

By: Representative Zuber

To: Insurance

HOUSE BILL NO. 1134

1 AN ACT TO BRING FORWARD SECTIONS 25-15-3, 25-15-5, 25-15-7,  
 2 25-15-9, 25-15-11, 25-15-13, 25-15-14, 25-15-15, 25-15-16,  
 3 25-15-17, 25-15-19, 25-15-23, 25-15-303, 37-151-95, 41-7-173,  
 4 41-7-175, 41-7-183, 41-7-185, 41-7-191, 41-7-193, 83-9-22 AND  
 5 83-9-24, MISSISSIPPI CODE OF 1972, WHICH ESTABLISH AND REFERENCE  
 6 THE STATE AND SCHOOL EMPLOYEES LIFE AND HEALTH INSURANCE PLAN, FOR  
 7 THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 25-15-3, Mississippi Code of 1972, is  
 10 brought forward as follows:

11 25-15-3. For the purposes of this article, the words and  
 12 phrases used herein shall have the following meanings:

13 (a) "Employee" means a person who works full time for  
 14 the State of Mississippi and receives his compensation in a direct  
 15 payment from a department, agency or institution of the state  
 16 government and any person who works full time for any school  
 17 district, community/junior college, public library or  
 18 university-based program authorized under Section 37-23-31 for  
 19 deaf, aphasic and emotionally disturbed children or any regular  
 20 nonstudent bus driver. This shall include legislators, employees



21 of the legislative branch and the judicial branch of the state and  
22 "employees" shall include full-time salaried judges and full-time  
23 district attorneys and their staff and full-time compulsory school  
24 attendance officers. For the purposes of this article, any  
25 "employee" making contributions to the State of Mississippi  
26 retirement plan shall be considered a full-time employee.

27 (b) "Department" means the Department of Finance and  
28 Administration.

29 (c) "Plan" means the State and School Employees Life  
30 and Health Insurance Plan created under this article.

31 (d) "Fund" means the State and School Employees  
32 Insurance Fund set up under this article.

33 (e) "Retiree" means any employee retired under the  
34 Mississippi retirement plan.

35 (f) "Board" means the State and School Employees Health  
36 Insurance Management Board created under Section 25-15-303.

37 **SECTION 2.** Section 25-15-5, Mississippi Code of 1972, is  
38 brought forward as follows:

39 25-15-5. (1) The board shall administer the plan and is  
40 authorized to adopt and promulgate rules and regulations for its  
41 administration, subject to the terms and limitations contained in  
42 this article.

43 (2) The board shall develop a five-year strategic plan for  
44 the insurance plan established by Section 25-15-3 et seq. The  
45 strategic plan shall address, but not be limited to:



46 (a) Changing trends in the health care industry, and  
47 how they effect delivery of services to members of the plan.

48 (b) Alternative service delivery systems.

49 (c) Any foreseeable problems with the present system of  
50 delivering and administering health care benefits in Mississippi.

51 (d) The development of options and recommendations for  
52 changes in the plan.

53 (3) To carry out the requirements of subsection (2) of this  
54 section, the board may conduct formal research, including  
55 questionnaires and attitudinal surveys of members' needs and  
56 preferences with respect to service delivery.

57 (4) After the board has complied with all provisions of  
58 Section 25-15-9 regarding the establishment of the plan, it shall  
59 be responsible for fully disclosing to plan members the provisions  
60 of the plan. Such disclosure shall consist of the dissemination  
61 of educational material on the plan and any proposed changes  
62 thereto. The board shall provide members with complete  
63 educational materials at least thirty (30) days before the date  
64 upon which the plan's members must select a plan option for health  
65 care services. The board shall further use the resources of the  
66 Mississippi Authority for Educational Television or other state  
67 agency, university or college to provide information on proposed  
68 changes. The board may also use other state-owned media, as well  
69 as public service announcements on private media to disseminate  
70 information regarding proposed changes in the plan.



71           (5) The board shall develop and make available for public  
72 review at its offices a comprehensive plan document which  
73 documents all benefits for which members of the plan created by  
74 Section 25-15-3 et seq. are eligible. This document shall be  
75 typed and maintained also at the offices of any administrator  
76 contracted with in accordance with Section 25-15-301.

77           (6) (a) The board may enter into contracts with  
78 accountants, actuaries and other persons from the private sector  
79 whose skills are necessary to carry out the purposes of Section  
80 25-15-3 et seq.

81           (b) Before the board enters into any contract for  
82 services as provided in paragraph (a) of this subsection, the  
83 board shall first determine that the services are required, and  
84 that the staff of the board and personnel of other state agencies  
85 are not sufficiently experienced to provide the services.

86           (c) If the service is to be rendered for a period of in  
87 excess of six (6) months, the board shall seek and obtain bids for  
88 the service in a manner identical to that provided for in Section  
89 25-15-301, subsection (1)(a) and (b) except for those provisions  
90 which specifically state criteria which are applicable only to  
91 third-party administrators contracted with in accordance with  
92 Section 25-15-3 et seq.

93           (d) The board is also authorized to procure legal  
94 services if it deems these services to be necessary to carry out  
95 its responsibilities under Section 25-15-3 et seq.



96           **SECTION 3.** Section 25-15-7, Mississippi Code of 1972, is  
97 brought forward as follows:

98           25-15-7. Such health insurance shall not include expense  
99 incurred by or on account of an individual prior to July 1, 1972,  
100 as to him; dental care and treatment, except dental surgery and  
101 appliances to the extent necessary for the correction of damage  
102 caused by accidental injury while covered by the plan, or as a  
103 direct result of disease covered by the plan; eyeglasses, hearing  
104 aids for individuals over the age of twenty-one (21) years, and  
105 examinations for the prescription or fitting thereof; cosmetic  
106 surgery or treatment, except to the extent necessary for  
107 correction of damage by accidental injury while covered by the  
108 plan or as a direct result of disease covered by the plan;  
109 services received in a hospital owned or operated by the United  
110 States government for which no charge is made; services received  
111 for injury or sickness due to war or any act of war, whether  
112 declared or undeclared, which war or act of war shall have  
113 occurred after July 1, 1972; expense for which the individual is  
114 not required to make payment; expenses to the extent of benefits  
115 provided under any employer group plan other than this plan, in  
116 which the state participates in the cost thereof; and such other  
117 expenses as may be excluded by regulations of the board.

118           **SECTION 4.** Section 25-15-9, Mississippi Code of 1972, is  
119 brought forward as follows:



120           25-15-9. (1) (a) The board shall design a plan of health  
121 insurance for state employees that provides benefits for  
122 semiprivate rooms in addition to other incidental coverages that  
123 the board deems necessary. The amount of the coverages shall be  
124 in such reasonable amount as may be determined by the board to be  
125 adequate, after due consideration of current health costs in  
126 Mississippi. The plan shall also include major medical benefits  
127 in such amounts as the board determines. The plan shall provide  
128 for coverage for telemedicine services as provided in Section  
129 83-9-351. The board is also authorized to accept bids for such  
130 alternate coverage and optional benefits as the board deems  
131 proper. The board is authorized to accept bids for surgical  
132 services that include assistance in locating a surgeon, setting up  
133 initial consultation, travel, a negotiated single case rate bundle  
134 and payment for orthopedic, spine, bariatric, cardiovascular and  
135 general surgeries. The surgical services may only utilize  
136 surgeons and facilities located in the State of Mississippi unless  
137 otherwise provided by the board. Any contract for alternative  
138 coverage and optional benefits shall be awarded by the board after  
139 it has carefully studied and evaluated the bids and selected the  
140 best and most cost-effective bid. The board may reject all of the  
141 bids; however, the board shall notify all bidders of the rejection  
142 and shall actively solicit new bids if all bids are rejected. The  
143 board may employ or contract for such consulting or actuarial  
144 services as may be necessary to formulate the plan, and to assist



145 the board in the preparation of specifications and in the process  
146 of advertising for the bids for the plan. Those contracts shall  
147 be solicited and entered into in accordance with Section 25-15-5.  
148 The board shall keep a record of all persons, agents and  
149 corporations who contract with or assist the board in preparing  
150 and developing the plan. The board in a timely manner shall  
151 provide copies of this record to the members of the advisory  
152 council created in this section and those legislators, or their  
153 designees, who may attend meetings of the advisory council. The  
154 board shall provide copies of this record in the solicitation of  
155 bids for the administration or servicing of the self-insured  
156 program. Each person, agent or corporation that, during the  
157 previous fiscal year, has assisted in the development of the plan  
158 or employed or compensated any person who assisted in the  
159 development of the plan, and that bids on the administration or  
160 servicing of the plan, shall submit to the board a statement  
161 accompanying the bid explaining in detail its participation with  
162 the development of the plan. This statement shall include the  
163 amount of compensation paid by the bidder to any such employee  
164 during the previous fiscal year. The board shall make all such  
165 information available to the members of the advisory council and  
166 those legislators, or their designees, who may attend meetings of  
167 the advisory council before any action is taken by the board on  
168 the bids submitted. The failure of any bidder to fully and  
169 accurately comply with this paragraph shall result in the



170 rejection of any bid submitted by that bidder or the cancellation  
171 of any contract executed when the failure is discovered after the  
172 acceptance of that bid. The board is authorized to promulgate  
173 rules and regulations to implement the provisions of this  
174 subsection.

175 The board shall develop plans for the insurance plan  
176 authorized by this section in accordance with the provisions of  
177 Section 25-15-5.

178 Any corporation, association, company or individual that  
179 contracts with the board for the third-party claims administration  
180 of the self-insured plan shall prepare and keep on file an  
181 explanation of benefits for each claim processed. The explanation  
182 of benefits shall contain such information relative to each  
183 processed claim that the board deems necessary, and, at a minimum,  
184 each explanation shall provide the claimant's name, claim number,  
185 provider number, provider name, service dates, type of services,  
186 amount of charges, amount allowed to the claimant and reason  
187 codes. The information contained in the explanation of benefits  
188 shall be available for inspection upon request by the board. The  
189 board shall have access to all claims information utilized in the  
190 issuance of payments to employees and providers.

191 (b) There is created an advisory council to advise the  
192 board in the formulation of the State and School Employees Health  
193 Insurance Plan. The council shall be composed of the State  
194 Insurance Commissioner, or his designee, an





195 employee-representative of the institutions of higher learning  
196 appointed by the board of trustees thereof, an  
197 employee-representative of the Department of Transportation  
198 appointed by the director thereof, an employee-representative of  
199 the Department of Revenue appointed by the Commissioner of  
200 Revenue, an employee-representative of the Mississippi Department  
201 of Health appointed by the State Health Officer, an  
202 employee-representative of the Mississippi Department of  
203 Corrections appointed by the Commissioner of Corrections, and an  
204 employee-representative of the Department of Human Services  
205 appointed by the Executive Director of Human Services, two (2)  
206 certificated public school administrators appointed by the State  
207 Board of Education, two (2) certificated classroom teachers  
208 appointed by the State Board of Education, a noncertificated  
209 school employee appointed by the State Board of Education and a  
210 community/junior college employee appointed by the Mississippi  
211 Community College Board.

212         The Lieutenant Governor may designate the Secretary of the  
213 Senate, the Chairman of the Senate Appropriations Committee, the  
214 Chairman of the Senate Education Committee and the Chairman of the  
215 Senate Insurance Committee, and the Speaker of the House of  
216 Representatives may designate the Clerk of the House, the Chairman  
217 of the House Appropriations Committee, the Chairman of the House  
218 Education Committee and the Chairman of the House Insurance  
219 Committee, to attend any meeting of the State and School Employees



220 Insurance Advisory Council. The appointing authorities may  
221 designate an alternate member from their respective houses to  
222 serve when the regular designee is unable to attend the meetings  
223 of the council. Those designees shall have no jurisdiction or  
224 vote on any matter within the jurisdiction of the council. For  
225 attending meetings of the council, the legislators shall receive  
226 per diem and expenses, which shall be paid from the contingent  
227 expense funds of their respective houses in the same amounts as  
228 provided for committee meetings when the Legislature is not in  
229 session; however, no per diem and expenses for attending meetings  
230 of the council will be paid while the Legislature is in session.  
231 No per diem and expenses will be paid except for attending  
232 meetings of the council without prior approval of the proper  
233 committee in their respective houses.

234 (c) No change in the terms of the State and School  
235 Employees Health Insurance Plan may be made effective unless the  
236 board, or its designee, has provided notice to the State and  
237 School Employees Health Insurance Advisory Council and has called  
238 a meeting of the council at least fifteen (15) days before the  
239 effective date of the change. If the State and School Employees  
240 Health Insurance Advisory Council does not meet to advise the  
241 board on the proposed changes, the changes to the plan shall  
242 become effective at such time as the board has informed the  
243 council that the changes shall become effective.



244 (d) **Medical benefits for retired employees and**  
245 **dependents under age sixty-five (65) years and not eligible for**  
246 **Medicare benefits.** For employees who retire before July 1, 2005,  
247 and for employees retiring due to work-related disability under  
248 the Public Employees' Retirement System, the same health insurance  
249 coverage as for all other active employees and their dependents  
250 shall be available to retired employees and all dependents under  
251 age sixty-five (65) years who are not eligible for Medicare  
252 benefits, the level of benefits to be the same level as for all  
253 other active participants. For employees who retire on or after  
254 July 1, 2005, and not retiring due to work-related disability  
255 under the Public Employees' Retirement System, the same health  
256 insurance coverage as for all other active employees and their  
257 dependents shall be available to those retiring employees and all  
258 dependents under age sixty-five (65) years who are not eligible  
259 for Medicare benefits only if the retiring employees were  
260 participants in the State and School Employees Health Insurance  
261 Plan for four (4) years or more before their retirement, the level  
262 of benefits to be the same level as for all other active  
263 participants. This section will apply to those employees who  
264 retire due to one hundred percent (100%) medical disability as  
265 well as those employees electing early retirement.

266 (e) **Medical benefits for retired employees and**  
267 **dependents over age sixty-five (65) years or otherwise eligible**  
268 **for Medicare benefits.** For employees who retire before July 1,



269 2005, and for employees retiring due to work-related disability  
270 under the Public Employees' Retirement System, the health  
271 insurance coverage available to retired employees over age  
272 sixty-five (65) years or otherwise eligible for Medicare benefits,  
273 and all dependents over age sixty-five (65) years or otherwise  
274 eligible for Medicare benefits, shall be the major medical  
275 coverage. For employees retiring on or after July 1, 2005, and  
276 not retiring due to work-related disability under the Public  
277 Employees' Retirement System, the health insurance coverage  
278 described in this paragraph (e) shall be available to those  
279 retiring employees only if they were participants in the State and  
280 School Employees Health Insurance Plan for four (4) years or more  
281 and are over age sixty-five (65) years or otherwise eligible for  
282 Medicare benefits, and to all dependents over age sixty-five (65)  
283 years or otherwise eligible for Medicare benefits. Benefits shall  
284 be reduced by Medicare benefits as though the Medicare benefits  
285 were the base plan.

286 All covered individuals shall be assumed to have full  
287 Medicare coverage, Parts A and B; and any Medicare payments under  
288 both Parts A and B shall be computed to reduce benefits payable  
289 under this plan.

290 (f) Lifetime maximum: The lifetime maximum amount of  
291 benefits payable under the health insurance plan for each  
292 participant is Two Million Dollars (\$2,000,000.00).



293 (2) Nonduplication of benefits – reduction of benefits by  
294 Title XIX benefits: When benefits would be payable under more  
295 than one (1) group plan, benefits under those plans will be  
296 coordinated to the extent that the total benefits under all plans  
297 will not exceed the total expenses incurred.

298 Benefits for hospital or surgical or medical benefits shall  
299 be reduced by any similar benefits payable in accordance with  
300 Title XIX of the Social Security Act or under any amendments  
301 thereto, or any implementing legislation.

302 Benefits for hospital or surgical or medical benefits shall  
303 be reduced by any similar benefits payable by workers'  
304 compensation.

