

By: Representative Zuber

To: Public Health and Human Services; State Affairs

HOUSE BILL NO. 419

1 AN ACT TO BRING FORWARD SECTIONS 41-7-171, 41-7-173,  
 2 41-7-175, 41-7-183, 41-7-185, 41-7-187, 41-7-188, 41-7-189,  
 3 41-7-190, 41-7-191, 41-7-193, 41-7-195, 41-7-197, 41-7-201,  
 4 41-7-202, 41-7-205, 41-7-207, 41-7-209, 23-15-625, 25-41-7,  
 5 35-1-19, 41-3-15, 41-4-18, 41-9-11, 41-9-23, 41-9-68, 41-9-209,  
 6 41-9-210, 41-71-7, 41-71-19, 41-73-5, 41-75-1, 41-75-5, 41-75-9,  
 7 41-75-25, 41-77-1, 41-77-5, 41-77-21, 41-77-23, 41-77-25, 41-95-3,  
 8 43-11-9, 43-11-19, 57-117-5, 41-9-311, 43-13-117.5, MISSISSIPPI  
 9 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR  
 10 RELATED PURPOSES.

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

12 **SECTION 1.** Section 41-7-171, Mississippi Code of 1972, is  
 13 brought forward as follows:

14 41-7-171. Sections 41-7-171 through 41-7-209 shall be known  
 15 and may be cited as the "Mississippi Health Care Certificate of  
 16 Need Law of 1979."

17 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is  
 18 brought forward as follows:

19 41-7-173. For the purposes of Section 41-7-171 et seq., the  
 20 following words shall have the meanings ascribed herein, unless  
 21 the context otherwise requires:



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

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

42           (c) (i) "Capital expenditure," when pertaining to  
43 defined major medical equipment, shall mean an expenditure which,  
44 under generally accepted accounting principles consistently  
45 applied, is not properly chargeable as an expense of operation and



46 maintenance and which exceeds One Million Five Hundred Thousand  
47 Dollars (\$1,500,000.00).

48 (ii) "Capital expenditure," when pertaining to  
49 other than major medical equipment, shall mean any expenditure  
50 which under generally accepted accounting principles consistently  
51 applied is not properly chargeable as an expense of operation and  
52 maintenance and which exceeds, for clinical health services, as  
53 defined in subsection (k) below, Five Million Dollars  
54 (\$5,000,000.00), adjusted for inflation as published by the State  
55 Department of Health or which exceeds, for nonclinical health  
56 services, as defined in subsection (k) below, Ten Million Dollars  
57 (\$10,000,000.00), adjusted for inflation as published by the State  
58 Department of Health.

59 (iii) A "capital expenditure" shall include the  
60 acquisition, whether by lease, sufferance, gift, devise, legacy,  
61 settlement of a trust or other means, of any facility or part  
62 thereof, or equipment for a facility, the expenditure for which  
63 would have been considered a capital expenditure if acquired by  
64 purchase. Transactions which are separated in time but are  
65 planned to be undertaken within twelve (12) months of each other  
66 and are components of an overall plan for meeting patient care  
67 objectives shall, for purposes of this definition, be viewed in  
68 their entirety without regard to their timing.

69 (iv) In those instances where a health care  
70 facility or other provider of health services proposes to provide



71 a service in which the capital expenditure for major medical  
72 equipment or other than major medical equipment or a combination  
73 of the two (2) may have been split between separate parties, the  
74 total capital expenditure required to provide the proposed service  
75 shall be considered in determining the necessity of certificate of  
76 need review and in determining the appropriate certificate of need  
77 review fee to be paid. The capital expenditure associated with  
78 facilities and equipment to provide services in Mississippi shall  
79 be considered regardless of where the capital expenditure was  
80 made, in state or out of state, and regardless of the domicile of  
81 the party making the capital expenditure, in state or out of  
82 state.

