopropylmethanone indole or
2936 3-Cyclobutylmethanone indole or 3-Cyclopentylmethanone indole by
2937 substitution at the nitrogen atom of the indole ring, whether or
2938 not further substituted in the indole ring to any extent, whether
2939 or not substituted on the cyclopropyl, cyclobutyl or cyclopentyl
2940 rings to any extent;

2941 (K) Quinoliny ester indoles, being any compound
2942 structurally derived from 1H-indole-3carboxylic acid-8-quinoliny
2943 ester, whether or not substituted in the indole ring to any extent
2944 or the quinolone ring to any extent;

2945 (L) 3-carboxamide-1H-indazoles, whether or not
2946 substituted in the indazole ring to any extent and substituted to
2947 any degree on the carboxamide nitrogen and



2948 3-carboxamide-1H-indoles, whether or not substituted in the indole
2949 ring to any extent and substituted to any degree on the
2950 carboxamide nitrogen;

2951 (M) Cycloalkanemethanone Indoles, whether or not
2952 substituted at the nitrogen atom on the indole ring, whether or
2953 not further substituted in the indole ring to any extent, whether
2954 or not substituted on the cycloalkane ring to any extent.

2955 (e) **Depressants.** Unless specifically excepted or unless
2956 listed in another schedule, any material, compound, mixture, or
2957 preparation which contains any quantity of the following
2958 substances having a depressant effect on the central nervous
2959 system, including their salts, isomers, and salts of isomers,
2960 whenever the existence of such salts, isomers, and salts of
2961 isomers is possible within the specific chemical designation:

2962 (1) Gamma-hydroxybutyric acid (other names include:
2963 GHB, gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
2964 acid; sodium oxybate; sodium oxybutyrate);

2965 (2) Mecloqualone;

2966 (3) Methaqualone.

2967 (f) **Stimulants.** Any material, compound, mixture or
2968 preparation which contains any quantity of the following central
2969 nervous system stimulants including optical salts, isomers and
2970 salts of isomers unless specifically excepted or unless listed in
2971 another schedule:

2972 (1) Aminorex;



- 2973 (2) N-benzylpiperazine (also known as BZP and
2974 1-benzylpiperazine);
- 2975 (3) Cathinone;
- 2976 (4) Fenethylamine;
- 2977 (5) Methcathinone;
- 2978 (6) 4-methylaminorex (also known as
2979 2-amino-4-methyl-5-phenyl-2-oxazoline);
- 2980 (7) N-ethylamphetamine;
- 2981 (8) Any material, compound, mixture or preparation
2982 which contains any quantity of N,N-dimethylamphetamine. (Other
2983 names include: N,N,-alpha-trimethyl-benzeneethanamine and
2984 N,N-alpha-trimethylphenethylamine);
- 2985 (9) **Synthetic cathinones.** (A) Unless listed in
2986 another schedule, any compound other than bupropion that is
2987 structurally derived from 2-Amino-1-phenyl-1-propanone by
2988 modification in any of the following ways:
- 2989 (i) By substitution in the phenyl ring to any
2990 extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide
2991 substituents, whether or not further substituted in the phenyl
2992 ring by one or more other univalent substituents;
- 2993 (ii) By substitution at the 3-position with
2994 an alkyl substituent;
- 2995 (iii) By substitution at the nitrogen atom
2996 with alkyl or dialkyl groups, or by inclusion of the nitrogen atom
2997 in a cyclic structure.



2998 (B) The compounds covered in this paragraph (9)
2999 include, but are not limited to, any material, compound, mixture
3000 or preparation which contains any quantity of a synthetic
3001 cathinone found in any of the following compounds, whether or not
3002 substituted to any extent, or any of these compounds which contain
3003 any synthetic cathinone, or salts, isomers, or salts of isomers,
3004 whenever the existence of such salts, isomers or salts of isomers
3005 is possible, unless specifically excepted or listed in another
3006 schedule:

3007 (i) 4-methyl-N-ethylcathinone ("4-MEC");

3008 (ii) 4-methyl-alpha-pyrrolidinopropiophenone
3009 ("4-MePPP");

3010 (iii) Alpha-pyrrolidinopentiophenone
3011 (" α -PVP");

3012 (iv)
3013 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one ("butylone");

3014 (v) 2-(methylamino)-1-phenylpentan-1-one
3015 ("pentedrone");

3016 (vi)
3017 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one

3018 ("pentylone");

3019 (vii) 4-fluoro-N-methylcathinone ("4-FMC");

3020 (viii) 3-fluoro-N-methylcathinone ("3-FMC");

3021 (ix)

3022 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one ("naphyrone");



3023 (x) Alpha-pyrrolidinobutiophenone ("α-PBP");

3024 and

3025 (xi)

3026 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one

3027 (N-ethylpentylone, ephylone).

3028 **SECTION 17.** Section 41-29-115, Mississippi Code of 1972, is
3029 brought forward as follows:

3030 41-29-115. (a) The controlled substances listed in this
3031 section, by whatever official name, common or usual name, chemical
3032 name, or brand name designated, are included in Schedule II.

3033 **SCHEDULE II**

3034 (b) **Substances, vegetable origin or chemical synthesis.**

3035 Unless specifically excepted or unless listed in other schedules,
3036 any of the following substances, whether produced directly or
3037 indirectly by extraction from substances of vegetable origin, or
3038 independently by means of chemical synthesis, or by combination of
3039 extraction and chemical synthesis:

3040 (1) Opium and opiate, and any salt, compound,
3041 derivative, or preparation of opium or opiate, excluding
3042 apomorphine, thebaine-derived butorphanol, dextrorphan,
3043 nalbuphine, naldemedine, nalmeferone, naloxegol, naloxone and
3044 naltrexone, but including the following:

3045 (i) Codeine;

3046 (ii) Dihydroetorphine;

3047 (iii) Ethylmorphine;



3048 (iv) Etorphine hydrochloride;
3049 (v) Granulated opium;
3050 (vi) Hydrocodone, whether alone or in combination
3051 with any material, compound, mixture or preparation;
3052 (vii) Hydromorphone;
3053 (viii) Metopon;
3054 (ix) Morphine;
3055 (x) Opium extracts;
3056 (xi) Opium fluid extracts;
3057 (xii) Oripavine;
3058 (xiii) Oxycodone;
3059 (xiv) Oxymorphone;
3060 (xv) Powdered opium;
3061 (xvi) Raw opium;
3062 (xvii) Thebaine;
3063 (xviii) Tincture of opium;
3064 (2) Any salt, compound, isomer, derivative, or
3065 preparation thereof which is chemically equivalent or identical
3066 with any of the substances referred to in paragraph (1), but not
3067 including the isoquinoline alkaloids of opium;
3068 (3) Opium poppy and poppy straw;
3069 (4) Coca leaves and any salt, compound, derivative, or
3070 preparation of cocaine or coca leaves, including cocaine and
3071 ecgonine and any salt, compound, derivative, isomer, or



3072 preparation thereof which is chemically equivalent or identical
3073 with any of these substances, but not including:

3074 (i) Decocainized coca leaves or extraction of coca
3075 leaves, which extractions do not contain cocaine or ecgonine; or

3076 (ii) Ioflupane;

3077 (5) Concentrate of poppy straw (the crude extract of
3078 poppy straw in either liquid, solid or powder form which contains
3079 the phenanthrene alkaloids of the opium poppy).

