

By: Representative Crawford

To: Public Health and Human Services

HOUSE BILL NO. 738

1 AN ACT TO AMEND SECTIONS 25-15-13, 37-13-91, 37-23-63,
2 41-4-18, 41-7-173, 41-7-191, 43-7-61 AND 43-18-1, MISSISSIPPI CODE
3 OF 1972, TO MODERNIZE THE TERMINOLOGY THAT IS USED IN STATE
4 STATUTES TO REFER TO PERSONS WITH AN INTELLECTUAL DISABILITY BY
5 REPLACING THE TERM "MENTALLY RETARDED" WITH "INTELLECTUAL
6 DISABILITY"; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 25-15-13, Mississippi Code of 1972, is
9 amended as follows:

10 25-15-13. Each eligible employee may participate in the
11 plan by signing up for the plan at the time of employment. Each
12 eligible employee who declines coverage under the plan must sign a
13 waiver of coverage. After acceptance in the plan, the employee
14 may cease his or her participation by filing a specific disclaimer
15 with the board. Forms for this purpose shall be prescribed and
16 issued by the board. All eligible employees will be eligible to
17 participate in the plan on the effective date of the plan or on
18 the date on which they are employed by the state, whichever is
19 later, provided they make the necessary contributions as provided
20 in this article. Spouses of employees, unmarried dependent



21 children from birth to age nineteen (19) years, unmarried
22 dependent children who are full-time students up to age
23 twenty-five (25) years, and * * * children with physical or mental
24 disabilities, regardless of age, are eligible under the plan as of
25 the date the employee becomes eligible. If both spouses are
26 eligible employees who participate in the plan, the benefits shall
27 apply individually to each spouse by virtue of his or her
28 participation in the plan. If those spouses also have one or more
29 eligible dependents participating in the plan, the cost of their
30 dependents shall be calculated at a special family plan rate. The
31 cost for participation by the dependents shall be paid by the
32 spouse who elects to carry such dependents under his or her
33 coverage.

34 **SECTION 2.** Section 37-13-91, Mississippi Code of 1972, is
35 amended as follows:

36 37-13-91. (1) This section shall be referred to as the
37 "Mississippi Compulsory School Attendance Law."

38 (2) The following terms as used in this section are defined
39 as follows:

40 (a) "Parent" means the father or mother to whom a child
41 has been born, or the father or mother by whom a child has been
42 legally adopted.

43 (b) "Guardian" means a guardian of the person of a
44 child, other than a parent, who is legally appointed by a court of
45 competent jurisdiction.



46 (c) "Custodian" means any person having the present
47 care or custody of a child, other than a parent or guardian of the
48 child.

49 (d) "School day" means not less than five and one-half
50 (5-1/2) and not more than eight (8) hours of actual teaching in
51 which both teachers and pupils are in regular attendance for
52 scheduled schoolwork.

53 (e) "School" means any public school, including a
54 charter school, in this state or any nonpublic school in this
55 state which is in session each school year for at least one
56 hundred eighty (180) school days, except that the "nonpublic"
57 school term shall be the number of days that each school shall
58 require for promotion from grade to grade.

59 (f) "Compulsory-school-age child" means a child who has
60 attained or will attain the age of six (6) years on or before
61 September 1 of the calendar year and who has not attained the age
62 of seventeen (17) years on or before September 1 of the calendar
63 year; and shall include any child who has attained or will attain
64 the age of five (5) years on or before September 1 and has
65 enrolled in a full-day public school kindergarten program.

66 (g) "School attendance officer" means a person employed
67 by the State Department of Education pursuant to Section 37-13-89.

68 (h) "Appropriate school official" means the
69 superintendent of the school district, or his designee, or, in the
70 case of a nonpublic school, the principal or the headmaster.



71 (i) "Nonpublic school" means an institution for the
72 teaching of children, consisting of a physical plant, whether
73 owned or leased, including a home, instructional staff members and
74 students, and which is in session each school year. This
75 definition shall include, but not be limited to, private, church,
76 parochial and home instruction programs.

77 (3) A parent, guardian or custodian of a
78 compulsory-school-age child in this state shall cause the child to
79 enroll in and attend a public school or legitimate nonpublic
80 school for the period of time that the child is of compulsory
81 school age, except under the following circumstances:

82 (a) When a compulsory-school-age child is physically,
83 mentally or emotionally incapable of attending school as
84 determined by the appropriate school official based upon
85 sufficient medical documentation.

86 (b) When a compulsory-school-age child is enrolled in
87 and pursuing a course of special education, remedial education or
88 education for * * * children with physical or mental disadvantages
89 or disabilities.

90 (c) When a compulsory-school-age child is being
91 educated in a legitimate home instruction program.

92 The parent, guardian or custodian of a compulsory-school-age
93 child described in this subsection, or the parent, guardian or
94 custodian of a compulsory-school-age child attending any charter
95 school or nonpublic school, or the appropriate school official for



96 any or all children attending a charter school or nonpublic school
97 shall complete a "certificate of enrollment" in order to
98 facilitate the administration of this section.

99 The form of the certificate of enrollment shall be prepared
100 by the Office of Compulsory School Attendance Enforcement of the
101 State Department of Education and shall be designed to obtain the
102 following information only:

103 (i) The name, address, telephone number and date
104 of birth of the compulsory-school-age child;

105 (ii) The name, address and telephone number of the
106 parent, guardian or custodian of the compulsory-school-age child;

107 (iii) A simple description of the type of
108 education the compulsory-school-age child is receiving and, if the
109 child is enrolled in a nonpublic school, the name and address of
110 the school; and

111 (iv) The signature of the parent, guardian or
112 custodian of the compulsory-school-age child or, for any or all
113 compulsory-school-age child or children attending a charter school
114 or nonpublic school, the signature of the appropriate school
115 official and the date signed.

116 The certificate of enrollment shall be returned to the school
117 attendance officer where the child resides on or before September
118 15 of each year. Any parent, guardian or custodian found by the
119 school attendance officer to be in noncompliance with this section
120 shall comply, after written notice of the noncompliance by the



121 school attendance officer, with this subsection within ten (10)
122 days after the notice or be in violation of this section.
123 However, in the event the child has been enrolled in a public
124 school within fifteen (15) calendar days after the first day of
125 the school year as required in subsection (6), the parent or
126 custodian may, at a later date, enroll the child in a legitimate
127 nonpublic school or legitimate home instruction program and send
128 the certificate of enrollment to the school attendance officer and
129 be in compliance with this subsection.

130 For the purposes of this subsection, a legitimate nonpublic
131 school or legitimate home instruction program shall be those not
132 operated or instituted for the purpose of avoiding or
133 circumventing the compulsory attendance law.

134 (4) An "unlawful absence" is an absence for an entire school
135 day or during part of a school day by a compulsory-school-age
136 child, which absence is not due to a valid excuse for temporary
137 nonattendance. For purposes of reporting absenteeism under
138 subsection (6) of this section, if a compulsory-school-age child
139 has an absence that is more than thirty-seven percent (37%) of the
140 instructional day, as fixed by the school board for the school at
141 which the compulsory-school-age child is enrolled, the child must
142 be considered absent the entire school day. Days missed from
143 school due to disciplinary suspension shall not be considered an
144 "excused" absence under this section. This subsection shall not
145 apply to children enrolled in a nonpublic school.



146 Each of the following shall constitute a valid excuse for
147 temporary nonattendance of a compulsory-school-age child enrolled
148 in a noncharter public school, provided satisfactory evidence of
149 the excuse is provided to the superintendent of the school
150 district, or his designee:

151 (a) An absence is excused when the absence results from
152 the compulsory-school-age child's attendance at an authorized
153 school activity with the prior approval of the superintendent of
154 the school district, or his designee. These activities may
155 include field trips, athletic contests, student conventions,
156 musical festivals and any similar activity.

157 (b) An absence is excused when the absence results from
158 illness or injury which prevents the compulsory-school-age child
159 from being physically able to attend school.

160 (c) An absence is excused when isolation of a
161 compulsory-school-age child is ordered by the county health
162 officer, by the State Board of Health or appropriate school
163 official.

164 (d) An absence is excused when it results from the
165 death or serious illness of a member of the immediate family of a
166 compulsory-school-age child. The immediate family members of a
167 compulsory-school-age child shall include children, spouse,
168 grandparents, parents, brothers and sisters, including
169 stepbrothers and stepsisters.



170 (e) An absence is excused when it results from a
171 medical or dental appointment of a compulsory-school-age child.

172 (f) An absence is excused when it results from the
173 attendance of a compulsory-school-age child at the proceedings of
174 a court or an administrative tribunal if the child is a party to
175 the action or under subpoena as a witness.

176 (g) An absence may be excused if the religion to which
177 the compulsory-school-age child or the child's parents adheres,
178 requires or suggests the observance of a religious event. The
179 approval of the absence is within the discretion of the
180 superintendent of the school district, or his designee, but
181 approval should be granted unless the religion's observance is of
182 such duration as to interfere with the education of the child.

183 (h) An absence may be excused when it is demonstrated
184 to the satisfaction of the superintendent of the school district,
185 or his designee, that the purpose of the absence is to take
186 advantage of a valid educational opportunity such as travel,
187 including vacations or other family travel. Approval of the
188 absence must be gained from the superintendent of the school
189 district, or his designee, before the absence, but the approval
190 shall not be unreasonably withheld.

191 (i) An absence may be excused when it is demonstrated
192 to the satisfaction of the superintendent of the school district,
193 or his designee, that conditions are sufficient to warrant the
194 compulsory-school-age child's nonattendance. However, no absences



195 shall be excused by the school district superintendent, or his
196 designee, when any student suspensions or expulsions circumvent
197 the intent and spirit of the compulsory attendance law.

198 (j) An absence is excused when it results from the
199 attendance of a compulsory-school-age child participating in
200 official organized events sponsored by the 4-H or Future Farmers
201 of America (FFA). The excuse for the 4-H or FFA event must be
202 provided in writing to the appropriate school superintendent by
203 the Extension Agent or High School Agricultural Instructor/FFA
204 Advisor.

205 (k) An absence is excused when it results from the
206 compulsory-school-age child officially being employed to serve as
207 a page at the State Capitol for the Mississippi House of
208 Representatives or Senate.

209 (5) Any parent, guardian or custodian of a
210 compulsory-school-age child subject to this section who refuses or
211 willfully fails to perform any of the duties imposed upon him or
212 her under this section or who intentionally falsifies any
213 information required to be contained in a certificate of
214 enrollment, shall be guilty of contributing to the neglect of a
215 child and, upon conviction, shall be punished in accordance with
216 Section 97-5-39.

217 Upon prosecution of a parent, guardian or custodian of a
218 compulsory-school-age child for violation of this section, the
219 presentation of evidence by the prosecutor that shows that the



220 child has not been enrolled in school within eighteen (18)
221 calendar days after the first day of the school year of the public
222 school which the child is eligible to attend, or that the child
223 has accumulated twelve (12) unlawful absences during the school
224 year at the public school in which the child has been enrolled,
225 shall establish a prima facie case that the child's parent,
226 guardian or custodian is responsible for the absences and has
227 refused or willfully failed to perform the duties imposed upon him
228 or her under this section. However, no proceedings under this
229 section shall be brought against a parent, guardian or custodian
230 of a compulsory-school-age child unless the school attendance
231 officer has contacted promptly the home of the child and has
232 provided written notice to the parent, guardian or custodian of
233 the requirement for the child's enrollment or attendance.

234 (6) If a compulsory-school-age child has not been enrolled
235 in a school within fifteen (15) calendar days after the first day
236 of the school year of the school which the child is eligible to
237 attend or the child has accumulated five (5) unlawful absences
238 during the school year of the public school in which the child is
239 enrolled, the school district superintendent, or his designee,
240 shall report, within two (2) school days or within five (5)
241 calendar days, whichever is less, the absences to the school
242 attendance officer. The State Department of Education shall
243 prescribe a uniform method for schools to utilize in reporting the
244 unlawful absences to the school attendance officer. The



245 superintendent, or his designee, also shall report any student
246 suspensions or student expulsions to the school attendance officer
247 when they occur.