305 No health care benefits under the state plan shall restrict  
306 coverage for medically appropriate treatment prescribed by a  
307 physician and agreed to by a fully informed insured, or if the  
308 insured lacks legal capacity to consent by a person who has legal  
309 authority to consent on his or her behalf, based on an insured's  
310 diagnosis with a terminal condition. As used in this paragraph,  
311 "terminal condition" means any aggressive malignancy, chronic  
312 end-stage cardiovascular or cerebral vascular disease, or any  
313 other disease, illness or condition which physician diagnoses as  
314 terminal.

315 Not later than January 1, 2016, the state health plan shall  
316 not require a higher co-payment, deductible or coinsurance amount  
317 for patient-administered anti-cancer medications, including, but



318 not limited to, those orally administered or self-injected, than  
319 it requires for anti-cancer medications that are injected or  
320 intravenously administered by a health care provider, regardless  
321 of the formulation or benefit category determination by the plan.  
322 For the purposes of this paragraph, the term "anti-cancer  
323 medications" has the meaning as defined in Section 83-9-24.

324 (3) (a) Schedule of life insurance benefits – group term:  
325 The amount of term life insurance for each active employee of a  
326 department, agency or institution of the state government shall  
327 not be in excess of One Hundred Thousand Dollars (\$100,000.00), or  
328 twice the amount of the employee's annual wage to the next highest  
329 One Thousand Dollars (\$1,000.00), whichever may be less, but in no  
330 case less than Thirty Thousand Dollars (\$30,000.00), with a like  
331 amount for accidental death and dismemberment on a  
332 twenty-four-hour basis. The plan will further contain a premium  
333 waiver provision if a covered employee becomes totally and  
334 permanently disabled before age sixty-five (65) years. Employees  
335 retiring after June 30, 1999, shall be eligible to continue life  
336 insurance coverage in an amount of Five Thousand Dollars  
337 (\$5,000.00), Ten Thousand Dollars (\$10,000.00) or Twenty Thousand  
338 Dollars (\$20,000.00) into retirement.

339 (b) Effective October 1, 1999, schedule of life  
340 insurance benefits – group term: The amount of term life  
341 insurance for each active employee of any school district,  
342 community/junior college, public library or university-based



343 program authorized under Section 37-23-31 for deaf, aphasic and  
344 emotionally disturbed children or any regular nonstudent bus  
345 driver shall not be in excess of One Hundred Thousand Dollars  
346 (\$100,000.00), or twice the amount of the employee's annual wage  
347 to the next highest One Thousand Dollars (\$1,000.00), whichever  
348 may be less, but in no case less than Thirty Thousand Dollars  
349 (\$30,000.00), with a like amount for accidental death and  
350 dismemberment on a twenty-four-hour basis. The plan will further  
351 contain a premium waiver provision if a covered employee of any  
352 school district, community/junior college, public library or  
353 university-based program authorized under Section 37-23-31 for  
354 deaf, aphasic and emotionally disturbed children or any regular  
355 nonstudent bus driver becomes totally and permanently disabled  
356 before age sixty-five (65) years. Employees of any school  
357 district, community/junior college, public library or  
358 university-based program authorized under Section 37-23-31 for  
359 deaf, aphasic and emotionally disturbed children or any regular  
360 nonstudent bus driver retiring after September 30, 1999, shall be  
361 eligible to continue life insurance coverage in an amount of Five  
362 Thousand Dollars (\$5,000.00), Ten Thousand Dollars (\$10,000.00) or  
363 Twenty Thousand Dollars (\$20,000.00) into retirement.

364 (4) Any eligible employee who on March 1, 1971, was  
365 participating in a group life insurance program that has  
366 provisions different from those included in this article and for  
367 which the State of Mississippi was paying a part of the premium



368 may, at his discretion, continue to participate in that plan. The  
369 employee shall pay in full all additional costs, if any, above the  
370 minimum program established by this article. Under no  
371 circumstances shall any individual who begins employment with the  
372 state after March 1, 1971, be eligible for the provisions of this  
373 subsection.

374 (5) The board may offer medical savings accounts as defined  
375 in Section 71-9-3 as a plan option.

376 (6) Any premium differentials, differences in coverages,  
377 discounts determined by risk or by any other factors shall be  
378 uniformly applied to all active employees participating in the  
379 insurance plan. It is the intent of the Legislature that the  
380 state contribution to the plan be the same for each employee  
381 throughout the state.

382 (7) On October 1, 1999, any school district,  
383 community/junior college district or public library may elect to  
384 remain with an existing policy or policies of group life insurance  
385 with an insurance company approved by the State and School  
386 Employees Health Insurance Management Board, in lieu of  
387 participation in the State and School Life Insurance Plan. On or  
388 after July 1, 2004, until October 1, 2004, any school district,  
389 community/junior college district or public library may elect to  
390 choose a policy or policies of group life insurance existing on  
391 October 1, 1999, with an insurance company approved by the State  
392 and School Employees Health Insurance Management Board in lieu of





393 participation in the State and School Life Insurance Plan. The  
394 state's contribution of up to fifty percent (50%) of the active  
395 employee's premium under the State and School Life Insurance Plan  
396 may be applied toward the cost of coverage for full-time employees  
397 participating in the approved life insurance company group plan.  
398 For purposes of this subsection (7), "life insurance company group  
399 plan" means a plan administered or sold by a private insurance  
400 company. After October 1, 1999, the board may assess charges in  
401 addition to the existing State and School Life Insurance Plan  
402 rates to such employees as a condition of enrollment in the State  
403 and School Life Insurance Plan. In order for any life insurance  
404 company group plan to be approved by the State and School  
405 Employees Health Insurance Management Board under this subsection  
406 (7), it shall meet the following criteria:

407           (a) The insurance company offering the group life  
408 insurance plan shall be rated "A-" or better by A.M. Best state  
409 insurance rating service and be licensed as an admitted carrier in  
410 the State of Mississippi by the Mississippi Department of  
411 Insurance.

412           (b) The insurance company group life insurance plan  
413 shall provide the same life insurance, accidental death and  
414 dismemberment insurance and waiver of premium benefits as provided  
415 in the State and School Life Insurance Plan.



416 (c) The insurance company group life insurance plan  
417 shall be fully insured, and no form of self-funding life insurance  
418 by the company shall be approved.

419 (d) The insurance company group life insurance plan  
420 shall have one (1) composite rate per One Thousand Dollars  
421 (\$1,000.00) of coverage for active employees regardless of age and  
422 one (1) composite rate per One Thousand Dollars (\$1,000.00) of  
423 coverage for all retirees regardless of age or type of retiree.

424 (e) The insurance company and its group life insurance  
425 plan shall comply with any administrative requirements of the  
426 State and School Employees Health Insurance Management Board. If  
427 any insurance company providing group life insurance benefits to  
428 employees under this subsection (7) fails to comply with any  
429 requirements specified in this subsection or any administrative  
430 requirements of the board, the state shall discontinue providing  
431 funding for the cost of that insurance.

432 **SECTION 5.** Section 25-15-11, Mississippi Code of 1972, is  
433 brought forward as follows:

434 25-15-11. (1) The board is authorized to execute a contract  
435 or contracts to provide the benefits under the plan. Such  
436 contract or contracts may be executed with one or more  
437 corporations or associations licensed to transact life and  
438 accident and health insurance business in this state; however, no  
439 such contract shall be executed with any corporation, association  
440 or company domiciled in any other state except that such



441 corporation, association or company shall meet the conditions and  
442 terms for a like contract established by the state of the domicile  
443 of such corporation, association or company for a Mississippi  
444 corporation, association or company. No corporation, association  
445 or company with less than five (5) years' experience in the life  
446 and health field may bid. All of the benefits to be provided  
447 under the plan may be included in one or more similar contracts,  
448 or the benefits may be classified into different types with each  
449 type included under one or more similar contracts issued by the  
450 same or different companies.

451 The board shall supply the statistical information upon which  
452 a quotation is to be calculated, upon request, to all carriers  
453 licensed in the state. Bids may be accepted at the discretion of  
454 the board, and the board shall have the right to adjust rates on  
455 an annual basis if the board shall deem such adjustment necessary.  
456 The plan for active employees shall be on retention accounting  
457 basis, and a separate retention accounting basis shall be used for  
458 retired employees. Any additional written information the carrier  
459 wishes to submit, supporting the proposed benefits and premium  
460 rate, may accompany the proposal. After receiving the proposals,  
461 the board shall determine whether to contract with the carrier  
462 which has been determined to have submitted the lowest and best  
463 bid, or to reject all such bids and receive new proposals.

464 The board shall authorize any corporation licensed to  
465 transact accident and health insurance business in this state



466 issuing any such contract to reinsure portions of such contract  
467 with any other such corporation which elected to be a reinsurer  
468 and is legally competent to enter into a reinsurance agreement.  
469 The board may designate one or more of such corporations as the  
470 administering corporation or corporations. Each employee who is  
471 covered under any such contract or contracts shall receive a  
472 certificate setting forth the benefits to which the employee is  
473 entitled thereunder, to whom such benefits shall be payable, to  
474 whom claims should be submitted, and summarizing the provisions of  
475 the contract principally affecting the employee. Such certificate  
476 shall be in lieu of the certificate which the corporation or  
477 corporations issuing such contract or contracts would otherwise  
478 issue.

479       The board may, as of the end of any contract year,  
480 discontinue any contract or contracts it has executed with any  
481 corporation or corporations and replace it or them with a contract  
482 or contracts in any other corporation or corporations meeting the  
483 requirements of this section.

484       The board may reject any and all bids and contracts under  
485 this section and may elect for the state to become a self-insurer;  
486 however, administration and service of any such self-insured  
487 program may be contracted to a third party by the board.

488       Any contract with a third party to administer the plan shall  
489 be bid and entered into in accordance with the procedures provided  
490 in Section 25-15-301.



491 (2) By September 30 of each year, the board shall report to  
492 the Joint Legislative Budget Committee, Senate Insurance  
493 Committee, House Insurance Committee, Senate Education Committee,  
494 House Education Committee and Joint Legislative Committee on  
495 Performance Evaluation and Expenditure Review the condition of the  
496 State and School Employees Life and Health Insurance Plan. Such  
497 report shall contain for the most recently completed fiscal year,  
498 but not be limited to, the following:

499 (a) The plan's financial condition at the close of the  
500 fiscal year.

501 (b) The history of yearly claims paid and premiums  
502 received for each premium class, including, but not limited to,  
503 active employees, dependents and retirees.

504 (c) The history of loss ratios for the active  
505 employees, dependents and retirees premium classes as well as  
506 historical trend of such ratios. For the purposes of this  
507 section, the term "loss ratios" means claims paid by the plan for  
508 each premium class divided by premiums received by the plan for  
509 insurance coverage of the members in that premium class.

510 (d) Budgetary information, including:

511 (i) A detailed breakdown of all expenditures of  
512 the plan, administrative and otherwise, for the most recently  
513 completed fiscal year and projected expenditures, administrative  
514 and otherwise, for the current and next fiscal year;



515                   (ii) A schedule of all contracts, administrative  
516 and otherwise, executed for the benefit of the plan during the  
517 most recent completed fiscal year and those executed and  
518 anticipated for the current fiscal year; and

519                   (iii) A description of the processes used by the  
520 board to procure all contracts, administrative and otherwise, as  
521 well as a description of the scope of services to be provided by  
522 each contractor.

523           Budgetary information shall be provided in a format  
524 designated by the Joint Legislative Budget Committee.

525           The Joint Legislative Budget Committee, Senate Insurance  
526 Committee, House Insurance Committee, Senate Education Committee,  
527 House Education Committee and Joint Legislative Committee on  
528 Performance Evaluation and Expenditure Review may request  
529 additional information or reports from the board on an as-needed  
530 basis.

531           (3) Annually, the board shall request, and the Department of  
532 Audit shall conduct, a comprehensive audit of the State and School  
533 Employees Life and Health Insurance Plan. For purposes of this  
534 section, the audit required herein shall be separate and distinct  
535 from any audit prepared in conjunction with the development of the  
536 Comprehensive Annual Financial Report (CAFR).

537           **SECTION 6.** Section 25-15-13, Mississippi Code of 1972, is  
538 brought forward as follows:



539           25-15-13. Each eligible employee may participate in the  
540 plan by signing up for the plan at the time of employment. Each  
541 eligible employee who declines coverage under the plan must sign a  
542 waiver of coverage. After acceptance in the plan, the employee  
543 may cease his or her participation by filing a specific disclaimer  
544 with the board. Forms for this purpose shall be prescribed and  
545 issued by the board. All eligible employees will be eligible to  
546 participate in the plan on the effective date of the plan or on  
547 the date on which they are employed by the state, whichever is  
548 later, provided they make the necessary contributions as provided  
549 in this article. Spouses of employees, unmarried dependent  
550 children from birth to age nineteen (19) years, unmarried  
551 dependent children who are full-time students up to age  
552 twenty-five (25) years, and physically or mentally handicapped  
553 children, regardless of age, are eligible under the plan as of the  
554 date the employee becomes eligible. If both spouses are eligible  
555 employees who participate in the plan, the benefits shall apply  
556 individually to each spouse by virtue of his or her participation  
557 in the plan. If those spouses also have one or more eligible  
558 dependents participating in the plan, the cost of their dependents  
559 shall be calculated at a special family plan rate. The cost for  
560 participation by the dependents shall be paid by the spouse who  
561 elects to carry such dependents under his or her coverage.

562           **SECTION 7.** Section 25-15-14, Mississippi Code of 1972, is  
563 brought forward as follows:



564           25-15-14. Any elected state or district official who does  
565 not run for reelection or who is defeated before being entitled to  
566 receive a retirement allowance shall be eligible to continue to  
567 participate in the State and School Employees Health Insurance  
568 Plan under the same conditions and coverages for retired  
569 employees.

570           **SECTION 8.** Section 25-15-15, Mississippi Code of 1972, is  
571 brought forward as follows:

572           25-15-15. (1) The board is authorized to determine the  
573 manner in which premiums and contributions by the state agencies,  
574 local school districts, colleges, universities, community/junior  
575 colleges and public libraries shall be collected to provide the  
576 self-insured health insurance program for employees as provided  
577 under this article. The state shall provide fifty percent (50%)  
578 of the cost of the above life insurance plan for all active  
579 full-time employees. The state shall provide one hundred percent  
580 (100%) of the cost of the health insurance plan for active  
581 full-time employees initially employed before January 1, 2006,  
582 except as otherwise provided in this section. For active  
583 full-time employees initially employed on or after January 1,  
584 2006, the state shall provide one hundred percent (100%) of the  
585 cost of a basic level of health insurance, except as otherwise  
586 provided in this section, and the employees may pay additional  
587 amounts to purchase additional benefits or levels of coverage  
588 offered under the plan. The board, if determined to be necessary,





589 may assess active full-time employees a portion of the active  
590 employee premium in an amount not to exceed Twenty Dollars  
591 (\$20.00) per month, notwithstanding any language in this section  
592 to the contrary. All active full-time employees shall be given  
593 the opportunity to purchase coverage for their eligible dependents  
594 with the premiums for such dependent coverage, as well as the  
595 employee's fifty percent (50%) share for his life insurance  
596 coverage, to be deductible from the employee's salary by the  
597 agency, department or institution head, which deductions, together  
598 with the fifty percent (50%) share of such life insurance premiums  
599 of such employing agency, department or institution head from  
600 funds appropriated to or authorized to be expended by the  
601 employing agency, department or institution head, shall be  
602 deposited directly into a depository bank or special fund in the  
603 State Treasury, as determined by the board. These funds and  
604 interest earned on these funds may be used for the disbursement of  
605 claims and shall be exempt from the appropriation process.