3080 (c) **Opiates.** Any of the following opiates, including their
3081 isomers, esters, ethers, salts, and salts of isomers, whenever the
3082 existence of these isomers, esters, ethers and salts is possible
3083 within the specified chemical designation, dextrorphan and
3084 levopropoxyphene excepted:

3085 (1) Alfentanil;

3086 (2) Alphaprodine;

3087 (3) Anileridine;

3088 (4) Bezitramide;

3089 (5) Bulk dextropropoxyphene (nondosage forms);

3090 (6) Carfentanil;

3091 (7) Dihydrocodeine;

3092 (8) Diphenoxylate;

3093 (9) Fentanyl;

3094 (10) Isomethadone;

3095 (11) Levo-alpha-acetylmethadol

3096 (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);



3097 (12) Levomethorphan;
3098 (13) Levorphanol;
3099 (14) Metazocine;
3100 (15) Methadone;
3101 (16) Methadone-intermediate,
3102 4-cyano-2-dimethylamino-4,4-diphenyl butane;
3103 (17) Moramide-intermediate,
3104 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
3105 (18) Pethidine (meperidine);
3106 (19) Pethidine-Intermediate-A,
3107 4-cyano-1-methyl-4-phenylpiperidine;
3108 (20) Pethidine-Intermediate-B,
3109 ethyl-4-phenylpiperidine-4-carboxylate;
3110 (21) Pethidine-Intermediate-C,
3111 1-methyl-4-phenylpiperidine-4-carboxylic acid;
3112 (22) Phenazocine;
3113 (23) Piminodine;
3114 (24) Racemethorphan;
3115 (25) Racemorphan;
3116 (26) Remifentanil;
3117 (27) Sufentanil;
3118 (28) Tapentadol;
3119 (29) Thiafentanil,
3120 4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-[2-(thienyl)ethyl
3121]piperidine.



3122 (d) **Stimulants.** Any material, compound, mixture, or
3123 preparation which contains any quantity of the following
3124 substances:

3125 (1) Amphetamine, its salts, optical isomers, and salts
3126 of its optical isomers;

3127 (2) Phenmetrazine and its salts;

3128 (3) Any substance which contains any quantity of
3129 methamphetamine, including its salts, isomers, and salts of
3130 isomers;

3131 (4) Methylphenidate and its salts;

3132 (5) Lisdexamfetamine, its salts, isomers and salts of
3133 isomers.

3134 (e) **Depressants.** Unless specifically exempted or unless
3135 listed in another schedule, any material, compound, mixture, or
3136 preparation which contains any quantity of the following
3137 substances:

3138 (1) Amobarbital;

3139 (2) Secobarbital;

3140 (3) Pentobarbital;

3141 (4) Glutethimide.

3142 (f) **Hallucinogenic substances.**

3143 (1) Dronabinol oral solution

3144 [(-)-delta-9-trans-tetrahydrocannabinol (delta-9-THC)];



3145 (2) Nabilone [other names include:
3146 (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-
3147 hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one].

3148 (g) **Immediate precursors.** Unless specifically excepted or
3149 unless listed in another schedule, any material, compound,
3150 mixture, or preparation which contains any quantity of the
3151 following substances:

3152 (1) Amphetamine and methamphetamine immediate
3153 precursor: Phenylacetone (other names include:
3154 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl
3155 ketone);

3156 (2) Phencyclidine immediate precursors:

3157 (i) 1-phenylcyclohexylamine;

3158 (ii) 1-piperidinocyclohexanecarbonitrile (PCC);

3159 (3) Fentanyl immediate precursor:

3160 4-anilino-N-phenethyl-4-piperidine (ANPP).

3161 (h) Any material, compound, mixture or preparation which
3162 contains any quantity of a Schedule II controlled substance and is
3163 listed as an exempt substance in 21 CFR, Section 1308.24 or
3164 1308.32, shall be exempted from the provisions of the Uniform
3165 Controlled Substances Law.

3166 **SECTION 18.** Section 41-29-117, Mississippi Code of 1972, is
3167 brought forward as follows:

3168 41-29-117. (A) The controlled substances listed in this
3169 section are included in Schedule III.



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SCHEDULE III

(a) **Stimulants.** Any material, compound, mixture, or preparation which contains any quantity of the following substances or their salts, isomers, or salts of isomers, of the following substances:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Clortermine;
- (4) Phendimetrazine.

(b) **Depressants.** Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(2) Unless specifically excepted or unless listed in another schedule, any compound, mixture or preparation containing any of the following substances or any salt of the substances specifically included in this subsection (2) and one or more other active medicinal ingredients which are not listed in any other schedule:

- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;



3195 (3) Any suppository dosage form containing any of
3196 the following substances or any salt of any of the substances
3197 specifically included in this subsection (3) approved by the Food
3198 and Drug Administration for marketing only as a suppository:

3199 (i) Amobarbital;

3200 (ii) Secobarbital;

3201 (iii) Pentobarbital;

3202 (4) Chlorhexadol;

3203 (5) Embutramide;

3204 (6) Any drug product containing

3205 gamma-hydroxybutyric acid, including its salts, isomers and salts
3206 of isomers, for which an application is approved under Section 505
3207 of the Federal Food, Drug and Cosmetic Act;

3208 (7) Ketamine; its salts, isomers, and salts of
3209 isomers; other names include

3210 (+)-2-(2-chlorophenyl)-2-(methylamino)cyclohexanone;

3211 (8) Lysergic acid;

3212 (9) Lysergic acid amide;

3213 (10) Methyprylon;

3214 (11) Perampanel; its salts, isomers, and salts of
3215 isomers;

3216 (12) Sulfondiethylmethane;

3217 (13) Sulfonethylmethane;

3218 (14) Sulfonmethane;



3219 (15) Tiletamine and zolazepam or any salt thereof;
3220 other names for the tiletamine and zolazepam combination product
3221 include: telazol; other names for tiletamine include:
3222 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; other names for
3223 zolazepam include: 4-(2-fluorophenyl)-6,8-dihydro 1,3,
3224 8-trimethylpyrazolo-[3,4-e](1,4)-diazepin-7(1H)-one, flupyrzapon.