83 (d) "Change of ownership" includes, but is not limited  
84 to, inter vivos gifts, purchases, transfers, lease arrangements,  
85 cash and/or stock transactions or other comparable arrangements  
86 whenever any person or entity acquires or controls a majority  
87 interest of an existing health care facility, and/or the change of  
88 ownership of major medical equipment, a health service, or an  
89 institutional health service. Changes of ownership from  
90 partnerships, single proprietorships or corporations to another  
91 form of ownership are specifically included. However, "change of  
92 ownership" shall not include any inherited interest acquired as a  
93 result of a testamentary instrument or under the laws of descent  
94 and distribution of the State of Mississippi.



95 (e) "Commencement of construction" means that all of  
96 the following have been completed with respect to a proposal or  
97 project proposing construction, renovating, remodeling or  
98 alteration:

99 (i) A legally binding written contract has been  
100 consummated by the proponent and a lawfully licensed contractor to  
101 construct and/or complete the intent of the proposal within a  
102 specified period of time in accordance with final architectural  
103 plans which have been approved by the licensing authority of the  
104 State Department of Health;

105 (ii) Any and all permits and/or approvals deemed  
106 lawfully necessary by all authorities with responsibility for such  
107 have been secured; and

108 (iii) Actual bona fide undertaking of the subject  
109 proposal has commenced, and a progress payment of at least one  
110 percent (1%) of the total cost price of the contract has been paid  
111 to the contractor by the proponent, and the requirements of this  
112 paragraph (e) have been certified to in writing by the State  
113 Department of Health.

114 Force account expenditures, such as deposits, securities,  
115 bonds, et cetera, may, in the discretion of the State Department  
116 of Health, be excluded from any or all of the provisions of  
117 defined commencement of construction.



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

121 (g) "Develop," when used in connection with health  
122 services, means to undertake those activities which, on their  
123 completion, will result in the offering of a new institutional  
124 health service or the incurring of a financial obligation as  
125 defined under applicable state law in relation to the offering of  
126 such services.

127 (h) "Health care facility" includes hospitals,  
128 psychiatric hospitals, chemical dependency hospitals, skilled  
129 nursing facilities, end-stage renal disease (ESRD) facilities,  
130 including freestanding hemodialysis units, intermediate care  
131 facilities, ambulatory surgical facilities, intermediate care  
132 facilities for the mentally retarded, home health agencies,  
133 psychiatric residential treatment facilities, pediatric skilled  
134 nursing facilities, long-term care hospitals, comprehensive  
135 medical rehabilitation facilities, including facilities owned or  
136 operated by the state or a political subdivision or  
137 instrumentality of the state, but does not include Christian  
138 Science sanatoriums operated or listed and certified by the First  
139 Church of Christ, Scientist, Boston, Massachusetts. This  
140 definition shall not apply to facilities for the private practice,  
141 either independently or by incorporated medical groups, of  
142 physicians, dentists or health care professionals except where



143 such facilities are an integral part of an institutional health  
144 service. The various health care facilities listed in this  
145 paragraph shall be defined as follows:

146 (i) "Hospital" means an institution which is  
147 primarily engaged in providing to inpatients, by or under the  
148 supervision of physicians, diagnostic services and therapeutic  
149 services for medical diagnosis, treatment and care of injured,  
150 disabled or sick persons, or rehabilitation services for the  
151 rehabilitation of injured, disabled or sick persons. Such term  
152 does not include psychiatric hospitals.

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

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

162 (iv) "Skilled nursing facility" means an  
163 institution or a distinct part of an institution which is  
164 primarily engaged in providing to inpatients skilled nursing care  
165 and related services for patients who require medical or nursing  
166 care or rehabilitation services for the rehabilitation of injured,  
167 disabled or sick persons.