606 (2) The state shall provide annually, by line item in the  
607 Mississippi Library Commission appropriation bill, such funds to  
608 pay one hundred percent (100%) of the cost of health insurance  
609 under the State and School Employees Health Insurance Plan, or any  
610 lesser percentage of the cost that is not assessed to the  
611 employees by the board, for full-time library staff members in  
612 each public library in Mississippi initially employed before  
613 January 1, 2006. For full-time library staff members initially



614 employed on or after January 1, 2006, the state shall provide one  
615 hundred percent (100%) of the cost of a basic level of health  
616 insurance under the State and School Employees Health Insurance  
617 Plan, or any lesser percentage of the cost that is not assessed to  
618 the employees by the board, and the employees may pay additional  
619 amounts to purchase additional benefits or levels of coverage  
620 offered under the plan. The commission shall allot to each public  
621 library a sufficient amount of those funds appropriated to pay the  
622 costs of insurance for eligible employees. Any funds so  
623 appropriated by line item which are not expended during the fiscal  
624 year for which such funds were appropriated shall be carried  
625 forward for the same purposes during the next succeeding fiscal  
626 year. If any premiums for the health insurance and/or late  
627 charges and interest penalties are not paid by a public library in  
628 a timely manner, as defined by the board, the Mississippi Library  
629 Commission, upon notice by the board, shall immediately withhold  
630 all subsequent disbursements of funds to that public library.

631 (3) The state shall annually provide one hundred percent  
632 (100%) of the cost of the health insurance plan, or any lesser  
633 percentage of the cost that is not assessed to the employees by  
634 the board, for public school district employees who work no less  
635 than twenty (20) hours during each week and regular nonstudent  
636 school bus drivers, if such employees and school bus drivers were  
637 initially employed before January 1, 2006. For such employees and  
638 school bus drivers initially employed on or after January 1, 2006,



639 the state shall provide one hundred percent (100%) of the cost of  
640 a basic level of health insurance under the State and School  
641 Employees Health Insurance Plan, or any lesser percentage of the  
642 cost that is not assessed to the employees by the board, and the  
643 employees may pay additional amounts to purchase additional  
644 benefits or levels of coverage offered under the plan. Where  
645 federal funding is allowable to defray, in full or in part, the  
646 cost of participation in the program by district employees who  
647 work no less than twenty (20) hours during the week and regular  
648 nonstudent bus drivers, whose salaries are paid, in full or in  
649 part, by federal funds, the allowance under this section shall be  
650 reduced to the extent of such federal funding. Where the use of  
651 federal funds is allowable but not available, it is the intent of  
652 the Legislature that school districts contribute the cost of  
653 participation for such employees from local funds, except that  
654 parent fees for child nutrition programs shall not be increased to  
655 cover such cost.

656 (4) The state shall provide annually, by line item in the  
657 community/junior college appropriation bill, such funds to pay one  
658 hundred percent (100%) of the cost of the health insurance plan,  
659 or any lesser percentage of the cost that is not assessed to the  
660 employees by the board, for community/junior college district  
661 employees initially employed before January 1, 2006, who work no  
662 less than twenty (20) hours during each week. For such employees  
663 initially employed on or after January 1, 2006, the state shall



664 provide one hundred percent (100%) of the cost of a basic level of  
665 health insurance under the State and School Employees Health  
666 Insurance Plan, or any lesser percentage of the cost that is not  
667 assessed to the employees by the board, and the employees may pay  
668 additional amounts to purchase additional benefits or levels of  
669 coverage offered under the plan.

670 (5) When the use of federal funding is allowable to defray,  
671 in full or in part, the cost of participation in the insurance  
672 plan by community/junior college district employees who work no  
673 less than twenty (20) hours during each week, whose salaries are  
674 paid, in full or in part, by federal funds, the allowance under  
675 this section shall be reduced to the extent of the federal  
676 funding. Where the use of federal funds is allowable but not  
677 available, it is the intent of the Legislature that  
678 community/junior college districts contribute the cost of  
679 participation for such employees from local funds.

680 (6) Any community/junior college district may contribute to  
681 the cost of coverage for any district employee from local  
682 community/junior college district funds, and any public school  
683 district may contribute to the cost of coverage for any district  
684 employee from nonminimum program funds. Any part of the cost of  
685 such coverage for participating employees of public school  
686 districts and public community/junior college districts that is  
687 not paid by the state shall be paid by the participating



688 employees, which shall be deducted from the salaries of the  
689 employees in a manner determined by the board.

690 (7) Any funds appropriated for the cost of insurance by line  
691 item in the community/junior colleges appropriation bill which are  
692 not expended during the fiscal year for which such funds were  
693 appropriated shall be carried forward for the same purposes during  
694 the next succeeding fiscal year.

695 (8) The board may establish and enforce late charges and  
696 interest penalties or other penalties for the purpose of requiring  
697 the prompt payment of all premiums for life and health insurance  
698 permitted under this chapter. All funds in excess of the amount  
699 needed for disbursement of claims shall be deposited in a special  
700 fund in the State Treasury to be known as the State and School  
701 Employees Insurance Fund. The State Treasurer shall invest all  
702 funds in the State and School Employees Insurance Fund and all  
703 interest earned shall be credited to the State and School  
704 Employees Insurance Fund. Such funds shall be placed with one or  
705 more depositories of the state and invested on the first day such  
706 funds are available for investment in certificates of deposit,  
707 repurchase agreements or in United States Treasury bills or as  
708 otherwise authorized by law for the investment of Public  
709 Employees' Retirement System funds, as long as such investment is  
710 made from competitive offering and at the highest and best market  
711 rate obtainable consistent with any available investment  
712 alternatives; however, such investments shall not be made in



713 shares of stock, common or preferred, or in any other investments  
714 which would mature more than one (1) year from the date of  
715 investment. The board shall have the authority to draw from this  
716 fund periodically such funds as are necessary to operate the  
717 self-insurance plan or to pay to the insurance carrier the cost of  
718 operation of this plan, it being the purpose to limit the amount  
719 of participation by the state to fifty percent (50%) of the cost  
720 of the life insurance program and not to limit the contracting for  
721 additional benefits where the cost will be paid in full by the  
722 employee. The state shall not share in the cost of coverage for  
723 retired employees.

724 (9) The board shall also provide for the creation of an  
725 Insurance Reserve Fund and funds therein shall be invested by the  
726 State Treasurer with all interest earned credited to the State and  
727 School Employees Insurance Fund.

728 (10) Any retired employee electing to purchase retired life  
729 and health insurance will have the full cost of such insurance  
730 deducted monthly from his State of Mississippi retirement plan  
731 check or direct billed for the cost of the premium if the  
732 retirement check is insufficient to pay for the premium. If the  
733 board determines actuarially that the premium paid by the  
734 participating retirees adversely affects the overall cost of the  
735 plan to the state, then the board may impose a premium surcharge,  
736 not to exceed fifteen percent (15%), upon such participating  
737 retired employees who are under the age for Medicare eligibility



738 and who were initially employed before January 1, 2006. For  
739 participating retired employees who are under the age for Medicare  
740 eligibility and who were initially employed on or after January 1,  
741 2006, the board may impose a premium surcharge in an amount the  
742 board determines actuarially to cover the full cost of insurance.

743 (11) This section shall stand repealed on July 1, 2026.

744 **SECTION 9.** Section 25-15-16, Mississippi Code of 1972, is  
745 brought forward as follows:

746 25-15-16. The public school districts of the state, in their  
747 discretion, may pay with local funds one hundred percent (100%) of  
748 the cost of the health insurance premiums of the State and School  
749 Employees Health Insurance Plan for all retired members of the  
750 Public Employees' Retirement System who are employed as school bus  
751 drivers by the school districts. No state funds shall be used for  
752 payment of the health insurance premiums under the authority of  
753 this section. If a school district chooses to pay the health  
754 insurance premiums for school bus drivers under the authority of  
755 this section, the district shall be authorized to pay any amount  
756 that is one hundred percent (100%) or less of the cost of the  
757 health insurance premiums for the school bus drivers.

758 **SECTION 10.** Section 25-15-17, Mississippi Code of 1972, is  
759 brought forward as follows:

760 25-15-17. (1) Any benefits payable under the plan may be  
761 made either directly to the attending physicians, hospitals,  
762 medical groups, or others furnishing the services upon which a



763 claim is based, or to the covered employee, upon presentation of  
764 valid bills for such services, subject to subsection (3) of this  
765 section and such provisions to facilitate payment as may be made  
766 by the board. All benefits payable under this plan shall be  
767 payable directly to the covered employee unless such covered  
768 employee shall make a valid assignment in accordance with  
769 subsection (3) of this section.

770 (2) The plan may not, by its terms, limit or restrict the  
771 covered employee's ability to assign the covered employee's  
772 benefits under the policy to a licensed health care provider that  
773 provides health care services to the covered employee. Any such  
774 plan provision in violation of this subsection shall be invalid.

775 (3) If the covered employee provides the board with written  
776 direction that all or a portion of any indemnities or benefits  
777 provided by the plan be paid to a licensed health care provider  
778 rendering hospital, nursing, medical or surgical services, then  
779 the plan shall pay directly the licensed health care provider  
780 rendering such services. That payment shall be considered payment  
781 in full to the provider, who may not bill or collect from the  
782 covered employee any amount above that payment, other than the  
783 deductible, coinsurance, copayment or other charges for equipment  
784 or services requested by the covered employee that are noncovered  
785 benefits after the signing of an explanatory document about the  
786 noncovered benefit by the covered employee.





787           **SECTION 11.** Section 25-15-19, Mississippi Code of 1972, is  
788 brought forward as follows:

789           25-15-19. On or before July 1, 1972, the board shall notify  
790 all department, agency and institution heads that the employee  
791 deductions shall commence on said date.

792           **SECTION 12.** Section 25-15-23, Mississippi Code of 1972, is  
793 brought forward as follows:

794           25-15-23. No agency, board, school district,  
795 community/junior college, public library, university, institution  
796 or authority of the state shall withdraw, or authorize any agency  
797 or institution under its management and control to withdraw, from  
798 the State and School Employees Life and Health Insurance Plan  
799 established under this chapter.

800           **SECTION 13.** Section 25-15-303, Mississippi Code of 1972, is  
801 brought forward as follows:

802           25-15-303. (1) There is created the State and School  
803 Employees Health Insurance Management Board, which shall  
804 administer the State and School Employees Life and Health  
805 Insurance Plan provided for under Section 25-15-3 et seq. The  
806 State and School Employees Health Insurance Management Board,  
807 hereafter referred to as the "board," shall also be responsible  
808 for administering all procedures for selecting third-party  
809 administrators provided for in Section 25-15-301.

810           (2) The board shall consist of the following:



811                   (a) The Chairman of the Workers' Compensation  
812 Commission or his or her designee;

813                   (b) The State Personnel Director, or his or her  
814 designee;

815                   (c) The Commissioner of Insurance, or his or her  
816 designee;

817                   (d) The Commissioner of Higher Education, or his or her  
818 designee;

819                   (e) The State Superintendent of Public Education, or  
820 his or her designee;

821                   (f) The Executive Director of the Department of Finance  
822 and Administration, or his or her designee;

823                   (g) The Executive Director of the Mississippi Community  
824 College Board, or his or her designee;

825                   (h) The Executive Director of the Public Employees'  
826 Retirement System, or his or her designee;

827                   (i) Two (2) appointees of the Governor whose terms  
828 shall be concurrent with that of the Governor, one (1) of whom  
829 shall have experience in providing actuarial advice to companies  
830 that provide health insurance to large groups and one (1) of whom  
831 shall have experience in the day-to-day management and  
832 administration of a large self-funded health insurance group;

833                   (j) The Chairman of the Senate Insurance Committee, or  
834 his or her designee;



835 (k) The Chairman of the House of Representatives  
836 Insurance Committee, or his or her designee;

837 (l) The Chairman of the Senate Appropriations  
838 Committee, or his or her designee; and

839 (m) The Chairman of the House of Representatives  
840 Appropriations Committee, or his or her designee.

841 The legislators, or their designees, shall serve as ex  
842 officio, nonvoting members of the board.

843 The Executive Director of the Department of Finance and  
844 Administration shall be the chairman of the board.

845 (3) The board shall meet at least monthly and maintain  
846 minutes of the meetings. A quorum shall consist of a majority of  
847 the authorized voting membership of the board. The board shall  
848 have the sole authority to promulgate rules and regulations  
849 governing the operations of the insurance plans and shall be  
850 vested with all legal authority necessary and proper to perform  
851 this function including, but not limited to:

852 (a) Defining the scope and coverages provided by the  
853 insurance plan;

854 (b) Seeking proposals for services or insurance through  
855 competitive processes where required by law and selecting service  
856 providers or insurers under procedures provided for by law; and

857 (c) Developing and adopting strategic plans and budgets  
858 for the insurance plan.



859           The department shall employ a State Insurance Administrator,  
860 who shall be responsible for the day-to-day management and  
861 administration of the insurance plan. The Department of Finance  
862 and Administration shall provide to the board on a full-time basis  
863 personnel and technical support necessary and sufficient to  
864 effectively and efficiently carry out the requirements of this  
865 section.

866           (4) Members of the board shall not receive any compensation  
867 or per diem, but may receive travel reimbursement provided for  
868 under Section 25-3-41 except that the legislators shall receive  
869 per diem and expenses, which shall be paid from the contingent  
870 expense funds of their respective houses in the same amounts as  
871 provided for committee meetings when the Legislature is not in  
872 session; however, no per diem and expenses for attending meetings  
873 of the board shall be paid while the Legislature is in session.

874           **SECTION 14.** Section 37-151-95, Mississippi Code of 1972, is  
875 brought forward as follows:

876           37-151-95. Adequate education program funds shall include  
877 one hundred percent (100%) of the cost of the State and School  
878 Employees' Life and Health Insurance Plan created under Article 7,  
879 Chapter 15, Title 25, Mississippi Code of 1972, for all district  
880 employees who work no less than twenty (20) hours during each week  
881 and regular nonstudent school bus drivers employed by the  
882 district.



883           Where the use of federal funding is allowable to defray, in  
884 full or in part, the cost of participation in the insurance plan  
885 by district employees who work no less than twenty (20) hours  
886 during each week and regular nonstudent school bus drivers, whose  
887 salaries are paid, in full or in part, by federal funds, the  
888 allowance under this section shall be reduced to the extent of the  
889 federal funding. Where the use of federal funds is allowable but  
890 not available, it is the intent of the Legislature that school  
891 districts contribute the cost of participation for such employees  
892 from local funds, except that parent fees for child nutrition  
893 programs shall not be increased to cover such cost.

894           The State Department of Education, in accordance with rules  
895 and regulations established by the State Board of Education, may  
896 withhold a school district's adequate education program funds for  
897 failure of the district to timely report student, fiscal and  
898 personnel data necessary to meet state and/or federal  
899 requirements. The rules and regulations promulgated by the State  
900 Board of Education shall require the withholding of adequate  
901 education program funds for those districts that fail to remit  
902 premiums, interest penalties and/or late charges under the State  
903 and School Employees' Life and Health Insurance Plan.  
904 Noncompliance with such rules and regulations shall result in a  
905 violation of compulsory accreditation standards as established by  
906 the State Board of Education and Commission on School  
907 Accreditation.



908           **SECTION 15.** Section 41-7-173, Mississippi Code of 1972, is  
909 brought forward as follows:

910           41-7-173. For the purposes of Section 41-7-171 et seq., the  
911 following words shall have the meanings ascribed herein, unless  
912 the context otherwise requires:

913           (a) "Affected person" means (i) the applicant; (ii) a  
914 person residing within the geographic area to be served by the  
915 applicant's proposal; (iii) a person who regularly uses health  
916 care facilities or HMOs located in the geographic area of the  
917 proposal which provide similar service to that which is proposed;  
918 (iv) health care facilities and HMOs which have, prior to receipt  
919 of the application under review, formally indicated an intention  
920 to provide service similar to that of the proposal being  
921 considered at a future date; (v) third-party payers who reimburse  
922 health care facilities located in the geographical area of the  
923 proposal; or (vi) any agency that establishes rates for health  
924 care services or HMOs located in the geographic area of the  
925 proposal.

926           (b) "Certificate of need" means a written order of the  
927 State Department of Health setting forth the affirmative finding  
928 that a proposal in prescribed application form, sufficiently  
929 satisfies the plans, standards and criteria prescribed for such  
930 service or other project by Section 41-7-171 et seq., and by rules  
931 and regulations promulgated thereunder by the State Department of  
932 Health.