3225 (c) Nalorphine.

3226 (d) Any material, compound, mixture or preparation
3227 which contains any quantity of ephedrine or pseudoephedrine.

3228 (e) **Narcotic drugs.** Any material, compound, mixture,
3229 or preparation containing limited quantities of any of the
3230 following narcotic drugs, or any salts thereof:

3231 (1) Not more than one and eight-tenths (1.8) grams
3232 of codeine, or any of its salts, per one hundred (100) milliliters
3233 or not more than ninety (90) milligrams per dosage unit, with an
3234 equal or greater quantity of an isoquinoline alkaloid of opium;

3235 (2) Not more than one and eight-tenths (1.8) grams
3236 of codeine, or any of its salts, per one hundred (100) milliliters
3237 or not more than ninety (90) milligrams per dosage unit, with one
3238 or more active, nonnarcotic ingredients in recognized therapeutic
3239 amounts;

3240 (3) Not more than one and eight-tenths (1.8) grams
3241 of dihydrocodeine, or any of its salts, per one hundred (100)
3242 milliliters or not more than ninety (90) milligrams per dosage



3243 unit, with one or more active, nonnarcotic ingredients in
3244 recognized therapeutic amounts;

3245 (4) Not more than three hundred (300) milligrams
3246 of ethylmorphine, or any of its salts, per one hundred (100)
3247 milliliters or not more than fifteen (15) milligrams per dosage
3248 unit, with one or more active, nonnarcotic ingredients in
3249 recognized therapeutic amounts;

3250 (5) Not more than five hundred (500) milligrams of
3251 opium per one hundred (100) milliliters or per one hundred (100)
3252 grams, or not more than twenty-five (25) milligrams per dosage
3253 unit, with one or more active, nonnarcotic ingredients in
3254 recognized therapeutic amounts;

3255 (6) Not more than fifty (50) milligrams of
3256 morphine, or any of its salts, per one hundred (100) milliliters
3257 or per one hundred (100) grams with one or more active,
3258 nonnarcotic ingredients in recognized therapeutic amounts.

3259 (f) **Anabolic steroids.** Unless specifically exempted or
3260 listed in another schedule, any material, compound, mixture or
3261 preparation containing any quantity of any of the following
3262 anabolic steroids (any drug or hormonal substance chemically and
3263 pharmacologically related to testosterone other than estrogens,
3264 progestins, corticosteroids and dehydroepiandrosterone):

3265 (1) 3beta,17-dihydroxy-5a-androstane;

3266 (2) 3alpha,17beta-dihydroxy-5a-androstane;

3267 (3) 5alpha-androstan-3,17-dione;



3268 (4) 1-androstenediol
3269 (3beta,17beta-dihydroxy-5alpha-androst-1-ene);
3270 (5) 1-androstenediol
3271 (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);
3272 (6) 4-androstenediol
3273 (3beta,17beta-dihydroxy-androst-4-ene);
3274 (7) 5-androstenediol
3275 (3beta,17beta-dihydroxy-androst-5-ene);
3276 (8) 1-androstenedione ([5alpha]-androst-1-en-3,
3277 17-dione);
3278 (9) 4-androstenedione (androst-4-en-3,17-dione);
3279 (10) 5-androstenedione (androst-5-en-3,17-dione);
3280 (11) Bolasterone
3281 (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
3282 (12) Boldenone
3283 (17beta-hydroxyandrost-1,4,-diene-3-one);
3284 (13) Boldione (androsta-1,4-diene-3,17-dione);
3285 (14) Calusterone
3286 (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
3287 (15) Clostebol
3288 (4-chloro-17beta-hydroxyandrost-4-en-3-one);
3289 (16) Dehydrochloromethyltestosterone
3290 (4-chloro-17beta-hydroxy-17alpha-methylandrost-1,4-dien-3-one);



3291 (17) Desoxymethyltestosterone
3292 (17alpha-methyl-5alpha-androst-2-en-17beta-ol, also known as
3293 madol);
3294 (18) Delta1-dihydrotestosterone (also known as
3295 1-testosterone) (17beta-hydroxy-5alpha-androst-1-en-3-one);
3296 (19) 4-dihydrotestosterone
3297 (17beta-hydroxy-androstan-3-one);
3298 (20) Drostanolone
3299 (17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);
3300 (21) Ethylestrenol
3301 (17alpha-ethyl-17beta-hydroxyestr-4-ene);
3302 (22) Fluoxymesterone
3303 (9-fluoro-17alpha-methyl-11beta,
3304 17beta-dihydroxyandrost-4-en-3-one);
3305 (23) Formebolone
3306 (2-formyl-17alpha-methyl-11alpha,17beta-dihydroxyandrost-1,
3307 4-dien-3-one);
3308 (24) Furazabol
3309 (17alpha-methyl-17beta-hydroxyandrostano[2,3-c]-furazan);
3310 (25) 13beta-ethyl-17alpha-hydroxygon-4-en-3-one;
3311 (26) 4-hydroxytestosterone
3312 (4,17beta-dihydroxyandrost-4-en-3-one);
3313 (27) 4-hydroxy-19-nortestosterone
3314 (4,17beta-dihydroxy-estr-4-en-3-one);



3315 (28) Mestanolone
3316 (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);
3317 (29) Mesterolone
3318 (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);
3319 (30) Methandienone
3320 (17alpha-methyl-17beta-hydroxyandrost-1,4-dien-3-one);
3321 (31) Methandriol (17alpha-methyl-3beta,
3322 17beta-dihydroxyandrost-5-ene);
3323 (32) Methasterone (2[alpha],
3324 17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one;
3325 (33) Methenolone
3326 (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);
3327 (34) 17alpha-methyl-3beta,
3328 17beta-dihydroxy-5a-androstane;
3329 (35) 17alpha-methyl-3alpha,
3330 17beta-dihydroxy-5a-androstane;
3331 (36) 17alpha-methyl-3beta,
3332 17beta-dihydroxyandrost-4-ene;
3333 (37) 17alpha-methyl-4-hydroxynandrolone
3334 (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);
3335 (38) Methyldienolone
3336 (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);
3337 (39) Methyltrienolone
3338 (17alpha-methyl-17beta-hydroxyestra-4,9-11-trien-3-one);