168 (v) "End-stage renal disease (ESRD) facilities"  
169 means kidney disease treatment centers, which includes  
170 freestanding hemodialysis units and limited care facilities. The  
171 term "limited care facility" generally refers to an  
172 off-hospital-premises facility, regardless of whether it is  
173 provider or nonprovider operated, which is engaged primarily in  
174 furnishing maintenance hemodialysis services to stabilized  
175 patients.

176 (vi) "Intermediate care facility" means an  
177 institution which provides, on a regular basis, health-related  
178 care and services to individuals who do not require the degree of  
179 care and treatment which a hospital or skilled nursing facility is  
180 designed to provide, but who, because of their mental or physical  
181 condition, require health-related care and services (above the  
182 level of room and board).

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

190 (viii) "Intermediate care facility for the  
191 mentally retarded" means an intermediate care facility that  
192 provides health or rehabilitative services in a planned program of





193 activities to persons with an intellectual disability, also  
194 including, but not limited to, cerebral palsy and other conditions  
195 covered by the Federal Developmentally Disabled Assistance and  
196 Bill of Rights Act, Public Law 94-103.

197 (ix) "Home health agency" means a public or  
198 privately owned agency or organization, or a subdivision of such  
199 an agency or organization, properly authorized to conduct business  
200 in Mississippi, which is primarily engaged in providing to  
201 individuals at the written direction of a licensed physician, in  
202 the individual's place of residence, skilled nursing services  
203 provided by or under the supervision of a registered nurse  
204 licensed to practice in Mississippi, and one or more of the  
205 following services or items:

- 206 1. Physical, occupational or speech therapy;
- 207 2. Medical social services;
- 208 3. Part-time or intermittent services of a  
209 home health aide;
- 210 4. Other services as approved by the  
211 licensing agency for home health agencies;
- 212 5. Medical supplies, other than drugs and  
213 biologicals, and the use of medical appliances; or
- 214 6. Medical services provided by an intern or  
215 resident-in-training at a hospital under a teaching program of  
216 such hospital.



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

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

226 (x) "Psychiatric residential treatment facility"  
227 means any nonhospital establishment with permanent licensed  
228 facilities which provides a twenty-four-hour program of care by  
229 qualified therapists, including, but not limited to, duly licensed  
230 mental health professionals, psychiatrists, psychologists,  
231 psychotherapists and licensed certified social workers, for  
232 emotionally disturbed children and adolescents referred to such  
233 facility by a court, local school district or by the Department of  
234 Human Services, who are not in an acute phase of illness requiring  
235 the services of a psychiatric hospital, and are in need of such  
236 restorative treatment services. For purposes of this  
237 subparagraph, the term "emotionally disturbed" means a condition  
238 exhibiting one or more of the following characteristics over a  
239 long period of time and to a marked degree, which adversely  
240 affects educational performance:



- 241                   1. An inability to learn which cannot be  
242 explained by intellectual, sensory or health factors;  
243                   2. An inability to build or maintain  
244 satisfactory relationships with peers and teachers;  
245                   3. Inappropriate types of behavior or  
246 feelings under normal circumstances;  
247                   4. A general pervasive mood of unhappiness or  
248 depression; or  
249                   5. A tendency to develop physical symptoms or  
250 fears associated with personal or school problems. An  
251 establishment furnishing primarily domiciliary care is not within  
252 this definition.

253                   (xi) "Pediatric skilled nursing facility" means an  
254 institution or a distinct part of an institution that is primarily  
255 engaged in providing to inpatients skilled nursing care and  
256 related services for persons under twenty-one (21) years of age  
257 who require medical or nursing care or rehabilitation services for  
258 the rehabilitation of injured, disabled or sick persons.

259                   (xii) "Long-term care hospital" means a  
260 freestanding, Medicare-certified hospital that has an average  
261 length of inpatient stay greater than twenty-five (25) days, which  
262 is primarily engaged in providing chronic or long-term medical  
263 care to patients who do not require more than three (3) hours of  
264 rehabilitation or comprehensive rehabilitation per day, and has a  
265 transfer agreement with an acute care medical center and a



266 comprehensive medical rehabilitation facility. Long-term care  
267 hospitals shall not use rehabilitation, comprehensive medical  
268 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
269 nursing home, skilled nursing facility or sub-acute care facility  
270 in association with its name.