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

939 (ii) "Capital expenditure," when pertaining to  
940 other than major medical equipment, shall mean any expenditure  
941 which under generally accepted accounting principles consistently  
942 applied is not properly chargeable as an expense of operation and  
943 maintenance and which exceeds, for clinical health services, as  
944 defined in subsection (k) below, Five Million Dollars  
945 (\$5,000,000.00), adjusted for inflation as published by the State  
946 Department of Health or which exceeds, for nonclinical health  
947 services, as defined in subsection (k) below, Ten Million Dollars  
948 (\$10,000,000.00), adjusted for inflation as published by the State  
949 Department of Health.

950 (iii) A "capital expenditure" shall include the  
951 acquisition, whether by lease, sufferance, gift, devise, legacy,  
952 settlement of a trust or other means, of any facility or part  
953 thereof, or equipment for a facility, the expenditure for which  
954 would have been considered a capital expenditure if acquired by  
955 purchase. Transactions which are separated in time but are  
956 planned to be undertaken within twelve (12) months of each other  
957 and are components of an overall plan for meeting patient care



958 objectives shall, for purposes of this definition, be viewed in  
959 their entirety without regard to their timing.

960 (iv) In those instances where a health care  
961 facility or other provider of health services proposes to provide  
962 a service in which the capital expenditure for major medical  
963 equipment or other than major medical equipment or a combination  
964 of the two (2) may have been split between separate parties, the  
965 total capital expenditure required to provide the proposed service  
966 shall be considered in determining the necessity of certificate of  
967 need review and in determining the appropriate certificate of need  
968 review fee to be paid. The capital expenditure associated with  
969 facilities and equipment to provide services in Mississippi shall  
970 be considered regardless of where the capital expenditure was  
971 made, in state or out of state, and regardless of the domicile of  
972 the party making the capital expenditure, in state or out of  
973 state.

974 (d) "Change of ownership" includes, but is not limited  
975 to, inter vivos gifts, purchases, transfers, lease arrangements,  
976 cash and/or stock transactions or other comparable arrangements  
977 whenever any person or entity acquires or controls a majority  
978 interest of an existing health care facility, and/or the change of  
979 ownership of major medical equipment, a health service, or an  
980 institutional health service. Changes of ownership from  
981 partnerships, single proprietorships or corporations to another  
982 form of ownership are specifically included. However, "change of





983 ownership" shall not include any inherited interest acquired as a  
984 result of a testamentary instrument or under the laws of descent  
985 and distribution of the State of Mississippi.

986 (e) "Commencement of construction" means that all of  
987 the following have been completed with respect to a proposal or  
988 project proposing construction, renovating, remodeling or  
989 alteration:

990 (i) A legally binding written contract has been  
991 consummated by the proponent and a lawfully licensed contractor to  
992 construct and/or complete the intent of the proposal within a  
993 specified period of time in accordance with final architectural  
994 plans which have been approved by the licensing authority of the  
995 State Department of Health;

996 (ii) Any and all permits and/or approvals deemed  
997 lawfully necessary by all authorities with responsibility for such  
998 have been secured; and

999 (iii) Actual bona fide undertaking of the subject  
1000 proposal has commenced, and a progress payment of at least one  
1001 percent (1%) of the total cost price of the contract has been paid  
1002 to the contractor by the proponent, and the requirements of this  
1003 paragraph (e) have been certified to in writing by the State  
1004 Department of Health.

1005 Force account expenditures, such as deposits, securities,  
1006 bonds, et cetera, may, in the discretion of the State Department



1007 of Health, be excluded from any or all of the provisions of  
1008 defined commencement of construction.

1009 (f) "Consumer" means an individual who is not a  
1010 provider of health care as defined in paragraph (q) of this  
1011 section.

1012 (g) "Develop," when used in connection with health  
1013 services, means to undertake those activities which, on their  
1014 completion, will result in the offering of a new institutional  
1015 health service or the incurring of a financial obligation as  
1016 defined under applicable state law in relation to the offering of  
1017 such services.

1018 (h) "Health care facility" includes hospitals,  
1019 psychiatric hospitals, chemical dependency hospitals, skilled  
1020 nursing facilities, end-stage renal disease (ESRD) facilities,  
1021 including freestanding hemodialysis units, intermediate care  
1022 facilities, ambulatory surgical facilities, intermediate care  
1023 facilities for the mentally retarded, home health agencies,  
1024 psychiatric residential treatment facilities, pediatric skilled  
1025 nursing facilities, long-term care hospitals, comprehensive  
1026 medical rehabilitation facilities, including facilities owned or  
1027 operated by the state or a political subdivision or  
1028 instrumentality of the state, but does not include Christian  
1029 Science sanatoriums operated or listed and certified by the First  
1030 Church of Christ, Scientist, Boston, Massachusetts. This  
1031 definition shall not apply to facilities for the private practice,



1032 either independently or by incorporated medical groups, of  
1033 physicians, dentists or health care professionals except where  
1034 such facilities are an integral part of an institutional health  
1035 service. The various health care facilities listed in this  
1036 paragraph shall be defined as follows:

1037 (i) "Hospital" means an institution which is  
1038 primarily engaged in providing to inpatients, by or under the  
1039 supervision of physicians, diagnostic services and therapeutic  
1040 services for medical diagnosis, treatment and care of injured,  
1041 disabled or sick persons, or rehabilitation services for the  
1042 rehabilitation of injured, disabled or sick persons. Such term  
1043 does not include psychiatric hospitals.

1044 (ii) "Psychiatric hospital" means an institution  
1045 which is primarily engaged in providing to inpatients, by or under  
1046 the supervision of a physician, psychiatric services for the  
1047 diagnosis and treatment of persons with mental illness.

1048 (iii) "Chemical dependency hospital" means an  
1049 institution which is primarily engaged in providing to inpatients,  
1050 by or under the supervision of a physician, medical and related  
1051 services for the diagnosis and treatment of chemical dependency  
1052 such as alcohol and drug abuse.

1053 (iv) "Skilled nursing facility" means an  
1054 institution or a distinct part of an institution which is  
1055 primarily engaged in providing to inpatients skilled nursing care  
1056 and related services for patients who require medical or nursing



1057 care or rehabilitation services for the rehabilitation of injured,  
1058 disabled or sick persons.

1059 (v) "End-stage renal disease (ESRD) facilities"  
1060 means kidney disease treatment centers, which includes  
1061 freestanding hemodialysis units and limited care facilities. The  
1062 term "limited care facility" generally refers to an  
1063 off-hospital-premises facility, regardless of whether it is  
1064 provider or nonprovider operated, which is engaged primarily in  
1065 furnishing maintenance hemodialysis services to stabilized  
1066 patients.

1067 (vi) "Intermediate care facility" means an  
1068 institution which provides, on a regular basis, health-related  
1069 care and services to individuals who do not require the degree of  
1070 care and treatment which a hospital or skilled nursing facility is  
1071 designed to provide, but who, because of their mental or physical  
1072 condition, require health-related care and services (above the  
1073 level of room and board).

1074 (vii) "Ambulatory surgical facility" means a  
1075 facility primarily organized or established for the purpose of  
1076 performing surgery for outpatients and is a separate identifiable  
1077 legal entity from any other health care facility. Such term does  
1078 not include the offices of private physicians or dentists, whether  
1079 for individual or group practice, and does not include any  
1080 abortion facility as defined in Section 41-75-1(f).



1081 (viii) "Intermediate care facility for the  
1082 mentally retarded" means an intermediate care facility that  
1083 provides health or rehabilitative services in a planned program of  
1084 activities to persons with an intellectual disability, also  
1085 including, but not limited to, cerebral palsy and other conditions  
1086 covered by the Federal Developmentally Disabled Assistance and  
1087 Bill of Rights Act, Public Law 94-103.

1088 (ix) "Home health agency" means a public or  
1089 privately owned agency or organization, or a subdivision of such  
1090 an agency or organization, properly authorized to conduct business  
1091 in Mississippi, which is primarily engaged in providing to  
1092 individuals at the written direction of a licensed physician, in  
1093 the individual's place of residence, skilled nursing services  
1094 provided by or under the supervision of a registered nurse  
1095 licensed to practice in Mississippi, and one or more of the  
1096 following services or items:

- 1097 1. Physical, occupational or speech therapy;
- 1098 2. Medical social services;
- 1099 3. Part-time or intermittent services of a  
1100 home health aide;
- 1101 4. Other services as approved by the  
1102 licensing agency for home health agencies;
- 1103 5. Medical supplies, other than drugs and  
1104 biologicals, and the use of medical appliances; or



1105                   6. Medical services provided by an intern or  
1106 resident-in-training at a hospital under a teaching program of  
1107 such hospital.

1108           Further, all skilled nursing services and those services  
1109 listed in items 1 through 4 of this subparagraph (ix) must be  
1110 provided directly by the licensed home health agency. For  
1111 purposes of this subparagraph, "directly" means either through an  
1112 agency employee or by an arrangement with another individual not  
1113 defined as a health care facility.

1114           This subparagraph (ix) shall not apply to health care  
1115 facilities which had contracts for the above services with a home  
1116 health agency on January 1, 1990.

1117                   (x) "Psychiatric residential treatment facility"  
1118 means any nonhospital establishment with permanent licensed  
1119 facilities which provides a twenty-four-hour program of care by  
1120 qualified therapists, including, but not limited to, duly licensed  
1121 mental health professionals, psychiatrists, psychologists,  
1122 psychotherapists and licensed certified social workers, for  
1123 emotionally disturbed children and adolescents referred to such  
1124 facility by a court, local school district or by the Department of  
1125 Human Services, who are not in an acute phase of illness requiring  
1126 the services of a psychiatric hospital, and are in need of such  
1127 restorative treatment services. For purposes of this  
1128 subparagraph, the term "emotionally disturbed" means a condition  
1129 exhibiting one or more of the following characteristics over a



1130 long period of time and to a marked degree, which adversely  
1131 affects educational performance:

1132 1. An inability to learn which cannot be  
1133 explained by intellectual, sensory or health factors;

1134 2. An inability to build or maintain  
1135 satisfactory relationships with peers and teachers;

1136 3. Inappropriate types of behavior or  
1137 feelings under normal circumstances;

1138 4. A general pervasive mood of unhappiness or  
1139 depression; or

1140 5. A tendency to develop physical symptoms or  
1141 fears associated with personal or school problems. An  
1142 establishment furnishing primarily domiciliary care is not within  
1143 this definition.

1144 (xi) "Pediatric skilled nursing facility" means an  
1145 institution or a distinct part of an institution that is primarily  
1146 engaged in providing to inpatients skilled nursing care and  
1147 related services for persons under twenty-one (21) years of age  
1148 who require medical or nursing care or rehabilitation services for  
1149 the rehabilitation of injured, disabled or sick persons.

1150 (xii) "Long-term care hospital" means a  
1151 freestanding, Medicare-certified hospital that has an average  
1152 length of inpatient stay greater than twenty-five (25) days, which  
1153 is primarily engaged in providing chronic or long-term medical  
1154 care to patients who do not require more than three (3) hours of



1155 rehabilitation or comprehensive rehabilitation per day, and has a  
1156 transfer agreement with an acute care medical center and a  
1157 comprehensive medical rehabilitation facility. Long-term care  
1158 hospitals shall not use rehabilitation, comprehensive medical  
1159 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
1160 nursing home, skilled nursing facility or sub-acute care facility  
1161 in association with its name.

1162 (xiii) "Comprehensive medical rehabilitation  
1163 facility" means a hospital or hospital unit that is licensed  
1164 and/or certified as a comprehensive medical rehabilitation  
1165 facility which provides specialized programs that are accredited  
1166 by the Commission on Accreditation of Rehabilitation Facilities  
1167 and supervised by a physician board certified or board eligible in  
1168 physiatry or other doctor of medicine or osteopathy with at least  
1169 two (2) years of training in the medical direction of a  
1170 comprehensive rehabilitation program that:

1171 1. Includes evaluation and treatment of  
1172 individuals with physical disabilities;

1173 2. Emphasizes education and training of  
1174 individuals with disabilities;

1175 3. Incorporates at least the following core  
1176 disciplines:

1177 (i) Physical Therapy;

1178 (ii) Occupational Therapy;

1179 (iii) Speech and Language Therapy;





1180 (iv) Rehabilitation Nursing; and  
1181 4. Incorporates at least three (3) of the  
1182 following disciplines:

- 1183 (i) Psychology;
- 1184 (ii) Audiology;
- 1185 (iii) Respiratory Therapy;
- 1186 (iv) Therapeutic Recreation;
- 1187 (v) Orthotics;
- 1188 (vi) Prosthetics;
- 1189 (vii) Special Education;
- 1190 (viii) Vocational Rehabilitation;
- 1191 (ix) Psychotherapy;
- 1192 (x) Social Work;
- 1193 (xi) Rehabilitation Engineering.

1194 These specialized programs include, but are not limited to:  
1195 spinal cord injury programs, head injury programs and infant and  
1196 early childhood development programs.

1197 (i) "Health maintenance organization" or "HMO" means a  
1198 public or private organization organized under the laws of this  
1199 state or the federal government which:

- 1200 (i) Provides or otherwise makes available to  
1201 enrolled participants health care services, including  
1202 substantially the following basic health care services: usual  
1203 physician services, hospitalization, laboratory, x-ray, emergency  
1204 and preventive services, and out-of-area coverage;



1205                   (ii) Is compensated (except for copayments) for  
1206 the provision of the basic health care services listed in  
1207 subparagraph (i) of this paragraph to enrolled participants on a  
1208 predetermined basis; and

1209                   (iii) Provides physician services primarily:

1210                             1. Directly through physicians who are either  
1211 employees or partners of such organization; or

1212                             2. Through arrangements with individual  
1213 physicians or one or more groups of physicians (organized on a  
1214 group practice or individual practice basis).

1215                   (j) "Health service area" means a geographic area of  
1216 the state designated in the State Health Plan as the area to be  
1217 used in planning for specified health facilities and services and  
1218 to be used when considering certificate of need applications to  
1219 provide health facilities and services.

1220                   (k) "Health services" means clinically related (i.e.,  
1221 diagnostic, treatment or rehabilitative) services and includes  
1222 alcohol, drug abuse, mental health and home health care services.  
1223 "Clinical health services" shall only include those activities  
1224 which contemplate any change in the existing bed complement of any  
1225 health care facility through the addition or conversion of any  
1226 beds, under Section 41-7-191(1)(c) or propose to offer any health  
1227 services if those services have not been provided on a regular  
1228 basis by the proposed provider of such services within the period  
1229 of twelve (12) months prior to the time such services would be



1230 offered, under Section 41-7-191(1)(d). "Nonclinical health  
1231 services" shall be all other services which do not involve any  
1232 change in the existing bed complement or offering health services  
1233 as described above.

1234 (l) "Institutional health services" shall mean health  
1235 services provided in or through health care facilities and shall  
1236 include the entities in or through which such services are  
1237 provided.

1238 (m) "Major medical equipment" means medical equipment  
1239 designed for providing medical or any health-related service which  
1240 costs in excess of One Million Five Hundred Thousand Dollars  
1241 (\$1,500,000.00). However, this definition shall not be applicable  
1242 to clinical laboratories if they are determined by the State  
1243 Department of Health to be independent of any physician's office,  
1244 hospital or other health care facility or otherwise not so defined  
1245 by federal or state law, or rules and regulations promulgated  
1246 thereunder.

1247 (n) "State Department of Health" or "department" shall  
1248 mean the state agency created under Section 41-3-15, which shall  
1249 be considered to be the State Health Planning and Development  
1250 Agency, as defined in paragraph (u) of this section.

1251 (o) "Offer," when used in connection with health  
1252 services, means that it has been determined by the State  
1253 Department of Health that the health care facility is capable of  
1254 providing specified health services.



1255           (p) "Person" means an individual, a trust or estate,  
1256 partnership, corporation (including associations, joint-stock  
1257 companies and insurance companies), the state or a political  
1258 subdivision or instrumentality of the state.

1259           (q) "Provider" shall mean any person who is a provider  
1260 or representative of a provider of health care services requiring  
1261 a certificate of need under Section 41-7-171 et seq., or who has  
1262 any financial or indirect interest in any provider of services.