3339 (40) Methyltestosterone
3340 (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);
3341 (41) Mibolerone
3342 (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);
3343 (42) 17alpha-methyl-Delta1-dihydrotestosterone (17b
3344 beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (also known
3345 as 17-alpha-methyl-1-testosterone);
3346 (43) Nandrolone (17beta-hydroxyestr-4-en-3-one);
3347 (44) 19-nor-4-androstenediol
3348 (3beta,17beta-dihydroxyestr-4-ene);
3349 (45) 19-nor-4-androstenediol
3350 (3a,17beta-dihydroxyestr-4-ene);
3351 (46) 19-nor-5-androstenediol
3352 (3beta,17beta-dihydroxyestr-5-ene);
3353 (47) 19-nor-5-androstenediol
3354 (3alpha,17beta-dihydroxyestr-5-ene);
3355 (48) 19-nor-4,9(10)-androstadienedione
3356 (estra-4,9(10)-diene3,17-dione,
3357 19-norandrost-4,9(10)-diene-3,17-dione);
3358 (49) 19-nor-4-androstenedione
3359 (estr-4-en-3,17-dione);
3360 (50) 19-nor-5-androstenedione
3361 (estr-5-en-3,17-dione);
3362 (51) Norbolethone
3363 (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);



3364 (52) Norclostebol
3365 (4-chloro-17beta-hydroxyestr-4-en-3-one) ;
3366 (53) Norethandrolone
3367 (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one) ;
3368 (54) Normethandrolone
3369 (17alpha-methyl-17beta-hydroxyestr-4-en-3-one) ;
3370 (55) Oxandrolone
3371 (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one) ;
3372 (56) Oxymesterone
3373 (17alpha-methyl-4,17beta-dihydroxyandrost-4-en-3-one) ;
3374 (57) Oxymetholone
3375 (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy-[5alpha]-
3376 androstan-3-one) ;
3377 (58) Prostanazol
3378 (17[beta]-hydroxy-5[alpha]-androstan[3,2-c]pyrazole)
3379 (59) Stanozolol
3380 (17alpha-methyl-17beta-hydroxy-[5alpha]-androst-2-eno[3,2-c]-
3381 pyrazole) ;
3382 (60) Stenbolone
3383 (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one) ;
3384 (61) Testolactone
3385 (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid
3386 lactone) ;
3387 (62) Testosterone
3388 (17beta-hydroxyandrost-4-en-3-one) ;



3389 (63) Tetrahydrogestrinone
3390 (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);

3391 (64) Trenbolone
3392 (17beta-hydroxyestr-4,9,11-trien-3-one);

3393 (65) Any salt, ester, or ether of a drug or
3394 substance described in this paragraph. Except such term does not
3395 include an anabolic steroid that is expressly intended for
3396 administration through implants to cattle or other nonhuman
3397 species and that has been approved by the Secretary of Health and
3398 Human Services for such administration. If any person prescribes,
3399 dispenses, or distributes such steroid for human use, the person
3400 shall be considered to have prescribed, dispensed or distributed
3401 an anabolic steroid within the meaning of this paragraph.

3402 (g) Any material, compound, mixture or preparation
3403 which contains any quantity of buprenorphine or its salts.

3404 (h) Dronabinol (synthetic) in sesame oil and
3405 encapsulated in a soft gelatin capsule in a United States Food and
3406 Drug Administration approved drug product.

3407 (B) Any material, compound, mixture or preparation which
3408 contains any quantity of a Schedule III controlled substance other
3409 than butalbital, and is listed as an exempt substance in 21 CFR,
3410 Section 1308.22, 1308.24, 1308.26, 1308.32 or 1308.34, shall be
3411 exempted from the provisions of the Uniform Controlled Substances
3412 Law.



- 3438 (4) Bromazepam;
- 3439 (5) Camazepam;
- 3440 (6) Carisoprodol;
- 3441 (7) Chloral betaine;
- 3442 (8) Chloral hydrate;
- 3443 (9) Chlordiazepoxide and its salts, but does not
- 3444 include chlordiazepoxide hydrochloride and clidinium bromide or
- 3445 chlordiazepoxide and esterified estrogens;
- 3446 (10) Clobazam;
- 3447 (11) Clonazepam;
- 3448 (12) Clorazepate;
- 3449 (13) Clotiazepam;
- 3450 (14) Cloxazolam;
- 3451 (15) Delorazepam;
- 3452 (16) Diazepam;
- 3453 (17) Dichloralphenazone;
- 3454 (18) Estazolam;
- 3455 (19) Ethchlorvynol;
- 3456 (20) Ethinamate;
- 3457 (21) Ethyl loflazepate;
- 3458 (22) Fludiazepam;
- 3459 (23) Flunitrazepam;
- 3460 (24) Flurazepam;
- 3461 (25) Fospropofol;
- 3462 (26) Halazepam;



3463 (27) Haloxazolam;
3464 (28) Ketazolam;
3465 (29) Loprazolam;
3466 (30) Lorazepam;
3467 (31) Lormetazepam;
3468 (32) Mebutamate;
3469 (33) Medazepam;
3470 (34) Meprobamate;
3471 (35) Methohexital;
3472 (36) Methylphenobarbital;
3473 (37) Midazolam;
3474 (38) Nimetazepam;
3475 (39) Nitrazepam;
3476 (40) Nordiazepam;
3477 (41) Oxazepam;
3478 (42) Oxazolam;
3479 (43) Paraldehyde;
3480 (44) Petrichloral;
3481 (45) Phenobarbital;
3482 (46) Pinazepam;
3483 (47) Prazepam;
3484 (48) Quazepam;
3485 (49) Suvorexant;
3486 (50) Temazepam;
3487 (51) Tetrazepam;



3488 (52) Triazolam;

3489 (53) Zaleplon;

3490 (54) Zolpidem;

3491 (55) Zopiclone.

3492 (c) Fenfluramine.

3493 (d) **Lorcaserin.** Any material, compound, mixture, or
3494 preparation which contains any quantity of Lorcaserin, including
3495 its salts, isomers, and salts of such isomers, whenever the
3496 existence of such salts, isomers, and salts of isomers is
3497 possible.

3498 (e) **Stimulants.** Any material, compound, mixture or
3499 preparation which contains any quantity of the following
3500 substances:

3501 (1) Cathine ((+/-) Norpseudoeephedrine);

3502 (2) Diethylpropion;

3503 (3) Fencamfamin;

3504 (4) Fenproporex;

3505 (5) Mazindol;

3506 (6) Mefenorex;

3507 (7) Modafinil;

3508 (8) Pemoline (including any organometallic
3509 complexes and chelates thereof);

3510 (9) Phentermine;

3511 (10) Pipradrol;

3512 (11) Sibutramine;



3513 (12) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

3514 (f) **Other substances.**

3515 (1) Pentazocine;

3516 (2) Butorphanol (including its optical isomers);

3517 (3) Eluxadoline

3518 (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopr
3519 opyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-meth
3520 oxybenzoic acid); (including its optical isomers) and its salts,
3521 isomers, and salts of isomers.