248 (7) When a school attendance officer has made all attempts
249 to secure enrollment and/or attendance of a compulsory-school-age
250 child and is unable to effect the enrollment and/or attendance,
251 the attendance officer shall file a petition with the youth court
252 under Section 43-21-451 or shall file a petition in a court of
253 competent jurisdiction as it pertains to parent or child.
254 Sheriffs, deputy sheriffs and municipal law enforcement officers
255 shall be fully authorized to investigate all cases of
256 nonattendance and unlawful absences by compulsory-school-age
257 children, and shall be authorized to file a petition with the
258 youth court under Section 43-21-451 or file a petition or
259 information in the court of competent jurisdiction as it pertains
260 to parent or child for violation of this section. The youth court
261 shall expedite a hearing to make an appropriate adjudication and a
262 disposition to ensure compliance with the Compulsory School
263 Attendance Law, and may order the child to enroll or re-enroll in
264 school. The superintendent of the school district to which the
265 child is ordered may assign, in his discretion, the child to the
266 alternative school program of the school established pursuant to
267 Section 37-13-92.

268 (8) The State Board of Education shall adopt rules and
269 regulations for the purpose of reprimanding any school



270 superintendents who fail to timely report unexcused absences under
271 the provisions of this section.

272 (9) Notwithstanding any provision or implication herein to
273 the contrary, it is not the intention of this section to impair
274 the primary right and the obligation of the parent or parents, or
275 person or persons in loco parentis to a child, to choose the
276 proper education and training for such child, and nothing in this
277 section shall ever be construed to grant, by implication or
278 otherwise, to the State of Mississippi, any of its officers,
279 agencies or subdivisions any right or authority to control,
280 manage, supervise or make any suggestion as to the control,
281 management or supervision of any private or parochial school or
282 institution for the education or training of children, of any kind
283 whatsoever that is not a public school according to the laws of
284 this state; and this section shall never be construed so as to
285 grant, by implication or otherwise, any right or authority to any
286 state agency or other entity to control, manage, supervise,
287 provide for or affect the operation, management, program,
288 curriculum, admissions policy or discipline of any such school or
289 home instruction program.

290 **SECTION 3.** Section 37-23-63, Mississippi Code of 1972, is
291 amended as follows:

292 37-23-63. Every child who is a resident citizen of the State
293 of Mississippi under twenty-one (21) years of age, who cannot
294 pursue all regular class work due to reasons of defective hearing,



295 vision, speech, intellectual disability or other mental or
296 physical conditions as determined by competent medical authorities
297 and psychologists, who has not finished or graduated from high
298 school, and who is in attendance in a private school, parochial
299 school or speech, hearing and/or language clinic that is
300 accredited by a state or regional accrediting agency or
301 approved/licensed by the State Department of Education, shall be
302 eligible and entitled to receive state financial assistance in the
303 amount set forth in Section 37-23-69. Exceptional children as
304 defined in Section 37-23-3(1) and who are certified by the
305 designated state authority as requiring inpatient care in a
306 private intermediate care facility for * * * individuals with
307 intellectual disabilities or psychiatric residential treatment
308 facility, with Medicaid reimbursement, shall be eligible and
309 entitled to receive state and federal financial assistance under
310 the provisions of Section 37-23-69, as allowable and available, if
311 an approved private school is operated as an integral part of the
312 facility that provides twenty-four (24) hours a day monitoring,
313 treatment and education.

314 **SECTION 4.** Section 41-4-18, Mississippi Code of 1972, is
315 amended as follows:

316 41-4-18. (1) Notwithstanding Section 41-7-191(11) and
317 Section 41-7-171 et seq. * * * or any other section of law, the
318 Department of Mental Health shall have the authority to contract
319 with private and/or public entities to transfer beds within * * *



320 intermediate care facilities for * * * individuals with
321 intellectual disabilities owned and operated by the Department of
322 Mental Health to locations owned and operated by private and/or
323 public entities for the purpose of serving individuals with
324 intellectual disabilities in the settings most appropriate to meet
325 their needs.

326 (2) Any license granted to the Department of Mental Health
327 by the Department of Health for the operation of transferred * * *
328 intermediate care facility for * * * individuals with intellectual
329 disabilities beds shall remain in the name of the Department of
330 Mental Health and shall not be transferred into the name of the
331 contractor unless the contractor has received the appropriate
332 certificates of need.

333 **SECTION 5.** Section 41-7-173, Mississippi Code of 1972, is
334 amended as follows:

335 41-7-173. For the purposes of Section 41-7-171 et seq., the
336 following words shall have the meanings ascribed herein, unless
337 the context otherwise requires:

338 (a) "Affected person" means (i) the applicant; (ii) a
339 person residing within the geographic area to be served by the
340 applicant's proposal; (iii) a person who regularly uses health
341 care facilities or HMOs located in the geographic area of the
342 proposal which provide similar service to that which is proposed;
343 (iv) health care facilities and HMOs which have, prior to receipt
344 of the application under review, formally indicated an intention



345 to provide service similar to that of the proposal being
346 considered at a future date; (v) third-party payers who reimburse
347 health care facilities located in the geographical area of the
348 proposal; or (vi) any agency that establishes rates for health
349 care services or HMOs located in the geographic area of the
350 proposal.

351 (b) "Certificate of need" means a written order of the
352 State Department of Health setting forth the affirmative finding
353 that a proposal in prescribed application form, sufficiently
354 satisfies the plans, standards and criteria prescribed for such
355 service or other project by Section 41-7-171 et seq., and by rules
356 and regulations promulgated thereunder by the State Department of
357 Health.

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

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



370 (\$5,000,000.00), adjusted for inflation as published by the State
371 Department of Health or which exceeds, for nonclinical health
372 services, as defined in * * * paragraph (k) below, Ten Million
373 Dollars (\$10,000,000.00), adjusted for inflation as published by
374 the State Department of Health.

375 (iii) A "capital expenditure" shall include the
376 acquisition, whether by lease, sufferance, gift, devise, legacy,
377 settlement of a trust or other means, of any facility or part
378 thereof, or equipment for a facility, the expenditure for which
379 would have been considered a capital expenditure if acquired by
380 purchase. Transactions which are separated in time but are
381 planned to be undertaken within twelve (12) months of each other
382 and are components of an overall plan for meeting patient care
383 objectives shall, for purposes of this definition, be viewed in
384 their entirety without regard to their timing.

385 (iv) In those instances where a health care
386 facility or other provider of health services proposes to provide
387 a service in which the capital expenditure for major medical
388 equipment or other than major medical equipment or a combination
389 of the two (2) may have been split between separate parties, the
390 total capital expenditure required to provide the proposed service
391 shall be considered in determining the necessity of certificate of
392 need review and in determining the appropriate certificate of need
393 review fee to be paid. The capital expenditure associated with
394 facilities and equipment to provide services in Mississippi shall



395 be considered regardless of where the capital expenditure was
396 made, in state or out of state, and regardless of the domicile of
397 the party making the capital expenditure, in state or out of
398 state.

399 (d) "Change of ownership" includes, but is not limited
400 to, inter vivos gifts, purchases, transfers, lease arrangements,
401 cash and/or stock transactions or other comparable arrangements
402 whenever any person or entity acquires or controls a majority
403 interest of an existing health care facility, and/or the change of
404 ownership of major medical equipment, a health service, or an
405 institutional health service. Changes of ownership from
406 partnerships, single proprietorships or corporations to another
407 form of ownership are specifically included. However, "change of
408 ownership" shall not include any inherited interest acquired as a
409 result of a testamentary instrument or under the laws of descent
410 and distribution of the State of Mississippi.

411 (e) "Commencement of construction" means that all of
412 the following have been completed with respect to a proposal or
413 project proposing construction, renovating, remodeling or
414 alteration:

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



419 plans which have been approved by the licensing authority of the
420 State Department of Health;

421 (ii) Any and all permits and/or approvals deemed
422 lawfully necessary by all authorities with responsibility for such
423 have been secured; and

424 (iii) Actual bona fide undertaking of the subject
425 proposal has commenced, and a progress payment of at least one
426 percent (1%) of the total cost price of the contract has been paid
427 to the contractor by the proponent, and the requirements of this
428 paragraph (e) have been certified to in writing by the State
429 Department of Health.

430 Force account expenditures, such as deposits, securities,
431 bonds, et cetera, may, in the discretion of the State Department
432 of Health, be excluded from any or all of the provisions of
433 defined commencement of construction.

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

437 (g) "Develop," when used in connection with health
438 services, means to undertake those activities which, on their
439 completion, will result in the offering of a new institutional
440 health service or the incurring of a financial obligation as
441 defined under applicable state law in relation to the offering of
442 such services.



443 (h) "Health care facility" includes hospitals,
444 psychiatric hospitals, chemical dependency hospitals, skilled
445 nursing facilities, end-stage renal disease (ESRD) facilities,
446 including freestanding hemodialysis units, intermediate care
447 facilities, ambulatory surgical facilities, intermediate care
448 facilities for * * * individuals with intellectual disabilities,
449 home health agencies, psychiatric residential treatment
450 facilities, pediatric skilled nursing facilities, long-term care
451 hospitals, comprehensive medical rehabilitation facilities,
452 including facilities owned or operated by the state or a political
453 subdivision or instrumentality of the state, but does not include
454 Christian Science sanatoriums operated or listed and certified by
455 the First Church of Christ, Scientist, Boston, Massachusetts.
456 This definition shall not apply to facilities for the private
457 practice, either independently or by incorporated medical groups,
458 of physicians, dentists or health care professionals except where
459 such facilities are an integral part of an institutional health
460 service. The various health care facilities listed in this
461 paragraph shall be defined as follows:

462 (i) "Hospital" means an institution which is
463 primarily engaged in providing to inpatients, by or under the
464 supervision of physicians, diagnostic services and therapeutic
465 services for medical diagnosis, treatment and care of injured,
466 disabled or sick persons, or rehabilitation services for the



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

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

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

478 (iv) "Skilled nursing facility" means an
479 institution or a distinct part of an institution which is
480 primarily engaged in providing to inpatients skilled nursing care
481 and related services for patients who require medical or nursing
482 care or rehabilitation services for the rehabilitation of injured,
483 disabled or sick persons.

484 (v) "End-stage renal disease (ESRD) facilities"
485 means kidney disease treatment centers, which includes
486 freestanding hemodialysis units and limited care facilities. The
487 term "limited care facility" generally refers to an
488 off-hospital-premises facility, regardless of whether it is
489 provider or nonprovider operated, which is engaged primarily in
490 furnishing maintenance hemodialysis services to stabilized
491 patients.



492 (vi) "Intermediate care facility" means an
493 institution which provides, on a regular basis, health-related
494 care and services to individuals who do not require the degree of
495 care and treatment which a hospital or skilled nursing facility is
496 designed to provide, but who, because of their mental or physical
497 condition, require health-related care and services (above the
498 level of room and board).

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

506 (viii) "Intermediate care facility for * * *
507 individuals with intellectual disabilities" means an intermediate
508 care facility that provides health or rehabilitative services in a
509 planned program of activities to persons with an intellectual
510 disability, also including, but not limited to, cerebral palsy and
511 other conditions covered by the Federal Developmentally Disabled
512 Assistance and Bill of Rights Act, Public Law 94-103.

513 (ix) "Home health agency" means a public or
514 privately owned agency or organization, or a subdivision of such
515 an agency or organization, properly authorized to conduct business
516 in Mississippi, which is primarily engaged in providing to



517 individuals at the written direction of a licensed physician, in
518 the individual's place of residence, skilled nursing services
519 provided by or under the supervision of a registered nurse
520 licensed to practice in Mississippi, and one or more of the
521 following services or items:

- 522 1. Physical, occupational or speech therapy;
- 523 2. Medical social services;
- 524 3. Part-time or intermittent services of a
525 home health aide;
- 526 4. Other services as approved by the
527 licensing agency for home health agencies;
- 528 5. Medical supplies, other than drugs and
529 biologicals, and the use of medical appliances; or
- 530 6. Medical services provided by an intern or
531 resident-in-training at a hospital under a teaching program of
532 such hospital.

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

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



542 (x) "Psychiatric residential treatment facility"
543 means any nonhospital establishment with permanent licensed
544 facilities which provides a twenty-four-hour program of care by
545 qualified therapists, including, but not limited to, duly licensed
546 mental health professionals, psychiatrists, psychologists,
547 psychotherapists and licensed certified social workers, for
548 emotionally disturbed children and adolescents referred to such
549 facility by a court, local school district or by the Department of
550 Human Services, who are not in an acute phase of illness requiring
551 the services of a psychiatric hospital, and are in need of such
552 restorative treatment services. For purposes of this
553 subparagraph, the term "emotionally disturbed" means a condition
554 exhibiting one or more of the following characteristics over a
555 long period of time and to a marked degree, which adversely
556 affects educational performance:

- 557 1. An inability to learn which cannot be
558 explained by intellectual, sensory or health factors;
- 559 2. An inability to build or maintain
560 satisfactory relationships with peers and teachers;
- 561 3. Inappropriate types of behavior or
562 feelings under normal circumstances;
- 563 4. A general pervasive mood of unhappiness or
564 depression; or
- 565 5. A tendency to develop physical symptoms or
566 fears associated with personal or school problems. An



567 establishment furnishing primarily domiciliary care is not within
568 this definition.