1263           (r) "Radiation therapy services" means the treatment of  
1264 cancer and other diseases using ionizing radiation of either high  
1265 energy photons (x-rays or gamma rays) or charged particles  
1266 (electrons, protons or heavy nuclei). However, for purposes of a  
1267 certificate of need, radiation therapy services shall not include  
1268 low energy, superficial, external beam x-ray treatment of  
1269 superficial skin lesions.

1270           (s) "Secretary" means the Secretary of Health and Human  
1271 Services, and any officer or employee of the Department of Health  
1272 and Human Services to whom the authority involved has been  
1273 delegated.

1274           (t) "State Health Plan" means the sole and official  
1275 statewide health plan for Mississippi which identifies priority  
1276 state health needs and establishes standards and criteria for  
1277 health-related activities which require certificate of need review  
1278 in compliance with Section 41-7-191.



1279 (u) "State Health Planning and Development Agency"  
1280 means the agency of state government designated to perform health  
1281 planning and resource development programs for the State of  
1282 Mississippi.

1283 **SECTION 16.** Section 41-7-175, Mississippi Code of 1972, is  
1284 brought forward as follows:

1285 41-7-175. The State Department of Health shall be the sole  
1286 and official agency of the State of Mississippi to administer and  
1287 supervise, as prescribed by the Legislature, all responsibilities  
1288 of the state health planning and development agency.

1289 **SECTION 17.** Section 41-7-183, Mississippi Code of 1972, is  
1290 brought forward as follows:

1291 41-7-183. The State Department of Health shall have the duty  
1292 of administering all functions and responsibilities of the  
1293 designated state health planning and development agency as  
1294 prescribed by the Legislature, and shall serve as the designated  
1295 planning agency of the state for purposes of Section 1122 of  
1296 Public Law 92-603 for the period of time that a contract is in  
1297 effect between the Secretary and the State Department of Health  
1298 for such purposes.

1299 **SECTION 18.** Section 41-7-185, Mississippi Code of 1972, is  
1300 brought forward as follows:

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



1304           (a) Make applications for and accept funds from the  
1305 secretary and other federal and state agencies and to receive and  
1306 administer such other funds for the planning or provision of  
1307 health facilities or health care as are appropriate to the  
1308 accomplishment of the purposes of Section 41-7-171 et seq.; and to  
1309 contract with the secretary to accept funds to administer planning  
1310 activities on the community, regional or state level;

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

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

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



1329 person or place the provider in jeopardy of legal action by a  
1330 third party;

1331 (e) Conduct such other hearing or hearings in addition  
1332 to those provided for in Section 41-7-197, and enter such further  
1333 order or orders, and with approval of the Governor enter into such  
1334 agreement or agreements with the secretary as may be reasonably  
1335 necessary to the realization by the people of Mississippi of the  
1336 full benefits of Acts of Congress;

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

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

1348 **SECTION 19.** Section 41-7-191, Mississippi Code of 1972, is  
1349 brought forward as follows:

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



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

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

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





1378 its intent to increase the number of its licensed beds. The State  
1379 Department of Health shall survey the health care facility within  
1380 thirty (30) days of that notice and, if appropriate, issue the  
1381 health care facility a new license reflecting the new contingent  
1382 of beds. However, in no event may a health care facility that has  
1383 voluntarily delicensed some of its beds be reissued a license to  
1384 operate beds in excess of its bed count before the voluntary  
1385 delicensure of some of its beds without seeking certificate of  
1386 need approval;

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

- 1391 (i) Open-heart surgery services;
- 1392 (ii) Cardiac catheterization services;
- 1393 (iii) Comprehensive inpatient rehabilitation  
1394 services;
- 1395 (iv) Licensed psychiatric services;
- 1396 (v) Licensed chemical dependency services;
- 1397 (vi) Radiation therapy services;
- 1398 (vii) Diagnostic imaging services of an invasive  
1399 nature, i.e. invasive digital angiography;
- 1400 (viii) Nursing home care as defined in  
1401 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 1402 (ix) Home health services;



1403 (x) Swing-bed services;  
1404 (xi) Ambulatory surgical services;  
1405 (xii) Magnetic resonance imaging services;  
1406 (xiii) [Deleted]  
1407 (xiv) Long-term care hospital services;  
1408 (xv) Positron emission tomography (PET) services;  
1409 (e) The relocation of one or more health services from  
1410 one physical facility or site to another physical facility or  
1411 site, unless such relocation, which does not involve a capital  
1412 expenditure by or on behalf of a health care facility, (i) is to a  
1413 physical facility or site within five thousand two hundred eighty  
1414 (5,280) feet from the main entrance of the health care facility  
1415 where the health care service is located, or (ii) is the result of  
1416 an order of a court of appropriate jurisdiction or a result of  
1417 pending litigation in such court, or by order of the State  
1418 Department of Health, or by order of any other agency or legal  
1419 entity of the state, the federal government, or any political  
1420 subdivision of either, whose order is also approved by the State  
1421 Department of Health;  
1422 (f) The acquisition or otherwise control of any major  
1423 medical equipment for the provision of medical services; however,  
1424 (i) the acquisition of any major medical equipment used only for  
1425 research purposes, and (ii) the acquisition of major medical  
1426 equipment to replace medical equipment for which a facility is  
1427 already providing medical services and for which the State



1428 Department of Health has been notified before the date of such  
1429 acquisition shall be exempt from this paragraph; an acquisition  
1430 for less than fair market value must be reviewed, if the  
1431 acquisition at fair market value would be subject to review;

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

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

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



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

1455 (k) The contracting of a health care facility as  
1456 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
1457 to establish a home office, subunit, or branch office in the space  
1458 operated as a health care facility through a formal arrangement  
1459 with an existing health care facility as defined in subparagraph  
1460 (ix) of Section 41-7-173(h);

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

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

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



1477           (a) The department may issue a certificate of need to  
1478 any person proposing the new construction of any health care  
1479 facility defined in subparagraphs (iv) and (vi) of Section  
1480 41-7-173(h) as part of a life care retirement facility, in any  
1481 county bordering on the Gulf of Mexico in which is located a  
1482 National Aeronautics and Space Administration facility, not to  
1483 exceed forty (40) beds. From and after July 1, 1999, there shall  
1484 be no prohibition or restrictions on participation in the Medicaid  
1485 program (Section 43-13-101 et seq.) for the beds in the health  
1486 care facility that were authorized under this paragraph (a).

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

1494           (c) The department may issue a certificate of need for  
1495 the addition to or expansion of any skilled nursing facility that  
1496 is part of an existing continuing care retirement community  
1497 located in Madison County, provided that the recipient of the  
1498 certificate of need agrees in writing that the skilled nursing  
1499 facility will not at any time participate in the Medicaid program  
1500 (Section 43-13-101 et seq.) or admit or keep any patients in the  
1501 skilled nursing facility who are participating in the Medicaid



1502 program. This written agreement by the recipient of the  
1503 certificate of need shall be fully binding on any subsequent owner  
1504 of the skilled nursing facility, if the ownership of the facility  
1505 is transferred at any time after the issuance of the certificate  
1506 of need. Agreement that the skilled nursing facility will not  
1507 participate in the Medicaid program shall be a condition of the  
1508 issuance of a certificate of need to any person under this  
1509 paragraph (c), and if such skilled nursing facility at any time  
1510 after the issuance of the certificate of need, regardless of the  
1511 ownership of the facility, participates in the Medicaid program or  
1512 admits or keeps any patients in the facility who are participating  
1513 in the Medicaid program, the State Department of Health shall  
1514 revoke the certificate of need, if it is still outstanding, and  
1515 shall deny or revoke the license of the skilled nursing facility,  
1516 at the time that the department determines, after a hearing  
1517 complying with due process, that the facility has failed to comply  
1518 with any of the conditions upon which the certificate of need was  
1519 issued, as provided in this paragraph and in the written agreement  
1520 by the recipient of the certificate of need. The total number of  
1521 beds that may be authorized under the authority of this paragraph  
1522 (c) shall not exceed sixty (60) beds.

1523 (d) The State Department of Health may issue a  
1524 certificate of need to any hospital located in DeSoto County for  
1525 the new construction of a skilled nursing facility, not to exceed  
1526 one hundred twenty (120) beds, in DeSoto County. From and after



1527 July 1, 1999, there shall be no prohibition or restrictions on  
1528 participation in the Medicaid program (Section 43-13-101 et seq.)  
1529 for the beds in the nursing facility that were authorized under  
1530 this paragraph (d).

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

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

1548 (g) The State Department of Health may issue a  
1549 certificate of need for the construction or expansion of nursing  
1550 facility beds or the conversion of other beds to nursing facility  
1551 beds in either Hinds, Madison or Rankin County, not to exceed



1552 sixty (60) beds. From and after July 1, 1999, there shall be no  
1553 prohibition or restrictions on participation in the Medicaid  
1554 program (Section 43-13-101 et seq.) for the beds in the nursing  
1555 facility that were authorized under this paragraph (g).

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

1564 (i) The department may issue a certificate of need for  
1565 the new construction of a skilled nursing facility in Leake  
1566 County, provided that the recipient of the certificate of need  
1567 agrees in writing that the skilled nursing facility will not at  
1568 any time participate in the Medicaid program (Section 43-13-101 et  
1569 seq.) or admit or keep any patients in the skilled nursing  
1570 facility who are participating in the Medicaid program. This  
1571 written agreement by the recipient of the certificate of need  
1572 shall be fully binding on any subsequent owner of the skilled  
1573 nursing facility, if the ownership of the facility is transferred  
1574 at any time after the issuance of the certificate of need.  
1575 Agreement that the skilled nursing facility will not participate  
1576 in the Medicaid program shall be a condition of the issuance of a





1577 certificate of need to any person under this paragraph (i), and if  
1578 such skilled nursing facility at any time after the issuance of  
1579 the certificate of need, regardless of the ownership of the  
1580 facility, participates in the Medicaid program or admits or keeps  
1581 any patients in the facility who are participating in the Medicaid  
1582 program, the State Department of Health shall revoke the  
1583 certificate of need, if it is still outstanding, and shall deny or  
1584 revoke the license of the skilled nursing facility, at the time  
1585 that the department determines, after a hearing complying with due  
1586 process, that the facility has failed to comply with any of the  
1587 conditions upon which the certificate of need was issued, as  
1588 provided in this paragraph and in the written agreement by the  
1589 recipient of the certificate of need. The provision of Section  
1590 41-7-193(1) regarding substantial compliance of the projection of  
1591 need as reported in the current State Health Plan is waived for  
1592 the purposes of this paragraph. The total number of nursing  
1593 facility beds that may be authorized by any certificate of need  
1594 issued under this paragraph (i) shall not exceed sixty (60) beds.  
1595 If the skilled nursing facility authorized by the certificate of  
1596 need issued under this paragraph is not constructed and fully  
1597 operational within eighteen (18) months after July 1, 1994, the  
1598 State Department of Health, after a hearing complying with due  
1599 process, shall revoke the certificate of need, if it is still  
1600 outstanding, and shall not issue a license for the skilled nursing



1601 facility at any time after the expiration of the eighteen-month  
1602 period.

1603           (j) The department may issue certificates of need to  
1604 allow any existing freestanding long-term care facility in  
1605 Tishomingo County and Hancock County that on July 1, 1995, is  
1606 licensed with fewer than sixty (60) beds. For the purposes of  
1607 this paragraph (j), the provisions of Section 41-7-193(1)  
1608 requiring substantial compliance with the projection of need as  
1609 reported in the current State Health Plan are waived. From and  
1610 after July 1, 1999, there shall be no prohibition or restrictions  
1611 on participation in the Medicaid program (Section 43-13-101 et  
1612 seq.) for the beds in the long-term care facilities that were  
1613 authorized under this paragraph (j).

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



1626 participation in the Medicaid program, and that no claim will be  
1627 submitted for Medicaid reimbursement for more than thirty (30)  
1628 patients in the facility in any month or for any patient in the  
1629 facility who is in a bed that is not Medicaid-certified. This  
1630 written agreement by the owner of the facility shall be a  
1631 condition of licensure of the facility, and the agreement shall be  
1632 fully binding on any subsequent owner of the facility if the  
1633 ownership of the facility is transferred at any time after July 1,  
1634 2001. After this written agreement is executed, the Division of  
1635 Medicaid and the State Department of Health shall not certify more  
1636 than thirty (30) of the beds in the facility for participation in  
1637 the Medicaid program. If the facility violates the terms of the  
1638 written agreement by admitting or keeping in the facility on a  
1639 regular or continuing basis more than thirty (30) patients who are  
1640 participating in the Medicaid program, the State Department of  
1641 Health shall revoke the license of the facility, at the time that  
1642 the department determines, after a hearing complying with due  
1643 process, that the facility has violated the written agreement.

1644 (1) Provided that funds are specifically appropriated  
1645 therefor by the Legislature, the department may issue a  
1646 certificate of need to a rehabilitation hospital in Hinds County  
1647 for the construction of a sixty-bed long-term care nursing  
1648 facility dedicated to the care and treatment of persons with  
1649 severe disabilities including persons with spinal cord and  
1650 closed-head injuries and ventilator dependent patients. The



1651 provisions of Section 41-7-193(1) regarding substantial compliance  
1652 with projection of need as reported in the current State Health  
1653 Plan are waived for the purpose of this paragraph.

1654           (m) The State Department of Health may issue a  
1655 certificate of need to a county-owned hospital in the Second  
1656 Judicial District of Panola County for the conversion of not more  
1657 than seventy-two (72) hospital beds to nursing facility beds,  
1658 provided that the recipient of the certificate of need agrees in  
1659 writing that none of the beds at the nursing facility will be  
1660 certified for participation in the Medicaid program (Section  
1661 43-13-101 et seq.), and that no claim will be submitted for  
1662 Medicaid reimbursement in the nursing facility in any day or for  
1663 any patient in the nursing facility. This written agreement by  
1664 the recipient of the certificate of need shall be a condition of  
1665 the issuance of the certificate of need under this paragraph, and  
1666 the agreement shall be fully binding on any subsequent owner of  
1667 the nursing facility if the ownership of the nursing facility is  
1668 transferred at any time after the issuance of the certificate of  
1669 need. After this written agreement is executed, the Division of  
1670 Medicaid and the State Department of Health shall not certify any  
1671 of the beds in the nursing facility for participation in the  
1672 Medicaid program. If the nursing facility violates the terms of  
1673 the written agreement by admitting or keeping in the nursing  
1674 facility on a regular or continuing basis any patients who are  
1675 participating in the Medicaid program, the State Department of



1676 Health shall revoke the license of the nursing facility, at the  
1677 time that the department determines, after a hearing complying  
1678 with due process, that the nursing facility has violated the  
1679 condition upon which the certificate of need was issued, as  
1680 provided in this paragraph and in the written agreement. If the  
1681 certificate of need authorized under this paragraph is not issued  
1682 within twelve (12) months after July 1, 2001, the department shall  
1683 deny the application for the certificate of need and shall not  
1684 issue the certificate of need at any time after the twelve-month  
1685 period, unless the issuance is contested. If the certificate of  
1686 need is issued and substantial construction of the nursing  
1687 facility beds has not commenced within eighteen (18) months after  
1688 July 1, 2001, the State Department of Health, after a hearing  
1689 complying with due process, shall revoke the certificate of need  
1690 if it is still outstanding, and the department shall not issue a  
1691 license for the nursing facility at any time after the  
1692 eighteen-month period. However, if the issuance of the  
1693 certificate of need is contested, the department shall require  
1694 substantial construction of the nursing facility beds within six  
1695 (6) months after final adjudication on the issuance of the  
1696 certificate of need.