3522 (B) Any material, compound, mixture or preparation which
3523 contains any quantity of a Schedule IV controlled substance and is
3524 listed as an exempt substance in 21 CFR, Section 1308.22, 1308.24,
3525 1308.26, 1308.32 or 1308.34, shall be exempted from the provisions
3526 of the Uniform Controlled Substances Law.

3527 **SECTION 20.** Section 41-29-121, Mississippi Code of 1972, is
3528 brought forward as follows:

3529 41-29-121.

3530 **SCHEDULE V**

3531 (a) Schedule V consists of the drugs and other substances,
3532 by whatever official name, common or usual name, chemical name, or
3533 brand name designated, listed in this section.

3534 (b) Narcotic drugs. [Reserved]

3535 (c) **Narcotic drugs containing nonnarcotic active medicinal**
3536 **ingredients.** Any compound, mixture or preparation containing any
3537 of the following narcotic drugs, or their salts calculated as the



3538 free anhydrous base or alkaloid, in limited quantities as set
3539 forth below, which also contains one or more nonnarcotic active
3540 medicinal ingredients in sufficient proportion to confer upon the
3541 compound, mixture or preparation valuable medicinal qualities
3542 other than those possessed by the narcotic drug alone:

3543 (1) Not more than two hundred (200) milligrams of
3544 codeine, or any of its salts, per one hundred (100) milliliters or
3545 per one hundred (100) grams;

3546 (2) Not more than one hundred (100) milligrams of
3547 dihydrocodeine, or any of its salts, per one hundred (100)
3548 milliliters or per one hundred (100) grams;

3549 (3) Not more than one hundred (100) milligrams of
3550 ethylmorphine, or any of its salts, per one hundred (100)
3551 milliliters or per one hundred (100) grams;

3552 (4) Not more than two and five-tenths (2.5) milligrams
3553 of diphenoxylate and not less than twenty-five (25) micrograms of
3554 atropine sulphate per dosage unit;

3555 (5) Not more than one hundred (100) milligrams of opium
3556 per one hundred (100) milliliters or per one hundred (100) grams;

3557 (6) Not more than five-tenths (0.5) milligram of
3558 difenoxin and not less than twenty-five (25) micrograms of
3559 atropine sulfate per dosage unit.

3560 (d) **Stimulants.** Unless specifically excepted or listed in
3561 another schedule, any material, compound, mixture or preparation



3562 which contains any quantity of the following substance, including
3563 its salts, isomers and salts of isomers: Pyrovalerone.

3564 (e) **Depressants.** Unless specifically exempted or excluded
3565 or unless listed in another schedule, any material, compound,
3566 mixture or preparation which contains any quantity of the
3567 following substances having a depressant effect on the central
3568 nervous system, including their salts, isomers and salts of
3569 isomers:

3570 (1) Brivaracetam
3571 ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also
3572 referred to as BRV; UCB-34714; Briviact);

3573 (2) Ezogabine [N-[2-amino-4-(4-
3574 fluorobenzylamino)-phenyl]-carbamic acid ethyl ester];

3575 (3) Lacosamide
3576 [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

3577 (4) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic
3578 acid].

3579 (f) Any material, compound, mixture or preparation which
3580 contains any quantity of a Schedule V controlled substance and is
3581 listed as an exempt substance in 21 CFR, Section 1308.22, 1308.24,
3582 1308.26, 1308.32 or 1308.34, shall be exempted from the provisions
3583 of the Uniform Controlled Substances Law.

3584 **SECTION 21.** Section 41-29-139, Mississippi Code of 1972, is
3585 brought forward as follows:



3586 41-29-139. (a) **Transfer and possession with intent to**
3587 **transfer.** Except as authorized by this article, it is unlawful
3588 for any person knowingly or intentionally:

3589 (1) To sell, barter, transfer, manufacture, distribute,
3590 dispense or possess with intent to sell, barter, transfer,
3591 manufacture, distribute or dispense, a controlled substance; or

3592 (2) To create, sell, barter, transfer, distribute,
3593 dispense or possess with intent to create, sell, barter, transfer,
3594 distribute or dispense, a counterfeit substance.

3595 (b) **Punishment for transfer and possession with intent to**
3596 **transfer.** Except as otherwise provided in Section 41-29-142, any
3597 person who violates subsection (a) of this section shall be, if
3598 convicted, sentenced as follows:

3599 (1) For controlled substances classified in Schedule I
3600 or II, as set out in Sections 41-29-113 and 41-29-115, other than
3601 marijuana or synthetic cannabinoids:

3602 (A) If less than two (2) grams or ten (10) dosage
3603 units, by imprisonment for not more than eight (8) years or a fine
3604 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

3605 (B) If two (2) or more grams or ten (10) or more
3606 dosage units, but less than ten (10) grams or twenty (20) dosage
3607 units, by imprisonment for not less than three (3) years nor more
3608 than twenty (20) years or a fine of not more than Two Hundred
3609 Fifty Thousand Dollars (\$250,000.00), or both.



3610 (C) If ten (10) or more grams or twenty (20) or
3611 more dosage units, but less than thirty (30) grams or forty (40)
3612 dosage units, by imprisonment for not less than five (5) years nor
3613 more than thirty (30) years or a fine of not more than Five
3614 Hundred Thousand Dollars (\$500,000.00), or both.

3615 (2) (A) For marijuana:

3616 1. If thirty (30) grams or less, by
3617 imprisonment for not more than three (3) years or a fine of not
3618 more than Three Thousand Dollars (\$3,000.00), or both;

3619 2. If more than thirty (30) grams but less
3620 than two hundred fifty (250) grams, by imprisonment for not more
3621 than five (5) years or a fine of not more than Five Thousand
3622 Dollars (\$5,000.00), or both;

3623 3. If two hundred fifty (250) or more grams
3624 but less than five hundred (500) grams, by imprisonment for not
3625 less than three (3) years nor more than ten (10) years or a fine
3626 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

3627 4. If five hundred (500) or more grams but
3628 less than one (1) kilogram, by imprisonment for not less than five
3629 (5) years nor more than twenty (20) years or a fine of not more
3630 than Twenty Thousand Dollars (\$20,000.00), or both.