271 (xiii) "Comprehensive medical rehabilitation  
272 facility" means a hospital or hospital unit that is licensed  
273 and/or certified as a comprehensive medical rehabilitation  
274 facility which provides specialized programs that are accredited  
275 by the Commission on Accreditation of Rehabilitation Facilities  
276 and supervised by a physician board certified or board eligible in  
277 physiatry or other doctor of medicine or osteopathy with at least  
278 two (2) years of training in the medical direction of a  
279 comprehensive rehabilitation program that:

280 1. Includes evaluation and treatment of  
281 individuals with physical disabilities;

282 2. Emphasizes education and training of  
283 individuals with disabilities;

284 3. Incorporates at least the following core  
285 disciplines:

286 (i) Physical Therapy;

287 (ii) Occupational Therapy;

288 (iii) Speech and Language Therapy;

289 (iv) Rehabilitation Nursing; and



290 4. Incorporates at least three (3) of the  
291 following disciplines:

- 292 (i) Psychology;
- 293 (ii) Audiology;
- 294 (iii) Respiratory Therapy;
- 295 (iv) Therapeutic Recreation;
- 296 (v) Orthotics;
- 297 (vi) Prosthetics;
- 298 (vii) Special Education;
- 299 (viii) Vocational Rehabilitation;
- 300 (ix) Psychotherapy;
- 301 (x) Social Work;
- 302 (xi) Rehabilitation Engineering.

303 These specialized programs include, but are not limited to:  
304 spinal cord injury programs, head injury programs and infant and  
305 early childhood development programs.

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

- 309 (i) Provides or otherwise makes available to  
310 enrolled participants health care services, including  
311 substantially the following basic health care services: usual  
312 physician services, hospitalization, laboratory, x-ray, emergency  
313 and preventive services, and out-of-area coverage;



314 (ii) Is compensated (except for copayments) for  
315 the provision of the basic health care services listed in  
316 subparagraph (i) of this paragraph to enrolled participants on a  
317 predetermined basis; and

318 (iii) Provides physician services primarily:

319 1. Directly through physicians who are either  
320 employees or partners of such organization; or

321 2. Through arrangements with individual  
322 physicians or one or more groups of physicians (organized on a  
323 group practice or individual practice basis).

324 (j) "Health service area" means a geographic area of  
325 the state designated in the State Health Plan as the area to be  
326 used in planning for specified health facilities and services and  
327 to be used when considering certificate of need applications to  
328 provide health facilities and services.

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



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

343 (l) "Institutional health services" shall mean health  
344 services provided in or through health care facilities and shall  
345 include the entities in or through which such services are  
346 provided.

347 (m) "Major medical equipment" means medical equipment  
348 designed for providing medical or any health-related service which  
349 costs in excess of One Million Five Hundred Thousand Dollars  
350 (\$1,500,000.00). However, this definition shall not be applicable  
351 to clinical laboratories if they are determined by the State  
352 Department of Health to be independent of any physician's office,  
353 hospital or other health care facility or otherwise not so defined  
354 by federal or state law, or rules and regulations promulgated  
355 thereunder.

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

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



364 (p) "Person" means an individual, a trust or estate,  
365 partnership, corporation (including associations, joint-stock  
366 companies and insurance companies), the state or a political  
367 subdivision or instrumentality of the state.

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

372 (r) "Radiation therapy services" means the treatment of  
373 cancer and other diseases using ionizing radiation of either high  
374 energy photons (x-rays or gamma rays) or charged particles  
375 (electrons, protons or heavy nuclei). However, for purposes of a  
376 certificate of need, radiation therapy services shall not include  
377 low energy, superficial, external beam x-ray treatment of  
378 superficial skin lesions.