1697 (n) The department may issue a certificate of need for  
1698 the new construction, addition or conversion of skilled nursing  
1699 facility beds in Madison County, provided that the recipient of  
1700 the certificate of need agrees in writing that the skilled nursing



1701 facility will not at any time participate in the Medicaid program  
1702 (Section 43-13-101 et seq.) or admit or keep any patients in the  
1703 skilled nursing facility who are participating in the Medicaid  
1704 program. This written agreement by the recipient of the  
1705 certificate of need shall be fully binding on any subsequent owner  
1706 of the skilled nursing facility, if the ownership of the facility  
1707 is transferred at any time after the issuance of the certificate  
1708 of need. Agreement that the skilled nursing facility will not  
1709 participate in the Medicaid program shall be a condition of the  
1710 issuance of a certificate of need to any person under this  
1711 paragraph (n), and if such skilled nursing facility at any time  
1712 after the issuance of the certificate of need, regardless of the  
1713 ownership of the facility, participates in the Medicaid program or  
1714 admits or keeps any patients in the facility who are participating  
1715 in the Medicaid program, the State Department of Health shall  
1716 revoke the certificate of need, if it is still outstanding, and  
1717 shall deny or revoke the license of the skilled nursing facility,  
1718 at the time that the department determines, after a hearing  
1719 complying with due process, that the facility has failed to comply  
1720 with any of the conditions upon which the certificate of need was  
1721 issued, as provided in this paragraph and in the written agreement  
1722 by the recipient of the certificate of need. The total number of  
1723 nursing facility beds that may be authorized by any certificate of  
1724 need issued under this paragraph (n) shall not exceed sixty (60)  
1725 beds. If the certificate of need authorized under this paragraph



1726 is not issued within twelve (12) months after July 1, 1998, the  
1727 department shall deny the application for the certificate of need  
1728 and shall not issue the certificate of need at any time after the  
1729 twelve-month period, unless the issuance is contested. If the  
1730 certificate of need is issued and substantial construction of the  
1731 nursing facility beds has not commenced within eighteen (18)  
1732 months after July 1, 1998, the State Department of Health, after a  
1733 hearing complying with due process, shall revoke the certificate  
1734 of need if it is still outstanding, and the department shall not  
1735 issue a license for the nursing facility at any time after the  
1736 eighteen-month period. However, if the issuance of the  
1737 certificate of need is contested, the department shall require  
1738 substantial construction of the nursing facility beds within six  
1739 (6) months after final adjudication on the issuance of the  
1740 certificate of need.

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



1751 is transferred at any time after the issuance of the certificate  
1752 of need. Agreement that the skilled nursing facility will not  
1753 participate in the Medicaid program shall be a condition of the  
1754 issuance of a certificate of need to any person under this  
1755 paragraph (o), and if such skilled nursing facility at any time  
1756 after the issuance of the certificate of need, regardless of the  
1757 ownership of the facility, participates in the Medicaid program or  
1758 admits or keeps any patients in the facility who are participating  
1759 in the Medicaid program, the State Department of Health shall  
1760 revoke the certificate of need, if it is still outstanding, and  
1761 shall deny or revoke the license of the skilled nursing facility,  
1762 at the time that the department determines, after a hearing  
1763 complying with due process, that the facility has failed to comply  
1764 with any of the conditions upon which the certificate of need was  
1765 issued, as provided in this paragraph and in the written agreement  
1766 by the recipient of the certificate of need. The total number of  
1767 nursing facility beds that may be authorized by any certificate of  
1768 need issued under this paragraph (o) shall not exceed sixty (60)  
1769 beds. If the certificate of need authorized under this paragraph  
1770 is not issued within twelve (12) months after July 1, 2001, the  
1771 department shall deny the application for the certificate of need  
1772 and shall not issue the certificate of need at any time after the  
1773 twelve-month period, unless the issuance is contested. If the  
1774 certificate of need is issued and substantial construction of the  
1775 nursing facility beds has not commenced within eighteen (18)





1776 months after July 1, 2001, the State Department of Health, after a  
1777 hearing complying with due process, shall revoke the certificate  
1778 of need if it is still outstanding, and the department shall not  
1779 issue a license for the nursing facility at any time after the  
1780 eighteen-month period. However, if the issuance of the  
1781 certificate of need is contested, the department shall require  
1782 substantial construction of the nursing facility beds within six  
1783 (6) months after final adjudication on the issuance of the  
1784 certificate of need.

1785 (p) The department may issue a certificate of need for  
1786 the construction of a municipally owned nursing facility within  
1787 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
1788 beds, provided that the recipient of the certificate of need  
1789 agrees in writing that the skilled nursing facility will not at  
1790 any time participate in the Medicaid program (Section 43-13-101 et  
1791 seq.) or admit or keep any patients in the skilled nursing  
1792 facility who are participating in the Medicaid program. This  
1793 written agreement by the recipient of the certificate of need  
1794 shall be fully binding on any subsequent owner of the skilled  
1795 nursing facility, if the ownership of the facility is transferred  
1796 at any time after the issuance of the certificate of need.

1797 Agreement that the skilled nursing facility will not participate  
1798 in the Medicaid program shall be a condition of the issuance of a  
1799 certificate of need to any person under this paragraph (p), and if  
1800 such skilled nursing facility at any time after the issuance of



1801 the certificate of need, regardless of the ownership of the  
1802 facility, participates in the Medicaid program or admits or keeps  
1803 any patients in the facility who are participating in the Medicaid  
1804 program, the State Department of Health shall revoke the  
1805 certificate of need, if it is still outstanding, and shall deny or  
1806 revoke the license of the skilled nursing facility, at the time  
1807 that the department determines, after a hearing complying with due  
1808 process, that the facility has failed to comply with any of the  
1809 conditions upon which the certificate of need was issued, as  
1810 provided in this paragraph and in the written agreement by the  
1811 recipient of the certificate of need. The provision of Section  
1812 41-7-193(1) regarding substantial compliance of the projection of  
1813 need as reported in the current State Health Plan is waived for  
1814 the purposes of this paragraph. If the certificate of need  
1815 authorized under this paragraph is not issued within twelve (12)  
1816 months after July 1, 1998, the department shall deny the  
1817 application for the certificate of need and shall not issue the  
1818 certificate of need at any time after the twelve-month period,  
1819 unless the issuance is contested. If the certificate of need is  
1820 issued and substantial construction of the nursing facility beds  
1821 has not commenced within eighteen (18) months after July 1, 1998,  
1822 the State Department of Health, after a hearing complying with due  
1823 process, shall revoke the certificate of need if it is still  
1824 outstanding, and the department shall not issue a license for the  
1825 nursing facility at any time after the eighteen-month period.



1826 However, if the issuance of the certificate of need is contested,  
1827 the department shall require substantial construction of the  
1828 nursing facility beds within six (6) months after final  
1829 adjudication on the issuance of the certificate of need.

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

1840 (ii) Subject to the provisions of subparagraph  
1841 (v), during each of the next four (4) fiscal years, the department  
1842 shall issue six (6) certificates of need for new nursing facility  
1843 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
1844 (1) certificate of need shall be issued for new nursing facility  
1845 beds in the county in each of the four (4) Long-Term Care Planning  
1846 Districts designated in the fiscal year 1999 State Health Plan  
1847 that has the highest need in the district for those beds; and two  
1848 (2) certificates of need shall be issued for new nursing facility  
1849 beds in the two (2) counties from the state at large that have the  
1850 highest need in the state for those beds, when considering the



1851 need on a statewide basis and without regard to the Long-Term Care  
1852 Planning Districts in which the counties are located. During  
1853 fiscal year 2003, one (1) certificate of need shall be issued for  
1854 new nursing facility beds in any county having a need for fifty  
1855 (50) or more additional nursing facility beds, as shown in the  
1856 fiscal year 1999 State Health Plan, that has not received a  
1857 certificate of need under this paragraph (q) during the three (3)  
1858 previous fiscal years. During fiscal year 2000, in addition to  
1859 the six (6) certificates of need authorized in this subparagraph,  
1860 the department also shall issue a certificate of need for new  
1861 nursing facility beds in Amite County and a certificate of need  
1862 for new nursing facility beds in Carroll County.

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



1875 the county with the lowest need, until an application is received  
1876 for nursing facility beds in an eligible county in the district.

1877 (iv) Subject to the provisions of subparagraph  
1878 (v), the certificate of need issued under subparagraph (ii) for  
1879 nursing facility beds in the two (2) counties from the state at  
1880 large during each fiscal year shall first be available for nursing  
1881 facility beds in the two (2) counties that have the highest need  
1882 in the state for those beds, as shown in the fiscal year 1999  
1883 State Health Plan, when considering the need on a statewide basis  
1884 and without regard to the Long-Term Care Planning Districts in  
1885 which the counties are located. If there are no applications for  
1886 a certificate of need for nursing facility beds in either of the  
1887 two (2) counties having the highest need for those beds on a  
1888 statewide basis by the date specified by the department, then the  
1889 certificate of need shall be available for nursing facility beds  
1890 in other counties from the state at large in descending order of  
1891 the need for those beds on a statewide basis, from the county with  
1892 the second highest need to the county with the lowest need, until  
1893 an application is received for nursing facility beds in an  
1894 eligible county from the state at large.

1895 (v) If a certificate of need is authorized to be  
1896 issued under this paragraph (q) for nursing facility beds in a  
1897 county on the basis of the need in the Long-Term Care Planning  
1898 District during any fiscal year of the four-year period, a  
1899 certificate of need shall not also be available under this



1900 paragraph (q) for additional nursing facility beds in that county  
1901 on the basis of the need in the state at large, and that county  
1902 shall be excluded in determining which counties have the highest  
1903 need for nursing facility beds in the state at large for that  
1904 fiscal year. After a certificate of need has been issued under  
1905 this paragraph (q) for nursing facility beds in a county during  
1906 any fiscal year of the four-year period, a certificate of need  
1907 shall not be available again under this paragraph (q) for  
1908 additional nursing facility beds in that county during the  
1909 four-year period, and that county shall be excluded in determining  
1910 which counties have the highest need for nursing facility beds in  
1911 succeeding fiscal years.

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

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

1923 2. The county-owned hospital's qualifications  
1924 for the certificate of need, as shown in its application and as



1925 determined by the department, are at least equal to the  
1926 qualifications of the other applicants for the certificate of  
1927 need.

1928           (r) (i) Beginning on July 1, 1999, the State  
1929 Department of Health shall issue certificates of need during each  
1930 of the next two (2) fiscal years for the construction or expansion  
1931 of nursing facility beds or the conversion of other beds to  
1932 nursing facility beds in each of the four (4) Long-Term Care  
1933 Planning Districts designated in the fiscal year 1999 State Health  
1934 Plan, to provide care exclusively to patients with Alzheimer's  
1935 disease.

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



1950 for beds in the central part of the district, and at least one (1)  
1951 shall be issued for beds in the southern part of the district.

1952 (iii) The State Department of Health, in  
1953 consultation with the Department of Mental Health and the Division  
1954 of Medicaid, shall develop and prescribe the staffing levels,  
1955 space requirements and other standards and requirements that must  
1956 be met with regard to the nursing facility beds authorized under  
1957 this paragraph (r) to provide care exclusively to patients with  
1958 Alzheimer's disease.

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

1972 (t) The State Department of Health shall issue  
1973 certificates of need to the owner of a nursing facility in  
1974 operation at the time of Hurricane Katrina in Hancock County that





1975 was not operational on December 31, 2005, because of damage  
1976 sustained from Hurricane Katrina to authorize the following: (i)  
1977 the construction of a new nursing facility in Harrison County;  
1978 (ii) the relocation of forty-nine (49) nursing facility beds from  
1979 the Hancock County facility to the new Harrison County facility;  
1980 (iii) the establishment of not more than twenty (20) non-Medicaid  
1981 nursing facility beds at the Hancock County facility; and (iv) the  
1982 establishment of not more than twenty (20) non-Medicaid beds at  
1983 the new Harrison County facility. The certificates of need that  
1984 authorize the non-Medicaid nursing facility beds under  
1985 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1986 subject to the following conditions: The owner of the Hancock  
1987 County facility and the new Harrison County facility must agree in  
1988 writing that no more than fifty (50) of the beds at the Hancock  
1989 County facility and no more than forty-nine (49) of the beds at  
1990 the Harrison County facility will be certified for participation  
1991 in the Medicaid program, and that no claim will be submitted for  
1992 Medicaid reimbursement for more than fifty (50) patients in the  
1993 Hancock County facility in any month, or for more than forty-nine  
1994 (49) patients in the Harrison County facility in any month, or for  
1995 any patient in either facility who is in a bed that is not  
1996 Medicaid-certified. This written agreement by the owner of the  
1997 nursing facilities shall be a condition of the issuance of the  
1998 certificates of need under this paragraph (t), and the agreement  
1999 shall be fully binding on any later owner or owners of either



2000 facility if the ownership of either facility is transferred at any  
2001 time after the certificates of need are issued. After this  
2002 written agreement is executed, the Division of Medicaid and the  
2003 State Department of Health shall not certify more than fifty (50)  
2004 of the beds at the Hancock County facility or more than forty-nine  
2005 (49) of the beds at the Harrison County facility for participation  
2006 in the Medicaid program. If the Hancock County facility violates  
2007 the terms of the written agreement by admitting or keeping in the  
2008 facility on a regular or continuing basis more than fifty (50)  
2009 patients who are participating in the Medicaid program, or if the  
2010 Harrison County facility violates the terms of the written  
2011 agreement by admitting or keeping in the facility on a regular or  
2012 continuing basis more than forty-nine (49) patients who are  
2013 participating in the Medicaid program, the State Department of  
2014 Health shall revoke the license of the facility that is in  
2015 violation of the agreement, at the time that the department  
2016 determines, after a hearing complying with due process, that the  
2017 facility has violated the agreement.

2018 (u) The State Department of Health shall issue a  
2019 certificate of need to a nonprofit venture for the establishment,  
2020 construction and operation of a skilled nursing facility of not  
2021 more than sixty (60) beds to provide skilled nursing care for  
2022 ventilator dependent or otherwise medically dependent pediatric  
2023 patients who require medical and nursing care or rehabilitation  
2024 services to be located in a county in which an academic medical



2025 center and a children's hospital are located, and for any  
2026 construction and for the acquisition of equipment related to those  
2027 beds. The facility shall be authorized to keep such ventilator  
2028 dependent or otherwise medically dependent pediatric patients  
2029 beyond age twenty-one (21) in accordance with regulations of the  
2030 State Board of Health. For purposes of this paragraph (u), the  
2031 provisions of Section 41-7-193(1) requiring substantial compliance  
2032 with the projection of need as reported in the current State  
2033 Health Plan are waived, and the provisions of Section 41-7-197  
2034 requiring a formal certificate of need hearing process are waived.  
2035 The beds authorized by this paragraph shall be counted as  
2036 pediatric skilled nursing facility beds for health planning  
2037 purposes under Section 41-7-171 et seq. There shall be no  
2038 prohibition of or restrictions on participation in the Medicaid  
2039 program for the person receiving the certificate of need  
2040 authorized by this paragraph.

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



2049 (a) Of the total number of beds authorized under this  
2050 subsection, the department shall issue a certificate of need to a  
2051 privately owned psychiatric residential treatment facility in  
2052 Simpson County for the conversion of sixteen (16) intermediate  
2053 care facility for the mentally retarded (ICF-MR) beds to  
2054 psychiatric residential treatment facility beds, provided that  
2055 facility agrees in writing that the facility shall give priority  
2056 for the use of those sixteen (16) beds to Mississippi residents  
2057 who are presently being treated in out-of-state facilities.

2058 (b) Of the total number of beds authorized under this  
2059 subsection, the department may issue a certificate or certificates  
2060 of need for the construction or expansion of psychiatric  
2061 residential treatment facility beds or the conversion of other  
2062 beds to psychiatric residential treatment facility beds in Warren  
2063 County, not to exceed sixty (60) psychiatric residential treatment  
2064 facility beds, provided that the facility agrees in writing that  
2065 no more than thirty (30) of the beds at the psychiatric  
2066 residential treatment facility will be certified for participation  
2067 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
2068 any patients other than those who are participating only in the  
2069 Medicaid program of another state, and that no claim will be  
2070 submitted to the Division of Medicaid for Medicaid reimbursement  
2071 for more than thirty (30) patients in the psychiatric residential  
2072 treatment facility in any day or for any patient in the  
2073 psychiatric residential treatment facility who is in a bed that is



2074 not Medicaid-certified. This written agreement by the recipient  
2075 of the certificate of need shall be a condition of the issuance of  
2076 the certificate of need under this paragraph, and the agreement  
2077 shall be fully binding on any subsequent owner of the psychiatric  
2078 residential treatment facility if the ownership of the facility is  
2079 transferred at any time after the issuance of the certificate of  
2080 need. After this written agreement is executed, the Division of  
2081 Medicaid and the State Department of Health shall not certify more  
2082 than thirty (30) of the beds in the psychiatric residential  
2083 treatment facility for participation in the Medicaid program for  
2084 the use of any patients other than those who are participating  
2085 only in the Medicaid program of another state. If the psychiatric  
2086 residential treatment facility violates the terms of the written  
2087 agreement by admitting or keeping in the facility on a regular or  
2088 continuing basis more than thirty (30) patients who are  
2089 participating in the Mississippi Medicaid program, the State  
2090 Department of Health shall revoke the license of the facility, at  
2091 the time that the department determines, after a hearing complying  
2092 with due process, that the facility has violated the condition  
2093 upon which the certificate of need was issued, as provided in this  
2094 paragraph and in the written agreement.