3631 (B) For synthetic cannabinoids:

3632 1. If ten (10) grams or less, by imprisonment
3633 for not more than three (3) years or a fine of not more than Three
3634 Thousand Dollars (\$3,000.00), or both;



3635 2. If more than ten (10) grams but less than
3636 twenty (20) grams, by imprisonment for not more than five (5)
3637 years or a fine of not more than Five Thousand Dollars
3638 (\$5,000.00), or both;

3639 3. If twenty (20) or more grams but less than
3640 forty (40) grams, by imprisonment for not less than three (3)
3641 years nor more than ten (10) years or a fine of not more than
3642 Fifteen Thousand Dollars (\$15,000.00), or both;

3643 4. If forty (40) or more grams but less than
3644 two hundred (200) grams, by imprisonment for not less than five
3645 (5) years nor more than twenty (20) years or a fine of not more
3646 than Twenty Thousand Dollars (\$20,000.00), or both.

3647 (3) For controlled substances classified in Schedules
3648 III and IV, as set out in Sections 41-29-117 and 41-29-119:

3649 (A) If less than two (2) grams or ten (10) dosage
3650 units, by imprisonment for not more than five (5) years or a fine
3651 of not more than Five Thousand Dollars (\$5,000.00), or both;

3652 (B) If two (2) or more grams or ten (10) or more
3653 dosage units, but less than ten (10) grams or twenty (20) dosage
3654 units, by imprisonment for not more than eight (8) years or a fine
3655 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

3656 (C) If ten (10) or more grams or twenty (20) or
3657 more dosage units, but less than thirty (30) grams or forty (40)
3658 dosage units, by imprisonment for not more than fifteen (15) years



3659 or a fine of not more than One Hundred Thousand Dollars
3660 (\$100,000.00), or both;

3661 (D) If thirty (30) or more grams or forty (40) or
3662 more dosage units, but less than five hundred (500) grams or two
3663 thousand five hundred (2,500) dosage units, by imprisonment for
3664 not more than twenty (20) years or a fine of not more than Two
3665 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

3666 (4) For controlled substances classified in Schedule V,
3667 as set out in Section 41-29-121:

3668 (A) If less than two (2) grams or ten (10) dosage
3669 units, by imprisonment for not more than one (1) year or a fine of
3670 not more than Five Thousand Dollars (\$5,000.00), or both;

3671 (B) If two (2) or more grams or ten (10) or more
3672 dosage units, but less than ten (10) grams or twenty (20) dosage
3673 units, by imprisonment for not more than five (5) years or a fine
3674 of not more than Ten Thousand Dollars (\$10,000.00), or both;

3675 (C) If ten (10) or more grams or twenty (20) or
3676 more dosage units, but less than thirty (30) grams or forty (40)
3677 dosage units, by imprisonment for not more than ten (10) years or
3678 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
3679 both;

3680 (D) For thirty (30) or more grams or forty (40) or
3681 more dosage units, but less than five hundred (500) grams or two
3682 thousand five hundred (2,500) dosage units, by imprisonment for



3683 not more than fifteen (15) years or a fine of not more than Fifty
3684 Thousand Dollars (\$50,000.00), or both.

3685 (c) **Simple possession.** It is unlawful for any person
3686 knowingly or intentionally to possess any controlled substance
3687 unless the substance was obtained directly from, or pursuant to, a
3688 valid prescription or order of a practitioner while acting in the
3689 course of his professional practice, or except as otherwise
3690 authorized by this article. The penalties for any violation of
3691 this subsection (c) with respect to a controlled substance
3692 classified in Schedules I, II, III, IV or V, as set out in Section
3693 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
3694 marijuana or synthetic cannabinoids, shall be based on dosage unit
3695 as defined herein or the weight of the controlled substance as set
3696 forth herein as appropriate:

3697 "Dosage unit (d.u.)" means a tablet or capsule, or in the
3698 case of a liquid solution, one (1) milliliter. In the case of
3699 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
3700 stamp, square, dot, microdot, tablet or capsule of a controlled
3701 substance.

3702 For any controlled substance that does not fall within the
3703 definition of the term "dosage unit," the penalties shall be based
3704 upon the weight of the controlled substance.

3705 The weight set forth refers to the entire weight of any
3706 mixture or substance containing a detectable amount of the
3707 controlled substance.



3708 If a mixture or substance contains more than one (1)
3709 controlled substance, the weight of the mixture or substance is
3710 assigned to the controlled substance that results in the greater
3711 punishment.

3712 A person shall be charged and sentenced as follows for a
3713 violation of this subsection with respect to:

3714 (1) A controlled substance classified in Schedule I or
3715 II, except marijuana and synthetic cannabinoids:

3716 (A) If less than one-tenth (0.1) gram or two (2)
3717 dosage units, the violation is a misdemeanor and punishable by
3718 imprisonment for not more than one (1) year or a fine of not more
3719 than One Thousand Dollars (\$1,000.00), or both.

3720 (B) If one-tenth (0.1) gram or more or two (2) or
3721 more dosage units, but less than two (2) grams or ten (10) dosage
3722 units, by imprisonment for not more than three (3) years or a fine
3723 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

3724 (C) If two (2) or more grams or ten (10) or more
3725 dosage units, but less than ten (10) grams or twenty (20) dosage
3726 units, by imprisonment for not more than eight (8) years or a fine
3727 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
3728 or both.

3729 (D) If ten (10) or more grams or twenty (20) or
3730 more dosage units, but less than thirty (30) grams or forty (40)
3731 dosage units, by imprisonment for not less than three (3) years



3732 nor more than twenty (20) years or a fine of not more than Five
3733 Hundred Thousand Dollars (\$500,000.00), or both.

3734 (2) (A) Marijuana and synthetic cannabinoids:

3735 1. If thirty (30) grams or less of marijuana
3736 or ten (10) grams or less of synthetic cannabinoids, by a fine of
3737 not less than One Hundred Dollars (\$100.00) nor more than Two
3738 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
3739 (2) (A) may be enforceable by summons if the offender provides
3740 proof of identity satisfactory to the arresting officer and gives
3741 written promise to appear in court satisfactory to the arresting
3742 officer, as directed by the summons. A second conviction under
3743 this section within two (2) years is a misdemeanor punishable by a
3744 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
3745 (60) days in the county jail, and mandatory participation in a
3746 drug education program approved by the Division of Alcohol and
3747 Drug Abuse of the State Department of Mental Health, unless the
3748 court enters a written finding that a drug education program is
3749 inappropriate. A third or subsequent conviction under this
3750 paragraph (2) (A) within two (2) years is a misdemeanor punishable
3751 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
3752 more than One Thousand Dollars (\$1,000.00) and confinement for not
3753 more than six (6) months in the county jail.