569 (xi) "Pediatric skilled nursing facility" means an
570 institution or a distinct part of an institution that is primarily
571 engaged in providing to inpatients skilled nursing care and
572 related services for persons under twenty-one (21) years of age
573 who require medical or nursing care or rehabilitation services for
574 the rehabilitation of injured, disabled or sick persons.

575 (xii) "Long-term care hospital" means a
576 freestanding, Medicare-certified hospital that has an average
577 length of inpatient stay greater than twenty-five (25) days, which
578 is primarily engaged in providing chronic or long-term medical
579 care to patients who do not require more than three (3) hours of
580 rehabilitation or comprehensive rehabilitation per day, and has a
581 transfer agreement with an acute care medical center and a
582 comprehensive medical rehabilitation facility. Long-term care
583 hospitals shall not use rehabilitation, comprehensive medical
584 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
585 nursing home, skilled nursing facility or sub-acute care facility
586 in association with its name.

587 (xiii) "Comprehensive medical rehabilitation
588 facility" means a hospital or hospital unit that is licensed
589 and/or certified as a comprehensive medical rehabilitation
590 facility which provides specialized programs that are accredited
591 by the Commission on Accreditation of Rehabilitation Facilities



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

596 1. Includes evaluation and treatment of
597 individuals with physical disabilities;

598 2. Emphasizes education and training of
599 individuals with disabilities;

600 3. Incorporates at least the following core
601 disciplines:

602 * * *a. Physical Therapy;

603 * * *b. Occupational Therapy;

604 * * *c. Speech and Language Therapy;

605 * * *d. Rehabilitation Nursing; and

606 4. Incorporates at least three (3) of the
607 following disciplines:

608 * * *a. Psychology;

609 * * *b. Audiology;

610 * * *c. Respiratory Therapy;

611 * * *d. Therapeutic Recreation;

612 * * *e. Orthotics;

613 * * *f. Prosthetics;

614 * * *g. Special Education;

615 * * *h. Vocational Rehabilitation;

616 * * *i. Psychotherapy;



617 * * *j. Social Work;

618 * * *k. Rehabilitation Engineering.

619 These specialized programs include, but are not limited to:
620 spinal cord injury programs, head injury programs and infant and
621 early childhood development programs.

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

625 (i) Provides or otherwise makes available to
626 enrolled participants health care services, including
627 substantially the following basic health care services: usual
628 physician services, hospitalization, laboratory, x-ray, emergency
629 and preventive services, and out-of-area coverage;

630 (ii) Is compensated (except for copayments) for
631 the provision of the basic health care services listed in
632 subparagraph (i) of this paragraph to enrolled participants on a
633 predetermined basis; and

634 (iii) Provides physician services primarily:

635 1. Directly through physicians who are either
636 employees or partners of such organization; or

637 2. Through arrangements with individual
638 physicians or one or more groups of physicians (organized on a
639 group practice or individual practice basis).

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



642 used in planning for specified health facilities and services and
643 to be used when considering certificate of need applications to
644 provide health facilities and services.

645 (k) "Health services" means clinically related (i.e.,
646 diagnostic, treatment or rehabilitative) services and includes
647 alcohol, drug abuse, mental health and home health care services.
648 "Clinical health services" shall only include those activities
649 which contemplate any change in the existing bed complement of any
650 health care facility through the addition or conversion of any
651 beds, under Section 41-7-191(1)(c) or propose to offer any health
652 services if those services have not been provided on a regular
653 basis by the proposed provider of such services within the period
654 of twelve (12) months prior to the time such services would be
655 offered, under Section 41-7-191(1)(d). "Nonclinical health
656 services" shall be all other services which do not involve any
657 change in the existing bed complement or offering health services
658 as described above.

659 (l) "Institutional health services" shall mean health
660 services provided in or through health care facilities and shall
661 include the entities in or through which such services are
662 provided.

663 (m) "Major medical equipment" means medical equipment
664 designed for providing medical or any health-related service which
665 costs in excess of One Million Five Hundred Thousand Dollars
666 (\$1,500,000.00). However, this definition shall not be applicable



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

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

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

680 (p) "Person" means an individual, a trust or estate,
681 partnership, corporation (including associations, joint-stock
682 companies and insurance companies), the state or a political
683 subdivision or instrumentality of the state.

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

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



692 certificate of need, radiation therapy services shall not include
693 low energy, superficial, external beam x-ray treatment of
694 superficial skin lesions.

695 (s) "Secretary" means the Secretary of Health and Human
696 Services, and any officer or employee of the Department of Health
697 and Human Services to whom the authority involved has been
698 delegated.

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

704 (u) "State Health Planning and Development Agency"
705 means the agency of state government designated to perform health
706 planning and resource development programs for the State of
707 Mississippi.

708 **SECTION 6.** Section 41-7-191, Mississippi Code of 1972, is
709 amended as follows:

710 41-7-191. (1) No person shall engage in any of the
711 following activities without obtaining the required certificate of
712 need:

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



717 (b) The relocation of a health care facility or portion
718 thereof, or major medical equipment, unless such relocation of a
719 health care facility or portion thereof, or major medical
720 equipment, which does not involve a capital expenditure by or on
721 behalf of a health care facility, is within five thousand two
722 hundred eighty (5,280) feet from the main entrance of the health
723 care facility;

724 (c) Any change in the existing bed complement of any
725 health care facility through the addition or conversion of any
726 beds or the alteration, modernizing or refurbishing of any unit or
727 department in which the beds may be located; however, if a health
728 care facility has voluntarily delicensed some of its existing bed
729 complement, it may later relicense some or all of its delicensed
730 beds without the necessity of having to acquire a certificate of
731 need. The State Department of Health shall maintain a record of
732 the delicensing health care facility and its voluntarily
733 delicensed beds and continue counting those beds as part of the
734 state's total bed count for health care planning purposes. If a
735 health care facility that has voluntarily delicensed some of its
736 beds later desires to relicense some or all of its voluntarily
737 delicensed beds, it shall notify the State Department of Health of
738 its intent to increase the number of its licensed beds. The State
739 Department of Health shall survey the health care facility within
740 thirty (30) days of that notice and, if appropriate, issue the
741 health care facility a new license reflecting the new contingent



742 of beds. However, in no event may a health care facility that has
743 voluntarily delicensed some of its beds be reissued a license to
744 operate beds in excess of its bed count before the voluntary
745 delicensure of some of its beds without seeking certificate of
746 need approval;

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

- 751 (i) Open-heart surgery services;
- 752 (ii) Cardiac catheterization services;
- 753 (iii) Comprehensive inpatient rehabilitation
754 services;
- 755 (iv) Licensed psychiatric services;
- 756 (v) Licensed chemical dependency services;
- 757 (vi) Radiation therapy services;
- 758 (vii) Diagnostic imaging services of an invasive
759 nature, i.e. invasive digital angiography;
- 760 (viii) Nursing home care as defined in
761 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 762 (ix) Home health services;
- 763 (x) Swing-bed services;
- 764 (xi) Ambulatory surgical services;
- 765 (xii) Magnetic resonance imaging services;
- 766 (xiii) [Deleted]



767 (xiv) Long-term care hospital services;
768 (xv) Positron emission tomography (PET) services;
769 (e) The relocation of one or more health services from
770 one physical facility or site to another physical facility or
771 site, unless such relocation, which does not involve a capital
772 expenditure by or on behalf of a health care facility, (i) is to a
773 physical facility or site within five thousand two hundred eighty
774 (5,280) feet from the main entrance of the health care facility
775 where the health care service is located, or (ii) is the result of
776 an order of a court of appropriate jurisdiction or a result of
777 pending litigation in such court, or by order of the State
778 Department of Health, or by order of any other agency or legal
779 entity of the state, the federal government, or any political
780 subdivision of either, whose order is also approved by the State
781 Department of Health;
782 (f) The acquisition or otherwise control of any major
783 medical equipment for the provision of medical services; however,
784 (i) the acquisition of any major medical equipment used only for
785 research purposes, and (ii) the acquisition of major medical
786 equipment to replace medical equipment for which a facility is
787 already providing medical services and for which the State
788 Department of Health has been notified before the date of such
789 acquisition shall be exempt from this paragraph; an acquisition
790 for less than fair market value must be reviewed, if the
791 acquisition at fair market value would be subject to review;



792 (g) Changes of ownership of existing health care
793 facilities in which a notice of intent is not filed with the State
794 Department of Health at least thirty (30) days prior to the date
795 such change of ownership occurs, or a change in services or bed
796 capacity as prescribed in paragraph (c) or (d) of this subsection
797 as a result of the change of ownership; an acquisition for less
798 than fair market value must be reviewed, if the acquisition at
799 fair market value would be subject to review;

800 (h) The change of ownership of any health care facility
801 defined in subparagraphs (iv), (vi) and (viii) of Section
802 41-7-173(h), in which a notice of intent as described in paragraph
803 (g) has not been filed and if the Executive Director, Division of
804 Medicaid, Office of the Governor, has not certified in writing
805 that there will be no increase in allowable costs to Medicaid from
806 revaluation of the assets or from increased interest and
807 depreciation as a result of the proposed change of ownership;

808 (i) Any activity described in paragraphs (a) through
809 (h) if undertaken by any person if that same activity would
810 require certificate of need approval if undertaken by a health
811 care facility;

812 (j) Any capital expenditure or deferred capital
813 expenditure by or on behalf of a health care facility not covered
814 by paragraphs (a) through (h);

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



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

821 (l) The replacement or relocation of a health care
822 facility designated as a critical access hospital shall be exempt
823 from subsection (1) of this section so long as the critical access
824 hospital complies with all applicable federal law and regulations
825 regarding such replacement or relocation;

826 (m) Reopening a health care facility that has ceased to
827 operate for a period of sixty (60) months or more, which reopening
828 requires a certificate of need for the establishment of a new
829 health care facility.

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

837 (a) The department may issue a certificate of need to
838 any person proposing the new construction of any health care
839 facility defined in subparagraphs (iv) and (vi) of Section
840 41-7-173(h) as part of a life care retirement facility, in any
841 county bordering on the Gulf of Mexico in which is located a



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

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

854 (c) The department may issue a certificate of need for
855 the addition to or expansion of any skilled nursing facility that
856 is part of an existing continuing care retirement community
857 located in Madison County, provided that the recipient of the
858 certificate of need agrees in writing that the skilled nursing
859 facility will not at any time participate in the Medicaid program
860 (Section 43-13-101 et seq.) or admit or keep any patients in the
861 skilled nursing facility who are participating in the Medicaid
862 program. This written agreement by the recipient of the
863 certificate of need shall be fully binding on any subsequent owner
864 of the skilled nursing facility, if the ownership of the facility
865 is transferred at any time after the issuance of the certificate
866 of need. Agreement that the skilled nursing facility will not



867 participate in the Medicaid program shall be a condition of the
868 issuance of a certificate of need to any person under this
869 paragraph (c), and if such skilled nursing facility at any time
870 after the issuance of the certificate of need, regardless of the
871 ownership of the facility, participates in the Medicaid program or
872 admits or keeps any patients in the facility who are participating
873 in the Medicaid program, the State Department of Health shall
874 revoke the certificate of need, if it is still outstanding, and
875 shall deny or revoke the license of the skilled nursing facility,
876 at the time that the department determines, after a hearing
877 complying with due process, that the facility has failed to comply
878 with any of the conditions upon which the certificate of need was
879 issued, as provided in this paragraph and in the written agreement
880 by the recipient of the certificate of need. The total number of
881 beds that may be authorized under the authority of this paragraph
882 (c) shall not exceed sixty (60) beds.

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



891 (e) The State Department of Health may issue a
892 certificate of need for the construction of a nursing facility or
893 the conversion of beds to nursing facility beds at a personal care
894 facility for the elderly in Lowndes County that is owned and
895 operated by a Mississippi nonprofit corporation, not to exceed
896 sixty (60) beds. From and after July 1, 1999, there shall be no
897 prohibition or restrictions on participation in the Medicaid
898 program (Section 43-13-101 et seq.) for the beds in the nursing
899 facility that were authorized under this paragraph (e).