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



2099 (c) Of the total number of beds authorized under this  
2100 subsection, the department shall issue a certificate of need to a  
2101 hospital currently operating Medicaid-certified acute psychiatric  
2102 beds for adolescents in DeSoto County, for the establishment of a  
2103 forty-bed psychiatric residential treatment facility in DeSoto  
2104 County, provided that the hospital agrees in writing (i) that the  
2105 hospital shall give priority for the use of those forty (40) beds  
2106 to Mississippi residents who are presently being treated in  
2107 out-of-state facilities, and (ii) that no more than fifteen (15)  
2108 of the beds at the psychiatric residential treatment facility will  
2109 be certified for participation in the Medicaid program (Section  
2110 43-13-101 et seq.), and that no claim will be submitted for  
2111 Medicaid reimbursement for more than fifteen (15) patients in the  
2112 psychiatric residential treatment facility in any day or for any  
2113 patient in the psychiatric residential treatment facility who is  
2114 in a bed that is not Medicaid-certified. This written agreement  
2115 by the recipient of the certificate of need shall be a condition  
2116 of the issuance of the certificate of need under this paragraph,  
2117 and the agreement shall be fully binding on any subsequent owner  
2118 of the psychiatric residential treatment facility if the ownership  
2119 of the facility is transferred at any time after the issuance of  
2120 the certificate of need. After this written agreement is  
2121 executed, the Division of Medicaid and the State Department of  
2122 Health shall not certify more than fifteen (15) of the beds in the  
2123 psychiatric residential treatment facility for participation in



2124 the Medicaid program. If the psychiatric residential treatment  
2125 facility violates the terms of the written agreement by admitting  
2126 or keeping in the facility on a regular or continuing basis more  
2127 than fifteen (15) patients who are participating in the Medicaid  
2128 program, the State Department of Health shall revoke the license  
2129 of the facility, at the time that the department determines, after  
2130 a hearing complying with due process, that the facility has  
2131 violated the condition upon which the certificate of need was  
2132 issued, as provided in this paragraph and in the written  
2133 agreement.

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

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



2148 to Mississippi residents who are presently being treated in  
2149 out-of-state facilities.

2150 (f) The department shall issue a certificate of need to  
2151 a one-hundred-thirty-four-bed specialty hospital located on  
2152 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
2153 at 5900 Highway 39 North in Meridian (Lauderdale County),  
2154 Mississippi, for the addition, construction or expansion of  
2155 child/adolescent psychiatric residential treatment facility beds  
2156 in Lauderdale County. As a condition of issuance of the  
2157 certificate of need under this paragraph, the facility shall give  
2158 priority in admissions to the child/adolescent psychiatric  
2159 residential treatment facility beds authorized under this  
2160 paragraph to patients who otherwise would require out-of-state  
2161 placement. The Division of Medicaid, in conjunction with the  
2162 Department of Human Services, shall furnish the facility a list of  
2163 all out-of-state patients on a quarterly basis. Furthermore,  
2164 notice shall also be provided to the parent, custodial parent or  
2165 guardian of each out-of-state patient notifying them of the  
2166 priority status granted by this paragraph. For purposes of this  
2167 paragraph, the provisions of Section 41-7-193(1) requiring  
2168 substantial compliance with the projection of need as reported in  
2169 the current State Health Plan are waived. The total number of  
2170 child/adolescent psychiatric residential treatment facility beds  
2171 that may be authorized under the authority of this paragraph shall  
2172 be sixty (60) beds. There shall be no prohibition or restrictions





2173 on participation in the Medicaid program (Section 43-13-101 et  
2174 seq.) for the person receiving the certificate of need authorized  
2175 under this paragraph or for the beds converted pursuant to the  
2176 authority of that certificate of need.

2177 (4) (a) From and after March 25, 2021, the department may  
2178 issue a certificate of need to any person for the new construction  
2179 of any hospital, psychiatric hospital or chemical dependency  
2180 hospital that will contain any child/adolescent psychiatric or  
2181 child/adolescent chemical dependency beds, or for the conversion  
2182 of any other health care facility to a hospital, psychiatric  
2183 hospital or chemical dependency hospital that will contain any  
2184 child/adolescent psychiatric or child/adolescent chemical  
2185 dependency beds. There shall be no prohibition or restrictions on  
2186 participation in the Medicaid program (Section 43-13-101 et seq.)  
2187 for the person(s) receiving the certificate(s) of need authorized  
2188 under this paragraph (a) or for the beds converted pursuant to the  
2189 authority of that certificate of need. In issuing any new  
2190 certificate of need for any child/adolescent psychiatric or  
2191 child/adolescent chemical dependency beds, either by new  
2192 construction or conversion of beds of another category, the  
2193 department shall give preference to beds which will be located in  
2194 an area of the state which does not have such beds located in it,  
2195 and to a location more than sixty-five (65) miles from existing  
2196 beds. Upon receiving 2020 census data, the department may amend  
2197 the State Health Plan regarding child/adolescent psychiatric and



2198 child/adolescent chemical dependency beds to reflect the need  
2199 based on new census data.

2200 (i) [Deleted]

2201 (ii) The department may issue a certificate of  
2202 need for the conversion of existing beds in a county hospital in  
2203 Choctaw County from acute care beds to child/adolescent chemical  
2204 dependency beds. For purposes of this subparagraph (ii), the  
2205 provisions of Section 41-7-193(1) requiring substantial compliance  
2206 with the projection of need as reported in the current State  
2207 Health Plan are waived. The total number of beds that may be  
2208 authorized under authority of this subparagraph shall not exceed  
2209 twenty (20) beds. There shall be no prohibition or restrictions  
2210 on participation in the Medicaid program (Section 43-13-101 et  
2211 seq.) for the hospital receiving the certificate of need  
2212 authorized under this subparagraph or for the beds converted  
2213 pursuant to the authority of that certificate of need.

2214 (iii) The department may issue a certificate or  
2215 certificates of need for the construction or expansion of  
2216 child/adolescent psychiatric beds or the conversion of other beds  
2217 to child/adolescent psychiatric beds in Warren County. For  
2218 purposes of this subparagraph (iii), the provisions of Section  
2219 41-7-193(1) requiring substantial compliance with the projection  
2220 of need as reported in the current State Health Plan are waived.  
2221 The total number of beds that may be authorized under the  
2222 authority of this subparagraph shall not exceed twenty (20) beds.



2223 There shall be no prohibition or restrictions on participation in  
2224 the Medicaid program (Section 43-13-101 et seq.) for the person  
2225 receiving the certificate of need authorized under this  
2226 subparagraph or for the beds converted pursuant to the authority  
2227 of that certificate of need.

2228         If by January 1, 2002, there has been no significant  
2229 commencement of construction of the beds authorized under this  
2230 subparagraph (iii), or no significant action taken to convert  
2231 existing beds to the beds authorized under this subparagraph, then  
2232 the certificate of need that was previously issued under this  
2233 subparagraph shall expire. If the previously issued certificate  
2234 of need expires, the department may accept applications for  
2235 issuance of another certificate of need for the beds authorized  
2236 under this subparagraph, and may issue a certificate of need to  
2237 authorize the construction, expansion or conversion of the beds  
2238 authorized under this subparagraph.

2239                 (iv) The department shall issue a certificate of  
2240 need to the Region 7 Mental Health/Retardation Commission for the  
2241 construction or expansion of child/adolescent psychiatric beds or  
2242 the conversion of other beds to child/adolescent psychiatric beds  
2243 in any of the counties served by the commission. For purposes of  
2244 this subparagraph (iv), the provisions of Section 41-7-193(1)  
2245 requiring substantial compliance with the projection of need as  
2246 reported in the current State Health Plan are waived. The total  
2247 number of beds that may be authorized under the authority of this



2248 subparagraph shall not exceed twenty (20) beds. There shall be no  
2249 prohibition or restrictions on participation in the Medicaid  
2250 program (Section 43-13-101 et seq.) for the person receiving the  
2251 certificate of need authorized under this subparagraph or for the  
2252 beds converted pursuant to the authority of that certificate of  
2253 need.

2254 (v) The department may issue a certificate of need  
2255 to any county hospital located in Leflore County for the  
2256 construction or expansion of adult psychiatric beds or the  
2257 conversion of other beds to adult psychiatric beds, not to exceed  
2258 twenty (20) beds, provided that the recipient of the certificate  
2259 of need agrees in writing that the adult psychiatric beds will not  
2260 at any time be certified for participation in the Medicaid program  
2261 and that the hospital will not admit or keep any patients who are  
2262 participating in the Medicaid program in any of such adult  
2263 psychiatric beds. This written agreement by the recipient of the  
2264 certificate of need shall be fully binding on any subsequent owner  
2265 of the hospital if the ownership of the hospital is transferred at  
2266 any time after the issuance of the certificate of need. Agreement  
2267 that the adult psychiatric beds will not be certified for  
2268 participation in the Medicaid program shall be a condition of the  
2269 issuance of a certificate of need to any person under this  
2270 subparagraph (v), and if such hospital at any time after the  
2271 issuance of the certificate of need, regardless of the ownership  
2272 of the hospital, has any of such adult psychiatric beds certified



2273 for participation in the Medicaid program or admits or keeps any  
2274 Medicaid patients in such adult psychiatric beds, the State  
2275 Department of Health shall revoke the certificate of need, if it  
2276 is still outstanding, and shall deny or revoke the license of the  
2277 hospital at the time that the department determines, after a  
2278 hearing complying with due process, that the hospital has failed  
2279 to comply with any of the conditions upon which the certificate of  
2280 need was issued, as provided in this subparagraph and in the  
2281 written agreement by the recipient of the certificate of need.

2282                   (vi) The department may issue a certificate or  
2283 certificates of need for the expansion of child psychiatric beds  
2284 or the conversion of other beds to child psychiatric beds at the  
2285 University of Mississippi Medical Center. For purposes of this  
2286 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
2287 substantial compliance with the projection of need as reported in  
2288 the current State Health Plan are waived. The total number of  
2289 beds that may be authorized under the authority of this  
2290 subparagraph shall not exceed fifteen (15) beds. There shall be  
2291 no prohibition or restrictions on participation in the Medicaid  
2292 program (Section 43-13-101 et seq.) for the hospital receiving the  
2293 certificate of need authorized under this subparagraph or for the  
2294 beds converted pursuant to the authority of that certificate of  
2295 need.

2296                   (b) From and after July 1, 1990, no hospital,  
2297 psychiatric hospital or chemical dependency hospital shall be



2298 authorized to add any child/adolescent psychiatric or  
2299 child/adolescent chemical dependency beds or convert any beds of  
2300 another category to child/adolescent psychiatric or  
2301 child/adolescent chemical dependency beds without a certificate of  
2302 need under the authority of subsection (1)(c) and subsection  
2303 (4)(a) of this section.

2304 (5) The department may issue a certificate of need to a  
2305 county hospital in Winston County for the conversion of fifteen  
2306 (15) acute care beds to geriatric psychiatric care beds.

2307 (6) The State Department of Health shall issue a certificate  
2308 of need to a Mississippi corporation qualified to manage a  
2309 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
2310 Harrison County, not to exceed eighty (80) beds, including any  
2311 necessary renovation or construction required for licensure and  
2312 certification, provided that the recipient of the certificate of  
2313 need agrees in writing that the long-term care hospital will not  
2314 at any time participate in the Medicaid program (Section 43-13-101  
2315 et seq.) or admit or keep any patients in the long-term care  
2316 hospital who are participating in the Medicaid program. This  
2317 written agreement by the recipient of the certificate of need  
2318 shall be fully binding on any subsequent owner of the long-term  
2319 care hospital, if the ownership of the facility is transferred at  
2320 any time after the issuance of the certificate of need. Agreement  
2321 that the long-term care hospital will not participate in the  
2322 Medicaid program shall be a condition of the issuance of a



2323 certificate of need to any person under this subsection (6), and  
2324 if such long-term care hospital at any time after the issuance of  
2325 the certificate of need, regardless of the ownership of the  
2326 facility, participates in the Medicaid program or admits or keeps  
2327 any patients in the facility who are participating in the Medicaid  
2328 program, the State Department of Health shall revoke the  
2329 certificate of need, if it is still outstanding, and shall deny or  
2330 revoke the license of the long-term care hospital, at the time  
2331 that the department determines, after a hearing complying with due  
2332 process, that the facility has failed to comply with any of the  
2333 conditions upon which the certificate of need was issued, as  
2334 provided in this subsection and in the written agreement by the  
2335 recipient of the certificate of need. For purposes of this  
2336 subsection, the provisions of Section 41-7-193(1) requiring  
2337 substantial compliance with the projection of need as reported in  
2338 the current State Health Plan are waived.

2339 (7) The State Department of Health may issue a certificate  
2340 of need to any hospital in the state to utilize a portion of its  
2341 beds for the "swing-bed" concept. Any such hospital must be in  
2342 conformance with the federal regulations regarding such swing-bed  
2343 concept at the time it submits its application for a certificate  
2344 of need to the State Department of Health, except that such  
2345 hospital may have more licensed beds or a higher average daily  
2346 census (ADC) than the maximum number specified in federal  
2347 regulations for participation in the swing-bed program. Any



2348 hospital meeting all federal requirements for participation in the  
2349 swing-bed program which receives such certificate of need shall  
2350 render services provided under the swing-bed concept to any  
2351 patient eligible for Medicare (Title XVIII of the Social Security  
2352 Act) who is certified by a physician to be in need of such  
2353 services, and no such hospital shall permit any patient who is  
2354 eligible for both Medicaid and Medicare or eligible only for  
2355 Medicaid to stay in the swing beds of the hospital for more than  
2356 thirty (30) days per admission unless the hospital receives prior  
2357 approval for such patient from the Division of Medicaid, Office of  
2358 the Governor. Any hospital having more licensed beds or a higher  
2359 average daily census (ADC) than the maximum number specified in  
2360 federal regulations for participation in the swing-bed program  
2361 which receives such certificate of need shall develop a procedure  
2362 to ensure that before a patient is allowed to stay in the swing  
2363 beds of the hospital, there are no vacant nursing home beds  
2364 available for that patient located within a fifty-mile radius of  
2365 the hospital. When any such hospital has a patient staying in the  
2366 swing beds of the hospital and the hospital receives notice from a  
2367 nursing home located within such radius that there is a vacant bed  
2368 available for that patient, the hospital shall transfer the  
2369 patient to the nursing home within a reasonable time after receipt  
2370 of the notice. Any hospital which is subject to the requirements  
2371 of the two (2) preceding sentences of this subsection may be  
2372 suspended from participation in the swing-bed program for a





2373 reasonable period of time by the State Department of Health if the  
2374 department, after a hearing complying with due process, determines  
2375 that the hospital has failed to comply with any of those  
2376 requirements.