3754 Upon a first or second conviction under this paragraph
3755 (2) (A), the courts shall forward a report of the conviction to the
3756 Mississippi Bureau of Narcotics which shall make and maintain a



3757 private, nonpublic record for a period not to exceed two (2) years
3758 from the date of conviction. The private, nonpublic record shall
3759 be solely for the use of the courts in determining the penalties
3760 which attach upon conviction under this paragraph (2)(A) and shall
3761 not constitute a criminal record for the purpose of private or
3762 administrative inquiry and the record of each conviction shall be
3763 expunged at the end of the period of two (2) years following the
3764 date of such conviction;

3765 2. Additionally, a person who is the operator
3766 of a motor vehicle, who possesses on his person or knowingly keeps
3767 or allows to be kept in a motor vehicle within the area of the
3768 vehicle normally occupied by the driver or passengers, more than
3769 one (1) gram, but not more than thirty (30) grams of marijuana or
3770 not more than ten (10) grams of synthetic cannabinoids is guilty
3771 of a misdemeanor and, upon conviction, may be fined not more than
3772 One Thousand Dollars (\$1,000.00) or confined for not more than
3773 ninety (90) days in the county jail, or both. For the purposes of
3774 this subsection, such area of the vehicle shall not include the
3775 trunk of the motor vehicle or the areas not normally occupied by
3776 the driver or passengers if the vehicle is not equipped with a
3777 trunk. A utility or glove compartment shall be deemed to be
3778 within the area occupied by the driver and passengers;

3779 (B) Marijuana:

3780 1. If more than thirty (30) grams but less
3781 than two hundred fifty (250) grams, by a fine of not more than One



3782 Thousand Dollars (\$1,000.00), or confinement in the county jail
3783 for not more than one (1) year, or both; or by a fine of not more
3784 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
3785 custody of the Department of Corrections for not more than three
3786 (3) years, or both;

3787 2. If two hundred fifty (250) or more grams
3788 but less than five hundred (500) grams, by imprisonment for not
3789 less than two (2) years nor more than eight (8) years or by a fine
3790 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

3791 3. If five hundred (500) or more grams but
3792 less than one (1) kilogram, by imprisonment for not less than four
3793 (4) years nor more than sixteen (16) years or a fine of not more
3794 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

3795 4. If one (1) kilogram or more but less than
3796 five (5) kilograms, by imprisonment for not less than six (6)
3797 years nor more than twenty-four (24) years or a fine of not more
3798 than Five Hundred Thousand Dollars (\$500,000.00), or both;

3799 5. If five (5) kilograms or more, by
3800 imprisonment for not less than ten (10) years nor more than thirty
3801 (30) years or a fine of not more than One Million Dollars
3802 (\$1,000,000.00), or both.

3803 (C) Synthetic cannabinoids:

3804 1. If more than ten (10) grams but less than
3805 twenty (20) grams, by a fine of not more than One Thousand Dollars
3806 (\$1,000.00), or confinement in the county jail for not more than



3807 one (1) year, or both; or by a fine of not more than Three
3808 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
3809 the Department of Corrections for not more than three (3) years,
3810 or both;

3811 2. If twenty (20) or more grams but less than
3812 forty (40) grams, by imprisonment for not less than two (2) years
3813 nor more than eight (8) years or by a fine of not more than Fifty
3814 Thousand Dollars (\$50,000.00), or both;

3815 3. If forty (40) or more grams but less than
3816 two hundred (200) grams, by imprisonment for not less than four
3817 (4) years nor more than sixteen (16) years or a fine of not more
3818 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

3819 4. If two hundred (200) or more grams, by
3820 imprisonment for not less than six (6) years nor more than
3821 twenty-four (24) years or a fine of not more than Five Hundred
3822 Thousand Dollars (\$500,000.00), or both.

3823 (3) A controlled substance classified in Schedule III,
3824 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
3825 conviction, may be punished as follows:

3826 (A) If less than fifty (50) grams or less than one
3827 hundred (100) dosage units, the offense is a misdemeanor and
3828 punishable by not more than one (1) year or a fine of not more
3829 than One Thousand Dollars (\$1,000.00), or both.

3830 (B) If fifty (50) or more grams or one hundred
3831 (100) or more dosage units, but less than one hundred fifty (150)



3832 grams or five hundred (500) dosage units, by imprisonment for not
3833 less than one (1) year nor more than four (4) years or a fine of
3834 not more than Ten Thousand Dollars (\$10,000.00), or both.

3835 (C) If one hundred fifty (150) or more grams or
3836 five hundred (500) or more dosage units, but less than three
3837 hundred (300) grams or one thousand (1,000) dosage units, by
3838 imprisonment for not less than two (2) years nor more than eight
3839 (8) years or a fine of not more than Fifty Thousand Dollars
3840 (\$50,000.00), or both.

3841 (D) If three hundred (300) or more grams or one
3842 thousand (1,000) or more dosage units, but less than five hundred
3843 (500) grams or two thousand five hundred (2,500) dosage units, by
3844 imprisonment for not less than four (4) years nor more than
3845 sixteen (16) years or a fine of not more than Two Hundred Fifty
3846 Thousand Dollars (\$250,000.00), or both.

3847 (d) **Paraphernalia.** (1) It is unlawful for a person who is
3848 not authorized by the State Board of Medical Licensure, State
3849 Board of Pharmacy, or other lawful authority to use, or to possess
3850 with intent to use, paraphernalia to plant, propagate, cultivate,
3851 grow, harvest, manufacture, compound, convert, produce, process,
3852 prepare, test, analyze, pack, repack, store, contain, conceal,
3853 inject, ingest, inhale or otherwise introduce into the human body
3854 a controlled substance in violation of the Uniform Controlled
3855 Substances Law. Any person who violates this subsection (d)(1) is
3856 guilty of a misdemeanor and, upon conviction, may be confined in



3857 the county jail for not more than six (6) months, or fined not
3858 more than Five Hundred Dollars (\$500.00), or both; however, no
3859 person shall be charged with a violation of this subsection when
3860 such person is also charged with the possession of thirty (30)
3861 grams or less of marijuana under subsection (c) (2) (A) of this
3862 section.

3863 (2) It is unlawful for any person to deliver, sell,
3864 possess with intent to deliver or sell, or manufacture with intent
3865 to deliver or sell, paraphernalia, knowing, or under circumstances
3866 where one reasonably should know, that it will be used to plant,
3867 propagate, cultivate, grow, harvest, manufacture, compound,
3868 convert, produce, process, prepare, test, analyze, pack, repack,
3869 store, contain, conceal, inject, ingest, inhale, or otherwise
3870 introduce into the human body a controlled substance in violation
3871 of the Uniform Controlled Substances Law. Except as provided in
3872 subsection (d) (3), a person who violates this subsection (d) (2) is
3873 guilty of a misdemeanor and, upon conviction, may be confined in
3874 the county jail for not more than six (6) months, or fined not
3875 more than Five Hundred Dollars (\$500.00), or both.