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

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



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

924 (i) The department may issue a certificate of need for
925 the new construction of a skilled nursing facility in Leake
926 County, provided that the recipient of the certificate of need
927 agrees in writing that the skilled nursing facility will not at
928 any time participate in the Medicaid program (Section 43-13-101 et
929 seq.) or admit or keep any patients in the skilled nursing
930 facility who are participating in the Medicaid program. This
931 written agreement by the recipient of the certificate of need
932 shall be fully binding on any subsequent owner of the skilled
933 nursing facility, if the ownership of the facility is transferred
934 at any time after the issuance of the certificate of need.
935 Agreement that the skilled nursing facility will not participate
936 in the Medicaid program shall be a condition of the issuance of a
937 certificate of need to any person under this paragraph (i), and if
938 such skilled nursing facility at any time after the issuance of
939 the certificate of need, regardless of the ownership of the
940 facility, participates in the Medicaid program or admits or keeps



941 any patients in the facility who are participating in the Medicaid
942 program, the State Department of Health shall revoke the
943 certificate of need, if it is still outstanding, and shall deny or
944 revoke the license of the skilled nursing facility, at the time
945 that the department determines, after a hearing complying with due
946 process, that the facility has failed to comply with any of the
947 conditions upon which the certificate of need was issued, as
948 provided in this paragraph and in the written agreement by the
949 recipient of the certificate of need. The provision of Section
950 41-7-193(1) regarding substantial compliance of the projection of
951 need as reported in the current State Health Plan is waived for
952 the purposes of this paragraph. The total number of nursing
953 facility beds that may be authorized by any certificate of need
954 issued under this paragraph (i) shall not exceed sixty (60) beds.
955 If the skilled nursing facility authorized by the certificate of
956 need issued under this paragraph is not constructed and fully
957 operational within eighteen (18) months after July 1, 1994, the
958 State Department of Health, after a hearing complying with due
959 process, shall revoke the certificate of need, if it is still
960 outstanding, and shall not issue a license for the skilled nursing
961 facility at any time after the expiration of the eighteen-month
962 period.

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



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

974 (k) The department may issue a certificate of need for
975 the construction of a nursing facility at a continuing care
976 retirement community in Lowndes County. The total number of beds
977 that may be authorized under the authority of this paragraph (k)
978 shall not exceed sixty (60) beds. From and after July 1, 2001,
979 the prohibition on the facility participating in the Medicaid
980 program (Section 43-13-101 et seq.) that was a condition of
981 issuance of the certificate of need under this paragraph (k) shall
982 be revised as follows: The nursing facility may participate in
983 the Medicaid program from and after July 1, 2001, if the owner of
984 the facility on July 1, 2001, agrees in writing that no more than
985 thirty (30) of the beds at the facility will be certified for
986 participation in the Medicaid program, and that no claim will be
987 submitted for Medicaid reimbursement for more than thirty (30)
988 patients in the facility in any month or for any patient in the
989 facility who is in a bed that is not Medicaid-certified. This
990 written agreement by the owner of the facility shall be a



991 condition of licensure of the facility, and the agreement shall be
992 fully binding on any subsequent owner of the facility if the
993 ownership of the facility is transferred at any time after July 1,
994 2001. After this written agreement is executed, the Division of
995 Medicaid and the State Department of Health shall not certify more
996 than thirty (30) of the beds in the facility for participation in
997 the Medicaid program. If the facility violates the terms of the
998 written agreement by admitting or keeping in the facility on a
999 regular or continuing basis more than thirty (30) patients who are
1000 participating in the Medicaid program, the State Department of
1001 Health shall revoke the license of the facility, at the time that
1002 the department determines, after a hearing complying with due
1003 process, that the facility has violated the written agreement.

1004 (l) Provided that funds are specifically appropriated
1005 therefor by the Legislature, the department may issue a
1006 certificate of need to a rehabilitation hospital in Hinds County
1007 for the construction of a sixty-bed long-term care nursing
1008 facility dedicated to the care and treatment of persons with
1009 severe disabilities including persons with spinal cord and
1010 closed-head injuries and ventilator dependent patients. The
1011 provisions of Section 41-7-193(1) regarding substantial compliance
1012 with projection of need as reported in the current State Health
1013 Plan are waived for the purpose of this paragraph.

1014 (m) The State Department of Health may issue a
1015 certificate of need to a county-owned hospital in the Second



1016 Judicial District of Panola County for the conversion of not more
1017 than seventy-two (72) hospital beds to nursing facility beds,
1018 provided that the recipient of the certificate of need agrees in
1019 writing that none of the beds at the nursing facility will be
1020 certified for participation in the Medicaid program (Section
1021 43-13-101 et seq.), and that no claim will be submitted for
1022 Medicaid reimbursement in the nursing facility in any day or for
1023 any patient in the nursing facility. This written agreement by
1024 the recipient of the certificate of need shall be a condition of
1025 the issuance of the certificate of need under this paragraph, and
1026 the agreement shall be fully binding on any subsequent owner of
1027 the nursing facility if the ownership of the nursing facility is
1028 transferred at any time after the issuance of the certificate of
1029 need. After this written agreement is executed, the Division of
1030 Medicaid and the State Department of Health shall not certify any
1031 of the beds in the nursing facility for participation in the
1032 Medicaid program. If the nursing facility violates the terms of
1033 the written agreement by admitting or keeping in the nursing
1034 facility on a regular or continuing basis any patients who are
1035 participating in the Medicaid program, the State Department of
1036 Health shall revoke the license of the nursing facility, at the
1037 time that the department determines, after a hearing complying
1038 with due process, that the nursing facility has violated the
1039 condition upon which the certificate of need was issued, as
1040 provided in this paragraph and in the written agreement. If the



1041 certificate of need authorized under this paragraph is not issued
1042 within twelve (12) months after July 1, 2001, the department shall
1043 deny the application for the certificate of need and shall not
1044 issue the certificate of need at any time after the twelve-month
1045 period, unless the issuance is contested. If the certificate of
1046 need is issued and substantial construction of the nursing
1047 facility beds has not commenced within eighteen (18) months after
1048 July 1, 2001, the State Department of Health, after a hearing
1049 complying with due process, shall revoke the certificate of need
1050 if it is still outstanding, and the department shall not issue a
1051 license for the nursing facility at any time after the
1052 eighteen-month period. However, if the issuance of the
1053 certificate of need is contested, the department shall require
1054 substantial construction of the nursing facility beds within six
1055 (6) months after final adjudication on the issuance of the
1056 certificate of need.

1057 (n) The department may issue a certificate of need for
1058 the new construction, addition or conversion of skilled nursing
1059 facility beds in Madison County, provided that the recipient of
1060 the certificate of need agrees in writing that the skilled nursing
1061 facility will not at any time participate in the Medicaid program
1062 (Section 43-13-101 et seq.) or admit or keep any patients in the
1063 skilled nursing facility who are participating in the Medicaid
1064 program. This written agreement by the recipient of the
1065 certificate of need shall be fully binding on any subsequent owner



1066 of the skilled nursing facility, if the ownership of the facility
1067 is transferred at any time after the issuance of the certificate
1068 of need. Agreement that the skilled nursing facility will not
1069 participate in the Medicaid program shall be a condition of the
1070 issuance of a certificate of need to any person under this
1071 paragraph (n), and if such skilled nursing facility at any time
1072 after the issuance of the certificate of need, regardless of the
1073 ownership of the facility, participates in the Medicaid program or
1074 admits or keeps any patients in the facility who are participating
1075 in the Medicaid program, the State Department of Health shall
1076 revoke the certificate of need, if it is still outstanding, and
1077 shall deny or revoke the license of the skilled nursing facility,
1078 at the time that the department determines, after a hearing
1079 complying with due process, that the facility has failed to comply
1080 with any of the conditions upon which the certificate of need was
1081 issued, as provided in this paragraph and in the written agreement
1082 by the recipient of the certificate of need. The total number of
1083 nursing facility beds that may be authorized by any certificate of
1084 need issued under this paragraph (n) shall not exceed sixty (60)
1085 beds. If the certificate of need authorized under this paragraph
1086 is not issued within twelve (12) months after July 1, 1998, the
1087 department shall deny the application for the certificate of need
1088 and shall not issue the certificate of need at any time after the
1089 twelve-month period, unless the issuance is contested. If the
1090 certificate of need is issued and substantial construction of the



1091 nursing facility beds has not commenced within eighteen (18)
1092 months after July 1, 1998, the State Department of Health, after a
1093 hearing complying with due process, shall revoke the certificate
1094 of need if it is still outstanding, and the department shall not
1095 issue a license for the nursing facility at any time after the
1096 eighteen-month period. However, if the issuance of the
1097 certificate of need is contested, the department shall require
1098 substantial construction of the nursing facility beds within six
1099 (6) months after final adjudication on the issuance of the
1100 certificate of need.

1101 (o) The department may issue a certificate of need for
1102 the new construction, addition or conversion of skilled nursing
1103 facility beds in Leake County, provided that the recipient of the
1104 certificate of need agrees in writing that the skilled nursing
1105 facility will not at any time participate in the Medicaid program
1106 (Section 43-13-101 et seq.) or admit or keep any patients in the
1107 skilled nursing facility who are participating in the Medicaid
1108 program. This written agreement by the recipient of the
1109 certificate of need shall be fully binding on any subsequent owner
1110 of the skilled nursing facility, if the ownership of the facility
1111 is transferred at any time after the issuance of the certificate
1112 of need. Agreement that the skilled nursing facility will not
1113 participate in the Medicaid program shall be a condition of the
1114 issuance of a certificate of need to any person under this
1115 paragraph (o), and if such skilled nursing facility at any time



1116 after the issuance of the certificate of need, regardless of the
1117 ownership of the facility, participates in the Medicaid program or
1118 admits or keeps any patients in the facility who are participating
1119 in the Medicaid program, the State Department of Health shall
1120 revoke the certificate of need, if it is still outstanding, and
1121 shall deny or revoke the license of the skilled nursing facility,
1122 at the time that the department determines, after a hearing
1123 complying with due process, that the facility has failed to comply
1124 with any of the conditions upon which the certificate of need was
1125 issued, as provided in this paragraph and in the written agreement
1126 by the recipient of the certificate of need. The total number of
1127 nursing facility beds that may be authorized by any certificate of
1128 need issued under this paragraph (o) shall not exceed sixty (60)
1129 beds. If the certificate of need authorized under this paragraph
1130 is not issued within twelve (12) months after July 1, 2001, the
1131 department shall deny the application for the certificate of need
1132 and shall not issue the certificate of need at any time after the
1133 twelve-month period, unless the issuance is contested. If the
1134 certificate of need is issued and substantial construction of the
1135 nursing facility beds has not commenced within eighteen (18)
1136 months after July 1, 2001, the State Department of Health, after a
1137 hearing complying with due process, shall revoke the certificate
1138 of need if it is still outstanding, and the department shall not
1139 issue a license for the nursing facility at any time after the
1140 eighteen-month period. However, if the issuance of the



1141 certificate of need is contested, the department shall require
1142 substantial construction of the nursing facility beds within six
1143 (6) months after final adjudication on the issuance of the
1144 certificate of need.

1145 (p) The department may issue a certificate of need for
1146 the construction of a municipally owned nursing facility within
1147 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1148 beds, provided that the recipient of the certificate of need
1149 agrees in writing that the skilled nursing facility will not at
1150 any time participate in the Medicaid program (Section 43-13-101 et
1151 seq.) or admit or keep any patients in the skilled nursing
1152 facility who are participating in the Medicaid program. This
1153 written agreement by the recipient of the certificate of need
1154 shall be fully binding on any subsequent owner of the skilled
1155 nursing facility, if the ownership of the facility is transferred
1156 at any time after the issuance of the certificate of need.
1157 Agreement that the skilled nursing facility will not participate
1158 in the Medicaid program shall be a condition of the issuance of a
1159 certificate of need to any person under this paragraph (p), and if
1160 such skilled nursing facility at any time after the issuance of
1161 the certificate of need, regardless of the ownership of the
1162 facility, participates in the Medicaid program or admits or keeps
1163 any patients in the facility who are participating in the Medicaid
1164 program, the State Department of Health shall revoke the
1165 certificate of need, if it is still outstanding, and shall deny or



1166 revoke the license of the skilled nursing facility, at the time
1167 that the department determines, after a hearing complying with due
1168 process, that the facility has failed to comply with any of the
1169 conditions upon which the certificate of need was issued, as
1170 provided in this paragraph and in the written agreement by the
1171 recipient of the certificate of need. The provision of Section
1172 41-7-193(1) regarding substantial compliance of the projection of
1173 need as reported in the current State Health Plan is waived for
1174 the purposes of this paragraph. If the certificate of need
1175 authorized under this paragraph is not issued within twelve (12)
1176 months after July 1, 1998, the department shall deny the
1177 application for the certificate of need and shall not issue the
1178 certificate of need at any time after the twelve-month period,
1179 unless the issuance is contested. If the certificate of need is
1180 issued and substantial construction of the nursing facility beds
1181 has not commenced within eighteen (18) months after July 1, 1998,
1182 the State Department of Health, after a hearing complying with due
1183 process, shall revoke the certificate of need if it is still
1184 outstanding, and the department shall not issue a license for the
1185 nursing facility at any time after the eighteen-month period.
1186 However, if the issuance of the certificate of need is contested,
1187 the department shall require substantial construction of the
1188 nursing facility beds within six (6) months after final
1189 adjudication on the issuance of the certificate of need.