2377 (8) The Department of Health shall not grant approval for or  
2378 issue a certificate of need to any person proposing the new  
2379 construction of, addition to or expansion of a health care  
2380 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
2381 except as hereinafter provided: The department may issue a  
2382 certificate of need to a nonprofit corporation located in Madison  
2383 County, Mississippi, for the construction, expansion or conversion  
2384 of not more than twenty (20) beds in a community living program  
2385 for developmentally disabled adults in a facility as defined in  
2386 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
2387 subsection (8), the provisions of Section 41-7-193(1) requiring  
2388 substantial compliance with the projection of need as reported in  
2389 the current State Health Plan and the provisions of Section  
2390 41-7-197 requiring a formal certificate of need hearing process  
2391 are waived. There shall be no prohibition or restrictions on  
2392 participation in the Medicaid program for the person receiving the  
2393 certificate of need authorized under this subsection (8).

2394 (9) The Department of Health shall not grant approval for or  
2395 issue a certificate of need to any person proposing the  
2396 establishment of, or expansion of the currently approved territory  
2397 of, or the contracting to establish a home office, subunit or



2398 branch office within the space operated as a health care facility  
2399 as defined in Section 41-7-173(h) (i) through (viii) by a health  
2400 care facility as defined in subparagraph (ix) of Section  
2401 41-7-173(h).

2402 (10) Health care facilities owned and/or operated by the  
2403 state or its agencies are exempt from the restraints in this  
2404 section against issuance of a certificate of need if such addition  
2405 or expansion consists of repairing or renovation necessary to  
2406 comply with the state licensure law. This exception shall not  
2407 apply to the new construction of any building by such state  
2408 facility. This exception shall not apply to any health care  
2409 facilities owned and/or operated by counties, municipalities,  
2410 districts, unincorporated areas, other defined persons, or any  
2411 combination thereof.

2412 (11) The new construction, renovation or expansion of or  
2413 addition to any health care facility defined in subparagraph (ii)  
2414 (psychiatric hospital), subparagraph (iv) (skilled nursing  
2415 facility), subparagraph (vi) (intermediate care facility),  
2416 subparagraph (viii) (intermediate care facility for the mentally  
2417 retarded) and subparagraph (x) (psychiatric residential treatment  
2418 facility) of Section 41-7-173(h) which is owned by the State of  
2419 Mississippi and under the direction and control of the State  
2420 Department of Mental Health, and the addition of new beds or the  
2421 conversion of beds from one category to another in any such  
2422 defined health care facility which is owned by the State of



2423 Mississippi and under the direction and control of the State  
2424 Department of Mental Health, shall not require the issuance of a  
2425 certificate of need under Section 41-7-171 et seq.,  
2426 notwithstanding any provision in Section 41-7-171 et seq. to the  
2427 contrary.

2428       (12) The new construction, renovation or expansion of or  
2429 addition to any veterans homes or domiciliaries for eligible  
2430 veterans of the State of Mississippi as authorized under Section  
2431 35-1-19 shall not require the issuance of a certificate of need,  
2432 notwithstanding any provision in Section 41-7-171 et seq. to the  
2433 contrary.

2434       (13) The repair or the rebuilding of an existing, operating  
2435 health care facility that sustained significant damage from a  
2436 natural disaster that occurred after April 15, 2014, in an area  
2437 that is proclaimed a disaster area or subject to a state of  
2438 emergency by the Governor or by the President of the United States  
2439 shall be exempt from all of the requirements of the Mississippi  
2440 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
2441 rules and regulations promulgated under that law, subject to the  
2442 following conditions:

2443           (a) The repair or the rebuilding of any such damaged  
2444 health care facility must be within one (1) mile of the  
2445 pre-disaster location of the campus of the damaged health care  
2446 facility, except that any temporary post-disaster health care



2447 facility operating location may be within five (5) miles of the  
2448 pre-disaster location of the damaged health care facility;

2449 (b) The repair or the rebuilding of the damaged health  
2450 care facility (i) does not increase or change the complement of  
2451 its bed capacity that it had before the Governor's or the  
2452 President's proclamation, (ii) does not increase or change its  
2453 levels and types of health care services that it provided before  
2454 the Governor's or the President's proclamation, and (iii) does not  
2455 rebuild in a different county; however, this paragraph does not  
2456 restrict or prevent a health care facility from decreasing its bed  
2457 capacity that it had before the Governor's or the President's  
2458 proclamation, or from decreasing the levels of or decreasing or  
2459 eliminating the types of health care services that it provided  
2460 before the Governor's or the President's proclamation, when the  
2461 damaged health care facility is repaired or rebuilt;

2462 (c) The exemption from Certificate of Need Law provided  
2463 under this subsection (13) is valid for only five (5) years from  
2464 the date of the Governor's or the President's proclamation. If  
2465 actual construction has not begun within that five-year period,  
2466 the exemption provided under this subsection is inapplicable; and

2467 (d) The Division of Health Facilities Licensure and  
2468 Certification of the State Department of Health shall provide the  
2469 same oversight for the repair or the rebuilding of the damaged  
2470 health care facility that it provides to all health care facility  
2471 construction projects in the state.



2472 For the purposes of this subsection (13), "significant  
2473 damage" to a health care facility means damage to the health care  
2474 facility requiring an expenditure of at least One Million Dollars  
2475 (\$1,000,000.00).

2476 (14) The State Department of Health shall issue a  
2477 certificate of need to any hospital which is currently licensed  
2478 for two hundred fifty (250) or more acute care beds and is located  
2479 in any general hospital service area not having a comprehensive  
2480 cancer center, for the establishment and equipping of such a  
2481 center which provides facilities and services for outpatient  
2482 radiation oncology therapy, outpatient medical oncology therapy,  
2483 and appropriate support services including the provision of  
2484 radiation therapy services. The provisions of Section 41-7-193(1)  
2485 regarding substantial compliance with the projection of need as  
2486 reported in the current State Health Plan are waived for the  
2487 purpose of this subsection.

2488 (15) The State Department of Health may authorize the  
2489 transfer of hospital beds, not to exceed sixty (60) beds, from the  
2490 North Panola Community Hospital to the South Panola Community  
2491 Hospital. The authorization for the transfer of those beds shall  
2492 be exempt from the certificate of need review process.

2493 (16) The State Department of Health shall issue any  
2494 certificates of need necessary for Mississippi State University  
2495 and a public or private health care provider to jointly acquire  
2496 and operate a linear accelerator and a magnetic resonance imaging



2497 unit. Those certificates of need shall cover all capital  
2498 expenditures related to the project between Mississippi State  
2499 University and the health care provider, including, but not  
2500 limited to, the acquisition of the linear accelerator, the  
2501 magnetic resonance imaging unit and other radiological modalities;  
2502 the offering of linear accelerator and magnetic resonance imaging  
2503 services; and the cost of construction of facilities in which to  
2504 locate these services. The linear accelerator and the magnetic  
2505 resonance imaging unit shall be (a) located in the City of  
2506 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
2507 Mississippi State University and the public or private health care  
2508 provider selected by Mississippi State University through a  
2509 request for proposals (RFP) process in which Mississippi State  
2510 University selects, and the Board of Trustees of State  
2511 Institutions of Higher Learning approves, the health care provider  
2512 that makes the best overall proposal; (c) available to Mississippi  
2513 State University for research purposes two-thirds (2/3) of the  
2514 time that the linear accelerator and magnetic resonance imaging  
2515 unit are operational; and (d) available to the public or private  
2516 health care provider selected by Mississippi State University and  
2517 approved by the Board of Trustees of State Institutions of Higher  
2518 Learning one-third (1/3) of the time for clinical, diagnostic and  
2519 treatment purposes. For purposes of this subsection, the  
2520 provisions of Section 41-7-193(1) requiring substantial compliance



2521 with the projection of need as reported in the current State  
2522 Health Plan are waived.

2523 (17) The State Department of Health shall issue a  
2524 certificate of need for the construction of an acute care hospital  
2525 in Kemper County, not to exceed twenty-five (25) beds, which shall  
2526 be named the "John C. Stennis Memorial Hospital." In issuing the  
2527 certificate of need under this subsection, the department shall  
2528 give priority to a hospital located in Lauderdale County that has  
2529 two hundred fifteen (215) beds. For purposes of this subsection,  
2530 the provisions of Section 41-7-193(1) requiring substantial  
2531 compliance with the projection of need as reported in the current  
2532 State Health Plan and the provisions of Section 41-7-197 requiring  
2533 a formal certificate of need hearing process are waived. There  
2534 shall be no prohibition or restrictions on participation in the  
2535 Medicaid program (Section 43-13-101 et seq.) for the person or  
2536 entity receiving the certificate of need authorized under this  
2537 subsection or for the beds constructed under the authority of that  
2538 certificate of need.

2539 (18) The planning, design, construction, renovation,  
2540 addition, furnishing and equipping of a clinical research unit at  
2541 any health care facility defined in Section 41-7-173(h) that is  
2542 under the direction and control of the University of Mississippi  
2543 Medical Center and located in Jackson, Mississippi, and the  
2544 addition of new beds or the conversion of beds from one (1)  
2545 category to another in any such clinical research unit, shall not



2546 require the issuance of a certificate of need under Section  
2547 41-7-171 et seq., notwithstanding any provision in Section  
2548 41-7-171 et seq. to the contrary.

2549 (19) [Repealed]

2550 (20) Nothing in this section or in any other provision of  
2551 Section 41-7-171 et seq. shall prevent any nursing facility from  
2552 designating an appropriate number of existing beds in the facility  
2553 as beds for providing care exclusively to patients with  
2554 Alzheimer's disease.

2555 (21) Nothing in this section or any other provision of  
2556 Section 41-7-171 et seq. shall prevent any health care facility  
2557 from the new construction, renovation, conversion or expansion of  
2558 new beds in the facility designated as intensive care units,  
2559 negative pressure rooms, or isolation rooms pursuant to the  
2560 provisions of Sections 41-14-1 through 41-14-11, or Section  
2561 41-14-31. For purposes of this subsection, the provisions of  
2562 Section 41-7-193(1) requiring substantial compliance with the  
2563 projection of need as reported in the current State Health Plan  
2564 and the provisions of Section 41-7-197 requiring a formal  
2565 certificate of need hearing process are waived.

2566 **SECTION 20.** Section 41-7-193, Mississippi Code of 1972, is  
2567 brought forward as follows:

2568 41-7-193. (1) No person may enter into any financing  
2569 arrangement or commitment for financing a new institutional health  
2570 service or any other project requiring a certificate of need





2571 unless such certificate has been granted for such purpose. A  
2572 certificate of need shall not be granted or issued to any person  
2573 for any proposal, cause or reason, unless the proposal has been  
2574 reviewed for consistency with the specifications and the criteria  
2575 established by the State Department of Health and substantially  
2576 complies with the projection of need as reported in the state  
2577 health plan in effect at the time the application for the proposal  
2578 was submitted.

2579 (2) An application for a certificate of need for an  
2580 institutional health service, medical equipment or any proposal  
2581 requiring a certificate of need shall specify the time, within  
2582 that granted, such shall be functional or operational according to  
2583 a time schedule submitted with the application. Each certificate  
2584 of need shall specify the maximum amount of capital expenditure  
2585 that may be obligated. The State Department of Health shall  
2586 periodically review the progress and time schedule of any person  
2587 issued or granted a certificate of need for any purpose.

2588 (3) An application for a certificate of need may be filed at  
2589 any time with the department after the applicant has given the  
2590 department fifteen (15) days' written notice of its intent to  
2591 apply for a certificate of need. The department shall not delay  
2592 review of an application. The department shall make its  
2593 recommendation approving or disapproving a complete application  
2594 within forty-five (45) days of the date the application was filed  
2595 or within fifteen (15) days of receipt of any requested



2596 information, whichever is later, said request to be made by the  
2597 department within fifteen (15) days of the filing of the  
2598 application.

2599         **SECTION 21.** Section 83-9-22, Mississippi Code of 1972, is  
2600 brought forward as follows:

2601         83-9-22. (1) (a) Notwithstanding any other provision of  
2602 the law to the contrary, except as otherwise provided in  
2603 subsection (3) of this section, no health coverage plan shall  
2604 restrict coverage for medically appropriate treatment prescribed  
2605 by a physician and agreed to by a fully informed insured, or if  
2606 the insured lacks legal capacity to consent by a person who has  
2607 legal authority to consent on his or her behalf, based on an  
2608 insured's diagnosis with a terminal condition. Refusing to pay  
2609 for treatment rendered to an insured near the end of life that is  
2610 consistent with best practices for treatment of a disease or  
2611 condition, approved uses of a drug or device, or uses supported by  
2612 peer reviewed medical literature, is a per se violation of this  
2613 section.

2614         (b) Violations of this section shall constitute an  
2615 unfair trade practice and subject the violator to the penalties  
2616 provided by law.

2617         (c) As used in this section "terminal condition" means  
2618 any aggressive malignancy, chronic end-stage cardiovascular or  
2619 cerebral vascular disease, or any other disease, illness or  
2620 condition which a physician diagnoses as terminal.



2621 (d) As used in this section, a "health coverage plan"  
2622 shall mean any hospital, health or medical expense insurance  
2623 policy, hospital or medical service contract, employee welfare  
2624 benefit plan, contract or agreement with a health maintenance  
2625 organization or a preferred provider organization, health and  
2626 accident insurance policy, or any other insurance contract of this  
2627 type, including a group insurance plan and the State Health and  
2628 Life Insurance Plan.

2629 (2) (a) Notwithstanding any other provision of the law to  
2630 the contrary, no health benefit paid directly or indirectly with  
2631 state funds, specifically Medicaid, shall restrict coverage for  
2632 medically appropriate treatment prescribed by a physician and  
2633 agreed to by a fully informed individual, or if the individual  
2634 lacks legal capacity to consent by a person who has legal  
2635 authority to consent on his or her behalf, based on an  
2636 individual's diagnosis with a terminal condition.

2637 (b) Refusing to pay for treatment rendered to an  
2638 individual near the end of life that is consistent with best  
2639 practices for treatment of a disease or condition, approved uses  
2640 of a drug or device, or uses supported by peer reviewed medical  
2641 literature, is a per se violation of this section.

2642 (c) As used in this section "terminal condition" means  
2643 any aggressive malignancy, chronic end-stage cardiovascular or  
2644 cerebral vascular disease, or any other disease, illness or  
2645 condition which a physician diagnoses as terminal.



2646 (3) This section does not require a health coverage plan to  
2647 cover and pay for the treatment of a person who is a cardholder  
2648 and registered qualifying patient with medical cannabis that is  
2649 lawful under the Mississippi Medical Cannabis Act and in  
2650 compliance with rules and regulations adopted thereunder.

2651 **SECTION 22.** Section 83-9-24, Mississippi Code of 1972, is  
2652 brought forward as follows:

2653 83-9-24. (1) (a) As used in this section, the following  
2654 terms shall be defined as provided in this subsection:

2655 (b) "Anti-cancer medication" means drugs and biologics  
2656 that are used to kill, slow, or prevent the growth of cancerous  
2657 cells.

2658 (c) "Health plan or policy" means any hospital, health  
2659 or medical expense insurance policy, hospital or medical service  
2660 contract, employee welfare benefit plan, contract or agreement  
2661 with a health maintenance organization or a preferred provider  
2662 organization, health and accident insurance policy, or any other  
2663 insurance contract of this type, including a group insurance plan  
2664 and the State and School Employees Life and Health Insurance Plan.

2665 (2) Any health plan or policy delivered, issued for delivery  
2666 or renewed in this state on or after January 1, 2016, that covers  
2667 anti-cancer medications that are injected or intravenously  
2668 administered by a health care provider and patient-administered  
2669 anti-cancer medications, including, but not limited to, those  
2670 orally administered or self-injected, may not require a higher



2671 co-payment, deductible or coinsurance amount for  
2672 patient-administered anti-cancer medications than it requires for  
2673 injected or intravenously administered anti-cancer medications,  
2674 regardless of the formulation or benefit category determination by  
2675 the policy or plan.

2676 (3) The health insurance policy or plan may not comply with  
2677 subsection (2) of this section by:

2678 (a) Increasing the co-payment, deductible or  
2679 coinsurance amount required for injected or intravenously  
2680 administered anti-cancer medications that are covered under the  
2681 policy or plan; or

2682 (b) Reclassifying benefits with respect to anti-cancer  
2683 medications.

2684 **SECTION 23.** This act shall take effect and be in force from  
2685 and after July 1, 2023.