3876 (3) Any person eighteen (18) years of age or over who
3877 violates subsection (d) (2) of this section by delivering or
3878 selling paraphernalia to a person under eighteen (18) years of age
3879 who is at least three (3) years his junior is guilty of a
3880 misdemeanor and, upon conviction, may be confined in the county



3881 jail for not more than one (1) year, or fined not more than One
3882 Thousand Dollars (\$1,000.00), or both.

3883 (4) It is unlawful for any person to place in any
3884 newspaper, magazine, handbill, or other publication any
3885 advertisement, knowing, or under circumstances where one
3886 reasonably should know, that the purpose of the advertisement, in
3887 whole or in part, is to promote the sale of objects designed or
3888 intended for use as paraphernalia. Any person who violates this
3889 subsection is guilty of a misdemeanor and, upon conviction, may be
3890 confined in the county jail for not more than six (6) months, or
3891 fined not more than Five Hundred Dollars (\$500.00), or both.

3892 (e) It shall be unlawful for any physician practicing
3893 medicine in this state to prescribe, dispense or administer any
3894 amphetamine or amphetamine-like anorectics and/or central nervous
3895 system stimulants classified in Schedule II, pursuant to Section
3896 41-29-115, for the exclusive treatment of obesity, weight control
3897 or weight loss. Any person who violates this subsection, upon
3898 conviction, is guilty of a misdemeanor and may be confined for a
3899 period not to exceed six (6) months, or fined not more than One
3900 Thousand Dollars (\$1,000.00), or both.

3901 (f) **Trafficking.** (1) Any person trafficking in controlled
3902 substances shall be guilty of a felony and, upon conviction, shall
3903 be imprisoned for a term of not less than ten (10) years nor more
3904 than forty (40) years and shall be fined not less than Five
3905 Thousand Dollars (\$5,000.00) nor more than One Million Dollars



3906 (\$1,000,000.00). The ten-year mandatory sentence shall not be
3907 reduced or suspended. The person shall not be eligible for
3908 probation or parole, the provisions of Sections 41-29-149,
3909 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

3910 (2) "Trafficking in controlled substances" as used
3911 herein means:

3912 (A) A violation of subsection (a) of this section
3913 involving thirty (30) or more grams or forty (40) or more dosage
3914 units of a Schedule I or II controlled substance except marijuana
3915 and synthetic cannabinoids;

3916 (B) A violation of subsection (a) of this section
3917 involving five hundred (500) or more grams or two thousand five
3918 hundred (2,500) or more dosage units of a Schedule III, IV or V
3919 controlled substance;

3920 (C) A violation of subsection (c) of this section
3921 involving thirty (30) or more grams or forty (40) or more dosage
3922 units of a Schedule I or II controlled substance except marijuana
3923 and synthetic cannabinoids;

3924 (D) A violation of subsection (c) of this section
3925 involving five hundred (500) or more grams or two thousand five
3926 hundred (2,500) or more dosage units of a Schedule III, IV or V
3927 controlled substance; or

3928 (E) A violation of subsection (a) of this section
3929 involving one (1) kilogram or more of marijuana or two hundred
3930 (200) grams or more of synthetic cannabinoids.



3931 (g) **Aggravated trafficking.** Any person trafficking in
3932 Schedule I or II controlled substances, except marijuana and
3933 synthetic cannabinoids, of two hundred (200) grams or more shall
3934 be guilty of aggravated trafficking and, upon conviction, shall be
3935 sentenced to a term of not less than twenty-five (25) years nor
3936 more than life in prison and shall be fined not less than Five
3937 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
3938 (\$1,000,000.00). The twenty-five-year sentence shall be a
3939 mandatory sentence and shall not be reduced or suspended. The
3940 person shall not be eligible for probation or parole, the
3941 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
3942 the contrary notwithstanding.

3943 (h) **Sentence mitigation.** (1) Notwithstanding any provision
3944 of this section, a person who has been convicted of an offense
3945 under this section that requires the judge to impose a prison
3946 sentence which cannot be suspended or reduced and is ineligible
3947 for probation or parole may, at the discretion of the court,
3948 receive a sentence of imprisonment that is no less than
3949 twenty-five percent (25%) of the sentence prescribed by the
3950 applicable statute. In considering whether to apply the departure
3951 from the sentence prescribed, the court shall conclude that:

3952 (A) The offender was not a leader of the criminal
3953 enterprise;

3954 (B) The offender did not use violence or a weapon
3955 during the crime;



3956 (C) The offense did not result in a death or
3957 serious bodily injury of a person not a party to the criminal
3958 enterprise; and

3959 (D) The interests of justice are not served by the
3960 imposition of the prescribed mandatory sentence.

3961 The court may also consider whether information and
3962 assistance were furnished to a law enforcement agency, or its
3963 designee, which, in the opinion of the trial judge, objectively
3964 should or would have aided in the arrest or prosecution of others
3965 who violate this subsection. The accused shall have adequate
3966 opportunity to develop and make a record of all information and
3967 assistance so furnished.

3968 (2) If the court reduces the prescribed sentence
3969 pursuant to this subsection, it must specify on the record the
3970 circumstances warranting the departure.

3971 **SECTION 22.** Section 41-29-147, Mississippi Code of 1972, is
3972 brought forward as follows:

3973 41-29-147. Except as otherwise provided in Section
3974 41-29-142, any person convicted of a second or subsequent offense
3975 under this article may be imprisoned for a term up to twice the
3976 term otherwise authorized, fined an amount up to twice that
3977 otherwise authorized, or both.

3978 For purposes of this section, an offense is considered a
3979 second or subsequent offense, if, prior to his conviction of the
3980 offense, the offender has at any time been convicted under this



3981 article or under any statute of the United States or of any state
3982 relating to narcotic drugs, marihuana, depressant, stimulant or
3983 hallucinogenic drugs.

3984 **SECTION 23.** This act shall take effect and be in force from
3985 and after July 1, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REENACT SECTIONS 41-3-1.1, 41-3-3, 41-3-4,
2 41-3-5.1, 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19,
3 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF HEALTH,
4 ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE
5 DEPARTMENT OF HEALTH, AND ESTABLISH AND PRESCRIBE THE POWERS AND
6 DUTIES OF THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION
7 41-3-20, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE
8 REPEALER ON THOSE REENACTED STATUTES; TO BRING FORWARD SECTIONS
9 41-7-173, 41-7-185, 41-7-191, 41-7-195, 41-29-113, 41-29-115,
10 41-29-117, 41-29-119, 41-29-121, 41-29-139 AND 41-29-147,
11 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
12 AND FOR RELATED PURPOSES.