1190 (q) (i) Beginning on July 1, 1999, the State
1191 Department of Health shall issue certificates of need during each
1192 of the next four (4) fiscal years for the construction or
1193 expansion of nursing facility beds or the conversion of other beds
1194 to nursing facility beds in each county in the state having a need
1195 for fifty (50) or more additional nursing facility beds, as shown
1196 in the fiscal year 1999 State Health Plan, in the manner provided
1197 in this paragraph (q). The total number of nursing facility beds
1198 that may be authorized by any certificate of need authorized under
1199 this paragraph (q) shall not exceed sixty (60) beds.

1200 (ii) Subject to the provisions of subparagraph
1201 (v), during each of the next four (4) fiscal years, the department
1202 shall issue six (6) certificates of need for new nursing facility
1203 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1204 (1) certificate of need shall be issued for new nursing facility
1205 beds in the county in each of the four (4) Long-Term Care Planning
1206 Districts designated in the fiscal year 1999 State Health Plan
1207 that has the highest need in the district for those beds; and two
1208 (2) certificates of need shall be issued for new nursing facility
1209 beds in the two (2) counties from the state at large that have the
1210 highest need in the state for those beds, when considering the
1211 need on a statewide basis and without regard to the Long-Term Care
1212 Planning Districts in which the counties are located. During
1213 fiscal year 2003, one (1) certificate of need shall be issued for
1214 new nursing facility beds in any county having a need for fifty



1215 (50) or more additional nursing facility beds, as shown in the
1216 fiscal year 1999 State Health Plan, that has not received a
1217 certificate of need under this paragraph (q) during the three (3)
1218 previous fiscal years. During fiscal year 2000, in addition to
1219 the six (6) certificates of need authorized in this subparagraph,
1220 the department also shall issue a certificate of need for new
1221 nursing facility beds in Amite County and a certificate of need
1222 for new nursing facility beds in Carroll County.

1223 (iii) Subject to the provisions of subparagraph
1224 (v), the certificate of need issued under subparagraph (ii) for
1225 nursing facility beds in each Long-Term Care Planning District
1226 during each fiscal year shall first be available for nursing
1227 facility beds in the county in the district having the highest
1228 need for those beds, as shown in the fiscal year 1999 State Health
1229 Plan. If there are no applications for a certificate of need for
1230 nursing facility beds in the county having the highest need for
1231 those beds by the date specified by the department, then the
1232 certificate of need shall be available for nursing facility beds
1233 in other counties in the district in descending order of the need
1234 for those beds, from the county with the second highest need to
1235 the county with the lowest need, until an application is received
1236 for nursing facility beds in an eligible county in the district.

1237 (iv) Subject to the provisions of subparagraph
1238 (v), the certificate of need issued under subparagraph (ii) for
1239 nursing facility beds in the two (2) counties from the state at



1240 large during each fiscal year shall first be available for nursing
1241 facility beds in the two (2) counties that have the highest need
1242 in the state for those beds, as shown in the fiscal year 1999
1243 State Health Plan, when considering the need on a statewide basis
1244 and without regard to the Long-Term Care Planning Districts in
1245 which the counties are located. If there are no applications for
1246 a certificate of need for nursing facility beds in either of the
1247 two (2) counties having the highest need for those beds on a
1248 statewide basis by the date specified by the department, then the
1249 certificate of need shall be available for nursing facility beds
1250 in other counties from the state at large in descending order of
1251 the need for those beds on a statewide basis, from the county with
1252 the second highest need to the county with the lowest need, until
1253 an application is received for nursing facility beds in an
1254 eligible county from the state at large.

1255 (v) If a certificate of need is authorized to be
1256 issued under this paragraph (q) for nursing facility beds in a
1257 county on the basis of the need in the Long-Term Care Planning
1258 District during any fiscal year of the four-year period, a
1259 certificate of need shall not also be available under this
1260 paragraph (q) for additional nursing facility beds in that county
1261 on the basis of the need in the state at large, and that county
1262 shall be excluded in determining which counties have the highest
1263 need for nursing facility beds in the state at large for that
1264 fiscal year. After a certificate of need has been issued under



1265 this paragraph (q) for nursing facility beds in a county during
1266 any fiscal year of the four-year period, a certificate of need
1267 shall not be available again under this paragraph (q) for
1268 additional nursing facility beds in that county during the
1269 four-year period, and that county shall be excluded in determining
1270 which counties have the highest need for nursing facility beds in
1271 succeeding fiscal years.

1272 (vi) If more than one (1) application is made for
1273 a certificate of need for nursing home facility beds available
1274 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1275 County, and one (1) of the applicants is a county-owned hospital
1276 located in the county where the nursing facility beds are
1277 available, the department shall give priority to the county-owned
1278 hospital in granting the certificate of need if the following
1279 conditions are met:

1280 1. The county-owned hospital fully meets all
1281 applicable criteria and standards required to obtain a certificate
1282 of need for the nursing facility beds; and

1283 2. The county-owned hospital's qualifications
1284 for the certificate of need, as shown in its application and as
1285 determined by the department, are at least equal to the
1286 qualifications of the other applicants for the certificate of
1287 need.

1288 (r) (i) Beginning on July 1, 1999, the State
1289 Department of Health shall issue certificates of need during each



1290 of the next two (2) fiscal years for the construction or expansion
1291 of nursing facility beds or the conversion of other beds to
1292 nursing facility beds in each of the four (4) Long-Term Care
1293 Planning Districts designated in the fiscal year 1999 State Health
1294 Plan, to provide care exclusively to patients with Alzheimer's
1295 disease.

1296 (ii) Not more than twenty (20) beds may be
1297 authorized by any certificate of need issued under this paragraph
1298 (r), and not more than a total of sixty (60) beds may be
1299 authorized in any Long-Term Care Planning District by all
1300 certificates of need issued under this paragraph (r). However,
1301 the total number of beds that may be authorized by all
1302 certificates of need issued under this paragraph (r) during any
1303 fiscal year shall not exceed one hundred twenty (120) beds, and
1304 the total number of beds that may be authorized in any Long-Term
1305 Care Planning District during any fiscal year shall not exceed
1306 forty (40) beds. Of the certificates of need that are issued for
1307 each Long-Term Care Planning District during the next two (2)
1308 fiscal years, at least one (1) shall be issued for beds in the
1309 northern part of the district, at least one (1) shall be issued
1310 for beds in the central part of the district, and at least one (1)
1311 shall be issued for beds in the southern part of the district.

1312 (iii) The State Department of Health, in
1313 consultation with the Department of Mental Health and the Division
1314 of Medicaid, shall develop and prescribe the staffing levels,



1315 space requirements and other standards and requirements that must
1316 be met with regard to the nursing facility beds authorized under
1317 this paragraph (r) to provide care exclusively to patients with
1318 Alzheimer's disease.

1319 (s) The State Department of Health may issue a
1320 certificate of need to a nonprofit skilled nursing facility using
1321 the Green House model of skilled nursing care and located in Yazoo
1322 City, Yazoo County, Mississippi, for the construction, expansion
1323 or conversion of not more than nineteen (19) nursing facility
1324 beds. For purposes of this paragraph (s), the provisions of
1325 Section 41-7-193(1) requiring substantial compliance with the
1326 projection of need as reported in the current State Health Plan
1327 and the provisions of Section 41-7-197 requiring a formal
1328 certificate of need hearing process are waived. There shall be no
1329 prohibition or restrictions on participation in the Medicaid
1330 program for the person receiving the certificate of need
1331 authorized under this paragraph (s).

1332 (t) The State Department of Health shall issue
1333 certificates of need to the owner of a nursing facility in
1334 operation at the time of Hurricane Katrina in Hancock County that
1335 was not operational on December 31, 2005, because of damage
1336 sustained from Hurricane Katrina to authorize the following: (i)
1337 the construction of a new nursing facility in Harrison County;
1338 (ii) the relocation of forty-nine (49) nursing facility beds from
1339 the Hancock County facility to the new Harrison County facility;



1340 (iii) the establishment of not more than twenty (20) non-Medicaid
1341 nursing facility beds at the Hancock County facility; and (iv) the
1342 establishment of not more than twenty (20) non-Medicaid beds at
1343 the new Harrison County facility. The certificates of need that
1344 authorize the non-Medicaid nursing facility beds under
1345 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1346 subject to the following conditions: The owner of the Hancock
1347 County facility and the new Harrison County facility must agree in
1348 writing that no more than fifty (50) of the beds at the Hancock
1349 County facility and no more than forty-nine (49) of the beds at
1350 the Harrison County facility will be certified for participation
1351 in the Medicaid program, and that no claim will be submitted for
1352 Medicaid reimbursement for more than fifty (50) patients in the
1353 Hancock County facility in any month, or for more than forty-nine
1354 (49) patients in the Harrison County facility in any month, or for
1355 any patient in either facility who is in a bed that is not
1356 Medicaid-certified. This written agreement by the owner of the
1357 nursing facilities shall be a condition of the issuance of the
1358 certificates of need under this paragraph (t), and the agreement
1359 shall be fully binding on any later owner or owners of either
1360 facility if the ownership of either facility is transferred at any
1361 time after the certificates of need are issued. After this
1362 written agreement is executed, the Division of Medicaid and the
1363 State Department of Health shall not certify more than fifty (50)
1364 of the beds at the Hancock County facility or more than forty-nine



1365 (49) of the beds at the Harrison County facility for participation
1366 in the Medicaid program. If the Hancock County facility violates
1367 the terms of the written agreement by admitting or keeping in the
1368 facility on a regular or continuing basis more than fifty (50)
1369 patients who are participating in the Medicaid program, or if the
1370 Harrison County facility violates the terms of the written
1371 agreement by admitting or keeping in the facility on a regular or
1372 continuing basis more than forty-nine (49) patients who are
1373 participating in the Medicaid program, the State Department of
1374 Health shall revoke the license of the facility that is in
1375 violation of the agreement, at the time that the department
1376 determines, after a hearing complying with due process, that the
1377 facility has violated the agreement.

1378 (u) The State Department of Health shall issue a
1379 certificate of need to a nonprofit venture for the establishment,
1380 construction and operation of a skilled nursing facility of not
1381 more than sixty (60) beds to provide skilled nursing care for
1382 ventilator dependent or otherwise medically dependent pediatric
1383 patients who require medical and nursing care or rehabilitation
1384 services to be located in a county in which an academic medical
1385 center and a children's hospital are located, and for any
1386 construction and for the acquisition of equipment related to those
1387 beds. The facility shall be authorized to keep such ventilator
1388 dependent or otherwise medically dependent pediatric patients
1389 beyond age twenty-one (21) in accordance with regulations of the



1390 State Board of Health. For purposes of this paragraph (u), the
1391 provisions of Section 41-7-193(1) requiring substantial compliance
1392 with the projection of need as reported in the current State
1393 Health Plan are waived, and the provisions of Section 41-7-197
1394 requiring a formal certificate of need hearing process are waived.
1395 The beds authorized by this paragraph shall be counted as
1396 pediatric skilled nursing facility beds for health planning
1397 purposes under Section 41-7-171 et seq. There shall be no
1398 prohibition of or restrictions on participation in the Medicaid
1399 program for the person receiving the certificate of need
1400 authorized by this paragraph.

1401 (3) The State Department of Health may grant approval for
1402 and issue certificates of need to any person proposing the new
1403 construction of, addition to, conversion of beds of or expansion
1404 of any health care facility defined in subparagraph (x)
1405 (psychiatric residential treatment facility) of Section
1406 41-7-173(h). The total number of beds which may be authorized by
1407 such certificates of need shall not exceed three hundred
1408 thirty-four (334) beds for the entire state.

1409 (a) Of the total number of beds authorized under this
1410 subsection, the department shall issue a certificate of need to a
1411 privately owned psychiatric residential treatment facility in
1412 Simpson County for the conversion of sixteen (16) intermediate
1413 care facility for * * * individuals with intellectual disabilities
1414 (ICF- * * * IID) beds to psychiatric residential treatment facility



1415 beds, provided that facility agrees in writing that the facility
1416 shall give priority for the use of those sixteen (16) beds to
1417 Mississippi residents who are presently being treated in
1418 out-of-state facilities.

1419 (b) Of the total number of beds authorized under this
1420 subsection, the department may issue a certificate or certificates
1421 of need for the construction or expansion of psychiatric
1422 residential treatment facility beds or the conversion of other
1423 beds to psychiatric residential treatment facility beds in Warren
1424 County, not to exceed sixty (60) psychiatric residential treatment
1425 facility beds, provided that the facility agrees in writing that
1426 no more than thirty (30) of the beds at the psychiatric
1427 residential treatment facility will be certified for participation
1428 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1429 any patients other than those who are participating only in the
1430 Medicaid program of another state, and that no claim will be
1431 submitted to the Division of Medicaid for Medicaid reimbursement
1432 for more than thirty (30) patients in the psychiatric residential
1433 treatment facility in any day or for any patient in the
1434 psychiatric residential treatment facility who is in a bed that is
1435 not Medicaid-certified. This written agreement by the recipient
1436 of the certificate of need shall be a condition of the issuance of
1437 the certificate of need under this paragraph, and the agreement
1438 shall be fully binding on any subsequent owner of the psychiatric
1439 residential treatment facility if the ownership of the facility is



1440 transferred at any time after the issuance of the certificate of
1441 need. After this written agreement is executed, the Division of
1442 Medicaid and the State Department of Health shall not certify more
1443 than thirty (30) of the beds in the psychiatric residential
1444 treatment facility for participation in the Medicaid program for
1445 the use of any patients other than those who are participating
1446 only in the Medicaid program of another state. If the psychiatric
1447 residential treatment facility violates the terms of the written
1448 agreement by admitting or keeping in the facility on a regular or
1449 continuing basis more than thirty (30) patients who are
1450 participating in the Mississippi Medicaid program, the State
1451 Department of Health shall revoke the license of the facility, at
1452 the time that the department determines, after a hearing complying
1453 with due process, that the facility has violated the condition
1454 upon which the certificate of need was issued, as provided in this
1455 paragraph and in the written agreement.

1456 The State Department of Health, on or before July 1, 2002,
1457 shall transfer the certificate of need authorized under the
1458 authority of this paragraph (b), or reissue the certificate of
1459 need if it has expired, to River Region Health System.

1460 (c) Of the total number of beds authorized under this
1461 subsection, the department shall issue a certificate of need to a
1462 hospital currently operating Medicaid-certified acute psychiatric
1463 beds for adolescents in DeSoto County, for the establishment of a
1464 forty-bed psychiatric residential treatment facility in DeSoto



1465 County, provided that the hospital agrees in writing (i) that the
1466 hospital shall give priority for the use of those forty (40) beds
1467 to Mississippi residents who are presently being treated in
1468 out-of-state facilities, and (ii) that no more than fifteen (15)
1469 of the beds at the psychiatric residential treatment facility will
1470 be certified for participation in the Medicaid program (Section
1471 43-13-101 et seq.), and that no claim will be submitted for
1472 Medicaid reimbursement for more than fifteen (15) patients in the
1473 psychiatric residential treatment facility in any day or for any
1474 patient in the psychiatric residential treatment facility who is
1475 in a bed that is not Medicaid-certified. This written agreement
1476 by the recipient of the certificate of need shall be a condition
1477 of the issuance of the certificate of need under this paragraph,
1478 and the agreement shall be fully binding on any subsequent owner
1479 of the psychiatric residential treatment facility if the ownership
1480 of the facility is transferred at any time after the issuance of
1481 the certificate of need. After this written agreement is
1482 executed, the Division of Medicaid and the State Department of
1483 Health shall not certify more than fifteen (15) of the beds in the
1484 psychiatric residential treatment facility for participation in
1485 the Medicaid program. If the psychiatric residential treatment
1486 facility violates the terms of the written agreement by admitting
1487 or keeping in the facility on a regular or continuing basis more
1488 than fifteen (15) patients who are participating in the Medicaid
1489 program, the State Department of Health shall revoke the license



1490 of the facility, at the time that the department determines, after
1491 a hearing complying with due process, that the facility has
1492 violated the condition upon which the certificate of need was
1493 issued, as provided in this paragraph and in the written
1494 agreement.

1495 (d) Of the total number of beds authorized under this
1496 subsection, the department may issue a certificate or certificates
1497 of need for the construction or expansion of psychiatric
1498 residential treatment facility beds or the conversion of other
1499 beds to psychiatric treatment facility beds, not to exceed thirty
1500 (30) psychiatric residential treatment facility beds, in either
1501 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1502 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1503 (e) Of the total number of beds authorized under this
1504 subsection (3) the department shall issue a certificate of need to
1505 a privately owned, nonprofit psychiatric residential treatment
1506 facility in Hinds County for an eight-bed expansion of the
1507 facility, provided that the facility agrees in writing that the
1508 facility shall give priority for the use of those eight (8) beds
1509 to Mississippi residents who are presently being treated in
1510 out-of-state facilities.

1511 (f) The department shall issue a certificate of need to
1512 a one-hundred-thirty-four-bed specialty hospital located on
1513 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1514 at 5900 Highway 39 North in Meridian (Lauderdale County),



1515 Mississippi, for the addition, construction or expansion of
1516 child/adolescent psychiatric residential treatment facility beds
1517 in Lauderdale County. As a condition of issuance of the
1518 certificate of need under this paragraph, the facility shall give
1519 priority in admissions to the child/adolescent psychiatric
1520 residential treatment facility beds authorized under this
1521 paragraph to patients who otherwise would require out-of-state
1522 placement. The Division of Medicaid, in conjunction with the
1523 Department of Human Services, shall furnish the facility a list of
1524 all out-of-state patients on a quarterly basis. Furthermore,
1525 notice shall also be provided to the parent, custodial parent or
1526 guardian of each out-of-state patient notifying them of the
1527 priority status granted by this paragraph. For purposes of this
1528 paragraph, the provisions of Section 41-7-193(1) requiring
1529 substantial compliance with the projection of need as reported in
1530 the current State Health Plan are waived. The total number of
1531 child/adolescent psychiatric residential treatment facility beds
1532 that may be authorized under the authority of this paragraph shall
1533 be sixty (60) beds. There shall be no prohibition or restrictions
1534 on participation in the Medicaid program (Section 43-13-101 et
1535 seq.) for the person receiving the certificate of need authorized
1536 under this paragraph or for the beds converted pursuant to the
1537 authority of that certificate of need.

1538 (4) (a) From and after March 25, 2021, the department may
1539 issue a certificate of need to any person for the new construction



1540 of any hospital, psychiatric hospital or chemical dependency
1541 hospital that will contain any child/adolescent psychiatric or
1542 child/adolescent chemical dependency beds, or for the conversion
1543 of any other health care facility to a hospital, psychiatric
1544 hospital or chemical dependency hospital that will contain any
1545 child/adolescent psychiatric or child/adolescent chemical
1546 dependency beds. There shall be no prohibition or restrictions on
1547 participation in the Medicaid program (Section 43-13-101 et seq.)
1548 for the person(s) receiving the certificate(s) of need authorized
1549 under this paragraph (a) or for the beds converted pursuant to the
1550 authority of that certificate of need. In issuing any new
1551 certificate of need for any child/adolescent psychiatric or
1552 child/adolescent chemical dependency beds, either by new
1553 construction or conversion of beds of another category, the
1554 department shall give preference to beds which will be located in
1555 an area of the state which does not have such beds located in it,
1556 and to a location more than sixty-five (65) miles from existing
1557 beds. Upon receiving 2020 census data, the department may amend
1558 the State Health Plan regarding child/adolescent psychiatric and
1559 child/adolescent chemical dependency beds to reflect the need
1560 based on new census data.

1561 (i) [Deleted]

1562 (ii) The department may issue a certificate of
1563 need for the conversion of existing beds in a county hospital in
1564 Choctaw County from acute care beds to child/adolescent chemical



1565 dependency beds. For purposes of this subparagraph (ii), the
1566 provisions of Section 41-7-193(1) requiring substantial compliance
1567 with the projection of need as reported in the current State
1568 Health Plan are waived. The total number of beds that may be
1569 authorized under authority of this subparagraph shall not exceed
1570 twenty (20) beds. There shall be no prohibition or restrictions
1571 on participation in the Medicaid program (Section 43-13-101 et
1572 seq.) for the hospital receiving the certificate of need
1573 authorized under this subparagraph or for the beds converted
1574 pursuant to the authority of that certificate of need.

1575 (iii) The department may issue a certificate or
1576 certificates of need for the construction or expansion of
1577 child/adolescent psychiatric beds or the conversion of other beds
1578 to child/adolescent psychiatric beds in Warren County. For
1579 purposes of this subparagraph (iii), the provisions of Section
1580 41-7-193(1) requiring substantial compliance with the projection
1581 of need as reported in the current State Health Plan are waived.
1582 The total number of beds that may be authorized under the
1583 authority of this subparagraph shall not exceed twenty (20) beds.
1584 There shall be no prohibition or restrictions on participation in
1585 the Medicaid program (Section 43-13-101 et seq.) for the person
1586 receiving the certificate of need authorized under this
1587 subparagraph or for the beds converted pursuant to the authority
1588 of that certificate of need.



1589 If by January 1, 2002, there has been no significant
1590 commencement of construction of the beds authorized under this
1591 subparagraph (iii), or no significant action taken to convert
1592 existing beds to the beds authorized under this subparagraph, then
1593 the certificate of need that was previously issued under this
1594 subparagraph shall expire. If the previously issued certificate
1595 of need expires, the department may accept applications for
1596 issuance of another certificate of need for the beds authorized
1597 under this subparagraph, and may issue a certificate of need to
1598 authorize the construction, expansion or conversion of the beds
1599 authorized under this subparagraph.

1600 (iv) The department shall issue a certificate of
1601 need to the Region 7 Mental Health/Retardation Commission for the
1602 construction or expansion of child/adolescent psychiatric beds or
1603 the conversion of other beds to child/adolescent psychiatric beds
1604 in any of the counties served by the commission. For purposes of
1605 this subparagraph (iv), the provisions of Section 41-7-193(1)
1606 requiring substantial compliance with the projection of need as
1607 reported in the current State Health Plan are waived. The total
1608 number of beds that may be authorized under the authority of this
1609 subparagraph shall not exceed twenty (20) beds. There shall be no
1610 prohibition or restrictions on participation in the Medicaid
1611 program (Section 43-13-101 et seq.) for the person receiving the
1612 certificate of need authorized under this subparagraph or for the



1613 beds converted pursuant to the authority of that certificate of
1614 need.

1615 (v) The department may issue a certificate of need
1616 to any county hospital located in Leflore County for the
1617 construction or expansion of adult psychiatric beds or the
1618 conversion of other beds to adult psychiatric beds, not to exceed
1619 twenty (20) beds, provided that the recipient of the certificate
1620 of need agrees in writing that the adult psychiatric beds will not
1621 at any time be certified for participation in the Medicaid program
1622 and that the hospital will not admit or keep any patients who are
1623 participating in the Medicaid program in any of such adult
1624 psychiatric beds. This written agreement by the recipient of the
1625 certificate of need shall be fully binding on any subsequent owner
1626 of the hospital if the ownership of the hospital is transferred at
1627 any time after the issuance of the certificate of need. Agreement
1628 that the adult psychiatric beds will not be certified for
1629 participation in the Medicaid program shall be a condition of the
1630 issuance of a certificate of need to any person under this
1631 subparagraph (v), and if such hospital at any time after the
1632 issuance of the certificate of need, regardless of the ownership
1633 of the hospital, has any of such adult psychiatric beds certified
1634 for participation in the Medicaid program or admits or keeps any
1635 Medicaid patients in such adult psychiatric beds, the State
1636 Department of Health shall revoke the certificate of need, if it
1637 is still outstanding, and shall deny or revoke the license of the



1638 hospital at the time that the department determines, after a
1639 hearing complying with due process, that the hospital has failed
1640 to comply with any of the conditions upon which the certificate of
1641 need was issued, as provided in this subparagraph and in the
1642 written agreement by the recipient of the certificate of need.

1643 (vi) The department may issue a certificate or
1644 certificates of need for the expansion of child psychiatric beds
1645 or the conversion of other beds to child psychiatric beds at the
1646 University of Mississippi Medical Center. For purposes of this
1647 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1648 substantial compliance with the projection of need as reported in
1649 the current State Health Plan are waived. The total number of
1650 beds that may be authorized under the authority of this
1651 subparagraph shall not exceed fifteen (15) beds. There shall be
1652 no prohibition or restrictions on participation in the Medicaid
1653 program (Section 43-13-101 et seq.) for the hospital receiving the
1654 certificate of need authorized under this subparagraph or for the
1655 beds converted pursuant to the authority of that certificate of
1656 need.

1657 (b) From and after July 1, 1990, no hospital,
1658 psychiatric hospital or chemical dependency hospital shall be
1659 authorized to add any child/adolescent psychiatric or
1660 child/adolescent chemical dependency beds or convert any beds of
1661 another category to child/adolescent psychiatric or
1662 child/adolescent chemical dependency beds without a certificate of



1663 need under the authority of subsection (1)(c) and subsection
1664 (4)(a) of this section.

1665 (5) The department may issue a certificate of need to a
1666 county hospital in Winston County for the conversion of fifteen
1667 (15) acute care beds to geriatric psychiatric care beds.

1668 (6) The State Department of Health shall issue a certificate
1669 of need to a Mississippi corporation qualified to manage a
1670 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1671 Harrison County, not to exceed eighty (80) beds, including any
1672 necessary renovation or construction required for licensure and
1673 certification, provided that the recipient of the certificate of
1674 need agrees in writing that the long-term care hospital will not
1675 at any time participate in the Medicaid program (Section 43-13-101
1676 et seq.) or admit or keep any patients in the long-term care
1677 hospital who are participating in the Medicaid program. This
1678 written agreement by the recipient of the certificate of need
1679 shall be fully binding on any subsequent owner of the long-term
1680 care hospital, if the ownership of the facility is transferred at
1681 any time after the issuance of the certificate of need. Agreement
1682 that the long-term care hospital will not participate in the
1683 Medicaid program shall be a condition of the issuance of a
1684 certificate of need to any person under this subsection (6), and
1685 if such long-term care hospital at any time after the issuance of
1686 the certificate of need, regardless of the ownership of the
1687 facility, participates in the Medicaid program or admits or keeps



1688 any patients in the facility who are participating in the Medicaid
1689 program, the State Department of Health shall revoke the
1690 certificate of need, if it is still outstanding, and shall deny or
1691 revoke the license of the long-term care hospital, at the time
1692 that the department determines, after a hearing complying with due
1693 process, that the facility has failed to comply with any of the
1694 conditions upon which the certificate of need was issued, as
1695 provided in this subsection and in the written agreement by the
1696 recipient of the certificate of need. For purposes of this
1697 subsection, the provisions of Section 41-7-193(1) requiring
1698 substantial compliance with the projection of need as reported in
1699 the current State Health Plan are waived.

1700 (7) The State Department of Health may issue a certificate
1701 of need to any hospital in the state to utilize a portion of its
1702 beds for the "swing-bed" concept. Any such hospital must be in
1703 conformance with the federal regulations regarding such swing-bed
1704 concept at the time it submits its application for a certificate
1705 of need to the State Department of Health, except that such
1706 hospital may have more licensed beds or a higher average daily
1707 census (ADC) than the maximum number specified in federal
1708 regulations for participation in the swing-bed program. Any
1709 hospital meeting all federal requirements for participation in the
1710 swing-bed program which receives such certificate of need shall
1711 render services provided under the swing-bed concept to any
1712 patient eligible for Medicare (Title XVIII of the Social Security



1713 Act) who is certified by a physician to be in need of such
1714 services, and no such hospital shall permit any patient who is
1715 eligible for both Medicaid and Medicare or eligible only for
1716 Medicaid to stay in the swing beds of the hospital for more than
1717 thirty (30) days per admission unless the hospital receives prior
1718 approval for such patient from the Division of Medicaid, Office of
1719 the Governor. Any hospital having more licensed beds or a higher
1720 average daily census (ADC) than the maximum number specified in
1721 federal regulations for participation in the swing-bed program
1722 which receives such certificate of need shall develop a procedure
1723 to ensure that before a patient is allowed to stay in the swing
1724 beds of the hospital, there are no vacant nursing home beds
1725 available for that patient located within a fifty-mile radius of
1726 the hospital. When any such hospital has a patient staying in the
1727 swing beds of the hospital and the hospital receives notice from a
1728 nursing home located within such radius that there is a vacant bed
1729 available for that patient, the hospital shall transfer the
1730 patient to the nursing home within a reasonable time after receipt
1731 of the notice. Any hospital which is subject to the requirements
1732 of the two (2) preceding sentences of this subsection may be
1733 suspended from participation in the swing-bed program for a
1734 reasonable period of time by the State Department of Health if the
1735 department, after a hearing complying with due process, determines
1736 that the hospital has failed to comply with any of those
1737 requirements.



1738 (8) The Department of Health shall not grant approval for or
1739 issue a certificate of need to any person proposing the new
1740 construction of, addition to or expansion of a health care
1741 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1742 except as hereinafter provided: The department may issue a
1743 certificate of need to a nonprofit corporation located in Madison
1744 County, Mississippi, for the construction, expansion or conversion
1745 of not more than twenty (20) beds in a community living program
1746 for developmentally disabled adults in a facility as defined in
1747 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1748 subsection (8), the provisions of Section 41-7-193(1) requiring
1749 substantial compliance with the projection of need as reported in
1750 the current State Health Plan and the provisions of Section
1751 41-7-197 requiring a formal certificate of need hearing process
1752 are waived. There shall be no prohibition or restrictions on
1753 participation in the Medicaid program for the person receiving the
1754 certificate of need authorized under this subsection (8).

1755 (9) The Department of Health shall not grant approval for or
1756 issue a certificate of need to any person proposing the
1757 establishment of, or expansion of the currently approved territory
1758 of, or the contracting to establish a home office, subunit or
1759 branch office within the space operated as a health care facility
1760 as defined in Section 41-7-173(h) (i) through (viii) by a health
1761 care facility as defined in subparagraph (ix) of Section
1762 41-7-173(h).



1763 (10) Health care facilities owned and/or operated by the
1764 state or its agencies are exempt from the restraints in this
1765 section against issuance of a certificate of need if such addition
1766 or expansion consists of repairing or renovation necessary to
1767 comply with the state licensure law. This exception shall not
1768 apply to the new construction of any building by such state
1769 facility. This exception shall not apply to any health care
1770 facilities owned and/or operated by counties, municipalities,
1771 districts, unincorporated areas, other defined persons, or any
1772 combination thereof.

1773 (11) The new construction, renovation or expansion of or
1774 addition to any health care facility defined in subparagraph (ii)
1775 (psychiatric hospital), subparagraph (iv) (skilled nursing
1776 facility), subparagraph (vi) (intermediate care facility),
1777 subparagraph (viii) (intermediate care facility for * * *
1778 individuals with intellectual disabilities) and subparagraph (x)
1779 (psychiatric residential treatment facility) of Section
1780 41-7-173(h) which is owned by the State of Mississippi and under
1781 the direction and control of the State Department of Mental
1782 Health, and the addition of new beds or the conversion of beds
1783 from one category to another in any such defined health care
1784 facility which is owned by the State of Mississippi and under the
1785 direction and control of the State Department of Mental Health,
1786 shall not require the issuance of a certificate of need under



1787 Section 41-7-171 et seq., notwithstanding any provision in Section
1788 41-7-171 et seq. to the contrary.

1789 (12) The new construction, renovation or expansion of or
1790 addition to any veterans homes or domiciliaries for eligible
1791 veterans of the State of Mississippi as authorized under Section
1792 35-1-19 shall not require the issuance of a certificate of need,
1793 notwithstanding any provision in Section 41-7-171 et seq. to the
1794 contrary.

1795 (13) The repair or the rebuilding of an existing, operating
1796 health care facility that sustained significant damage from a
1797 natural disaster that occurred after April 15, 2014, in an area
1798 that is proclaimed a disaster area or subject to a state of
1799 emergency by the Governor or by the President of the United States
1800 shall be exempt from all of the requirements of the Mississippi
1801 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1802 rules and regulations promulgated under that law, subject to the
1803 following conditions:

1804 (a) The repair or the rebuilding of any such damaged
1805 health care facility must be within one (1) mile of the
1806 pre-disaster location of the campus of the damaged health care
1807 facility, except that any temporary post-disaster health care
1808 facility operating location may be within five (5) miles of the
1809 pre-disaster location of the damaged health care facility;

1810 (b) The repair or the rebuilding of the damaged health
1811 care facility (i) does not increase or change the complement of



1812 its bed capacity that it had before the Governor's or the
1813 President's proclamation, (ii) does not increase or change its
1814 levels and types of health care services that it provided before
1815 the Governor's or the President's proclamation, and (iii) does not
1816 rebuild in a different county; however, this paragraph does not
1817 restrict or prevent a health care facility from decreasing its bed
1818 capacity that it had before the Governor's or the President's
1819 proclamation, or from decreasing the levels of or decreasing or
1820 eliminating the types of health care services that it provided
1821 before the Governor's or the President's proclamation, when the
1822 damaged health care facility is repaired or rebuilt;

1823 (c) The exemption from Certificate of Need Law provided
1824 under this subsection (13) is valid for only five (5) years from
1825 the date of the Governor's or the President's proclamation. If
1826 actual construction has not begun within that five-year period,
1827 the exemption provided under this subsection is inapplicable; and

1828 (d) The Division of Health Facilities Licensure and
1829 Certification of the State Department of Health shall provide the
1830 same oversight for the repair or the rebuilding of the damaged
1831 health care facility that it provides to all health care facility
1832 construction projects in the state.

1833 For the purposes of this subsection (13), "significant
1834 damage" to a health care facility means damage to the health care
1835 facility requiring an expenditure of at least One Million Dollars
1836 (\$1,000,000.00).



1837 (14) The State Department of Health shall issue a
1838 certificate of need to any hospital which is currently licensed
1839 for two hundred fifty (250) or more acute care beds and is located
1840 in any general hospital service area not having a comprehensive
1841 cancer center, for the establishment and equipping of such a
1842 center which provides facilities and services for outpatient
1843 radiation oncology therapy, outpatient medical oncology therapy,
1844 and appropriate support services including the provision of
1845 radiation therapy services. The provisions of Section 41-7-193(1)
1846 regarding substantial compliance with the projection of need as
1847 reported in the current State Health Plan are waived for the
1848 purpose of this subsection.

1849 (15) The State Department of Health may authorize the
1850 transfer of hospital beds, not to exceed sixty (60) beds, from the
1851 North Panola Community Hospital to the South Panola Community
1852 Hospital. The authorization for the transfer of those beds shall
1853 be exempt from the certificate of need review process.

1854 (16) The State Department of Health shall issue any
1855 certificates of need necessary for Mississippi State University
1856 and a public or private health care provider to jointly acquire
1857 and operate a linear accelerator and a magnetic resonance imaging
1858 unit. Those certificates of need shall cover all capital
1859 expenditures related to the project between Mississippi State
1860 University and the health care provider, including, but not
1861 limited to, the acquisition of the linear accelerator, the



1862 magnetic resonance imaging unit and other radiological modalities;
1863 the offering of linear accelerator and magnetic resonance imaging
1864 services; and the cost of construction of facilities in which to
1865 locate these services. The linear accelerator and the magnetic
1866 resonance imaging unit shall be (a) located in the City of
1867 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1868 Mississippi State University and the public or private health care
1869 provider selected by Mississippi State University through a
1870 request for proposals (RFP) process in which Mississippi State
1871 University selects, and the Board of Trustees of State
1872 Institutions of Higher Learning approves, the health care provider
1873 that makes the best overall proposal; (c) available to Mississippi
1874 State University for research purposes two-thirds (2/3) of the
1875 time that the linear accelerator and magnetic resonance imaging
1876 unit are operational; and (d) available to the public or private
1877 health care provider selected by Mississippi State University and
1878 approved by the Board of Trustees of State Institutions of Higher
1879 Learning one-third (1/3) of the time for clinical, diagnostic and
1880 treatment purposes. For purposes of this subsection, the
1881 provisions of Section 41-7-193(1) requiring substantial compliance
1882 with the projection of need as reported in the current State
1883 Health Plan are waived.

1884 (17) The State Department of Health shall issue a
1885 certificate of need for the construction of an acute care hospital
1886 in Kemper County, not to exceed twenty-five (25) beds, which shall



1887 be named the "John C. Stennis Memorial Hospital." In issuing the
1888 certificate of need under this subsection, the department shall
1889 give priority to a hospital located in Lauderdale County that has
1890 two hundred fifteen (215) beds. For purposes of this subsection,
1891 the provisions of Section 41-7-193(1) requiring substantial
1892 compliance with the projection of need as reported in the current
1893 State Health Plan and the provisions of Section 41-7-197 requiring
1894 a formal certificate of need hearing process are waived. There
1895 shall be no prohibition or restrictions on participation in the
1896 Medicaid program (Section 43-13-101 et seq.) for the person or
1897 entity receiving the certificate of need authorized under this
1898 subsection or for the beds constructed under the authority of that
1899 certificate of need.

1900 (18) The planning, design, construction, renovation,
1901 addition, furnishing and equipping of a clinical research unit at
1902 any health care facility defined in Section 41-7-173(h) that is
1903 under the direction and control of the University of Mississippi
1904 Medical Center and located in Jackson, Mississippi, and the
1905 addition of new beds or the conversion of beds from one (1)
1906 category to another in any such clinical research unit, shall not
1907 require the issuance of a certificate of need under Section
1908 41-7-171 et seq., notwithstanding any provision in Section
1909 41-7-171 et seq. to the contrary.

1910 (19) [Repealed]



1911 (20) Nothing in this section or in any other provision of
1912 Section 41-7-171 et seq. shall prevent any nursing facility from
1913 designating an appropriate number of existing beds in the facility
1914 as beds for providing care exclusively to patients with
1915 Alzheimer's disease.

1916 (21) Nothing in this section or any other provision of
1917 Section 41-7-171 et seq. shall prevent any health care facility
1918 from the new construction, renovation, conversion or expansion of
1919 new beds in the facility designated as intensive care units,
1920 negative pressure rooms, or isolation rooms pursuant to the
1921 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1922 this subsection, the provisions of Section 41-7-193(1) requiring
1923 substantial compliance with the projection of need as reported in
1924 the current State Health Plan and the provisions of Section
1925 41-7-197 requiring a formal certificate of need hearing process
1926 are waived.

1927 **SECTION 7.** Section 43-7-61, Mississippi Code of 1972, is
1928 amended as follows:

1929 43-7-61. (1) The Office of the State Long-Term Care
1930 Facilities Ombudsman shall establish a training and certification
1931 program. The State Ombudsman shall specify by rule the content of
1932 the training program. Each long-term care facilities ombudsman
1933 program shall bear the cost of training its own employees.

1934 (2) The State Ombudsman shall establish minimum
1935 qualifications and recertification requirements for



1936 representatives of the Office of the State Long-Term Care
1937 Facilities Ombudsman. Such training shall include instruction in
1938 at least the following subjects as they relate to long-term care:
1939 (a) The responsibilities and duties of community
1940 ombudsmen;
1941 (b) The laws and regulations governing the receipt,
1942 investigation and resolution of issues of the well-being of a
1943 resident;
1944 (c) The role of local, state and federal agencies that
1945 regulate long-term care facilities;
1946 (d) The different kinds of long-term care facilities in
1947 Mississippi and the services provided in each kind;
1948 (e) The special needs of the elderly and of * * *
1949 persons with physical and mental disabilities;
1950 (f) The role of the family, the sponsor, the legal
1951 representative, the physician, the church, and other public and
1952 private agencies, and the community;
1953 (g) How to work with long-term care facility staff;
1954 (h) The aging process and characteristics of the
1955 long-term care facility resident or institutionalized elderly;
1956 (i) Familiarity with and access to information
1957 concerning the laws and regulations governing Medicare, Medicaid,
1958 Social Security, Supplemental Security Income, the Veterans
1959 Administration and Workers' Compensation; and



1960 (j) The training program shall include an appropriate
1961 internship to be performed in a long-term care facility.

1962 (3) Persons selected by area agencies on aging who have
1963 satisfactorily completed the training arranged by the State
1964 Ombudsman shall be designated as representatives of the Office of
1965 the State Long-Term Care Facilities Ombudsman by the State
1966 Ombudsman.

1967 (4) Each area agency on aging may appoint an advisory
1968 committee to advise it in the operation of its community ombudsman
1969 program. The number and qualifications of members of the advisory
1970 committee shall be determined by the area agency on aging.

1971 (5) Ombudsmen who have successfully completed the training
1972 and certification program under this section shall be given
1973 identification cards which shall be presented to employees of a
1974 long-term care facility upon request.

1975 **SECTION 8.** Section 43-18-1, Mississippi Code of 1972, is
1976 amended as follows:

1977 43-18-1. The Governor, on behalf of this state, is * * *
1978 authorized to execute a compact in substantially the following
1979 form with all other jurisdictions legally joining therein; and the
1980 Legislature * * * signifies in advance its approval and
1981 ratification of such compact, which compact is as follows:

1982 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

1983 **ARTICLE I.**



1984 It is the purpose and policy of the party states to
1985 cooperate with each other in the interstate placement of children
1986 to the end that:

1987 (a) Each child requiring placement shall receive the
1988 maximum opportunity to be placed in a suitable environment and
1989 with persons or institutions having appropriate qualifications and
1990 facilities to provide a necessary and desirable degree and type of
1991 care.

1992 (b) The appropriate authorities in a state where a
1993 child is to be placed may have full opportunity to ascertain the
1994 circumstances of the proposed placement, thereby promoting full
1995 compliance with applicable requirements for the protection of the
1996 child.

1997 (c) The proper authorities of the state from which the
1998 placement is made may obtain the most complete information on the
1999 basis on which to evaluate a projected placement before it is
2000 made.

2001 (d) Appropriate jurisdictional arrangements for the
2002 care of children will be promoted.

2003 **ARTICLE II.**

2004 As used in this compact:

2005 (a) "Child" means a person who, by reason of minority,
2006 is legally subject to parental, guardianship or similar control.

2007 (b) "Sending agency" means a party state, officer or
2008 employee thereof; a subdivision of a party state, or officer or



2009 employee thereof; a court of a party state; a person, corporation,
2010 association, charitable agency or other entity which sends, brings
2011 or causes to be sent or brought any child to another party state.

2012 (c) "Receiving state" means the state to which a child
2013 is sent, brought, or caused to be sent or brought, whether by
2014 public authorities or private persons or agencies and whether for
2015 placement with state or local public authorities or for placement
2016 with private agencies or persons.

2017 (d) "Placement" means the arrangement for the care of a
2018 child in a family free or boarding home or in a child-caring
2019 agency or institution but does not include any institution caring
2020 for * * * persons with mental illness or persons with an
2021 intellectual disability or any institution primarily educational
2022 in character, and any hospital or other medical facility.

2023 **ARTICLE III.**

2024 (a) No sending agency shall send, bring or cause to be
2025 sent or brought into any other party state any child for placement
2026 in foster care or as a preliminary to a possible adoption unless
2027 the sending agency shall comply with each and every requirement
2028 set forth in this article and with the applicable laws of the
2029 receiving state governing the placement of children therein.

2030 (b) Prior to sending, bringing or causing any child to
2031 be sent or brought into a receiving state for placement in foster
2032 care or as a preliminary to a possible adoption, the sending
2033 agency shall furnish the appropriate public authorities in the



2034 receiving state written notice of the intention to send, bring or
2035 place the child in the receiving state. The notice shall contain:

2036 (1) The name, date and place of birth of the
2037 child.

2038 (2) The identity and address or addresses of the
2039 parents or legal guardian.

2040 (3) The name and address of the person, agency or
2041 institution to or with which the sending agency proposes to send,
2042 bring or place the child.

2043 (4) A full statement of the reasons for such
2044 proposed action and evidence of the authority pursuant to which
2045 the placement is proposed to be made.

2046 (c) Any public officer or agency in a receiving state
2047 which is in receipt of a notice pursuant to paragraph (b) of this
2048 article may request of the sending agency, or any other
2049 appropriate officer or agency of or in the sending agency's state,
2050 and shall be entitled to receive therefrom, such supporting or
2051 additional information as it may deem necessary under the
2052 circumstances to carry out the purpose and policy of this compact.

2053 (d) The child shall not be sent, brought or caused to
2054 be sent or brought into the receiving state until the appropriate
2055 public authorities in the receiving state shall notify the sending
2056 agency, in writing, to the effect that the proposed placement does
2057 not appear to be contrary to the interests of the child.

2058 **ARTICLE IV.**



2084 herein shall defeat a claim of jurisdiction by a receiving state
2085 sufficient to deal with an act of delinquency or crime committed
2086 therein.

2087 (b) When the sending agency is a public agency, it may
2088 enter into an agreement with an authorized public or private
2089 agency in the receiving state providing for the performance of one
2090 or more services in respect of such case by the latter as agent
2091 for the sending agency.

2092 (c) Nothing in this compact shall be construed to
2093 prevent a private charitable agency authorized to place children
2094 in the receiving state from performing services or acting as agent
2095 in that state for a private charitable agency of the sending
2096 state; nor to prevent the agency in the receiving state from
2097 discharging financial responsibility for the support and
2098 maintenance of a child who has been placed on behalf of the
2099 sending agency without relieving the responsibility set forth in
2100 paragraph (a) hereof.

2101 **ARTICLE VI.**

2102 A child adjudicated delinquent may be placed in an
2103 institution in another party jurisdiction pursuant to this compact
2104 but no such placement shall be made unless the child is given a
2105 court hearing on notice to the parent or guardian with opportunity
2106 to be heard, prior to his being sent to such other party
2107 jurisdiction for institutional care and the court finds that:



2108 (1) Equivalent facilities for the child are not
2109 available in the sending agency's jurisdiction; and

2110 (2) Institutional care in the other jurisdiction
2111 is in the best interest of the child and will not produce undue
2112 hardship.

2113 **ARTICLE VII.**

2114 The executive head of each jurisdiction party to this compact
2115 shall designate an officer who shall be general coordinator of
2116 activities under this compact in his jurisdiction and who, acting
2117 jointly with like officers of other party jurisdictions, shall
2118 have power to promulgate rules and regulations to carry out more
2119 effectively the terms and provisions of this compact.

2120 **ARTICLE VIII.**

2121 This compact shall not apply to:

2122 (a) The sending or bringing of a child into a receiving
2123 state by his parent, stepparent, grandparent, adult brother or
2124 sister, adult uncle or aunt, or his guardian and leaving the child
2125 with any such relative or nonagency guardian in the receiving
2126 state.

2127 (b) Any placement, sending or bringing of a child into
2128 a receiving state pursuant to any other interstate compact to
2129 which both the state from which the child is sent or brought and
2130 the receiving state are party, or to any other agreement
2131 between * * * those states which has the force of law.

2132 **ARTICLE IX.**



2133 This compact shall be open to joinder by any state, territory
2134 or possession of the United States, the District of Columbia, the
2135 Commonwealth of Puerto Rico, and, with the consent of Congress,
2136 the government of Canada or any province thereof. It shall become
2137 effective with respect to any such jurisdiction when such
2138 jurisdiction has enacted the same into law. Withdrawal from this
2139 compact shall be by the enactment of a statute repealing the same,
2140 but shall not take effect until written notice of the withdrawal
2141 has been given by the withdrawing state to the Governor of each
2142 other party jurisdiction. Withdrawal of a party state shall not
2143 affect the rights, duties and obligations under this compact of
2144 any sending agency therein with respect to a placement made prior
2145 to the effective date of withdrawal.

2146 **ARTICLE X.**

2147 The provisions of this compact shall be liberally construed
2148 to effectuate the purposes thereof. The provisions of this
2149 compact shall be severable and if any phrase, clause, sentence or
2150 provision of this compact is declared to be contrary to the
2151 constitution of any party state or of the United States or the
2152 applicability thereof to any government, agency, person or
2153 circumstance is held invalid, the validity of the remainder of
2154 this compact and the applicability thereof to any government,
2155 agency, person or circumstance shall not be affected thereby. If
2156 this compact shall be held contrary to the constitution of any
2157 state party thereto, the compact shall remain in full force and



2158 effect as to the remaining states and in full force and effect as
2159 to the state affected as to all severable matters.

2160 **SECTION 9.** This act shall take effect and be in force from
2161 and after July 1, 2022.