379 (s) "Secretary" means the Secretary of Health and Human  
380 Services, and any officer or employee of the Department of Health  
381 and Human Services to whom the authority involved has been  
382 delegated.

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





388 (u) "State Health Planning and Development Agency"  
389 means the agency of state government designated to perform health  
390 planning and resource development programs for the State of  
391 Mississippi.

392 **SECTION 3.** Section 41-7-175, Mississippi Code of 1972, is  
393 brought forward as follows:

394 41-7-175. The State Department of Health shall be the sole  
395 and official agency of the State of Mississippi to administer and  
396 supervise, as prescribed by the Legislature, all responsibilities  
397 of the state health planning and development agency.

398 **SECTION 4.** Section 41-7-183, Mississippi Code of 1972, is  
399 brought forward as follows:

400 41-7-183. The State Department of Health shall have the duty  
401 of administering all functions and responsibilities of the  
402 designated state health planning and development agency as  
403 prescribed by the Legislature, and shall serve as the designated  
404 planning agency of the state for purposes of Section 1122 of  
405 Public Law 92-603 for the period of time that a contract is in  
406 effect between the Secretary and the State Department of Health  
407 for such purposes.

408 **SECTION 5.** Section 41-7-185, Mississippi Code of 1972, is  
409 brought forward as follows:

410 41-7-185. In carrying out its functions under Section  
411 41-7-171 et seq., the State Department of Health is hereby  
412 empowered to:



413           (a) Make applications for and accept funds from the  
414 secretary and other federal and state agencies and to receive and  
415 administer such other funds for the planning or provision of  
416 health facilities or health care as are appropriate to the  
417 accomplishment of the purposes of Section 41-7-171 et seq.; and to  
418 contract with the secretary to accept funds to administer planning  
419 activities on the community, regional or state level;

420           (b) With the approval of the secretary, delegate to or  
421 contract with any mutually agreeable department, division or  
422 agency of the state, the federal government, or any political  
423 subdivision of either, or any private corporation, organization or  
424 association chartered by the Secretary of State of Mississippi,  
425 authority for administering any programs, duties or functions  
426 provided for in Section 41-7-171, et seq.;

427           (c) Prescribe and promulgate such reasonable rules and  
428 regulations as may be necessary to the implementation of the  
429 purposes of Section 41-7-171, et seq., complying with Section  
430 25-43-1, et seq.;

431           (d) Require providers of institutional health services  
432 and home health care services provided through a home health  
433 agency and any other provider of health care requiring a  
434 certificate of need to submit or make available statistical  
435 information or such other information requested by the State  
436 Department of Health, but not information that would constitute an  
437 unwarranted invasion of the personal privacy of any individual



438 person or place the provider in jeopardy of legal action by a  
439 third party;

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

446 (f) In its discretion, contract with the secretary, or  
447 terminate any such contract, for the administration of the  
448 provisions, programs, duties and functions of Section 1122 of  
449 Public Law 92-603; but the State Department of Health shall not be  
450 relieved of matters of accountability, obligation or  
451 responsibility that accrued to the department by virtue of prior  
452 contracts and/or statutes;

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

457 **SECTION 6.** Section 41-7-187, Mississippi Code of 1972, is  
458 brought forward as follows:

459 41-7-187. The State Department of Health is hereby  
460 authorized to develop and implement a statewide health certificate  
461 of need program. The State Department of Health is authorized and  
462 empowered to adopt by rule and regulation:



- 463 (a) Criteria, standards and plans to be used in  
464 evaluating applications for certificates of need;
- 465 (b) Effective standards to determine when a person,  
466 facility or organization must apply for a certificate of need;
- 467 (c) Standards to determine when a change of ownership  
468 has occurred or will occur; and
- 469 (d) Review procedures for conducting reviews of  
470 applications for certificates of need.

471 **SECTION 7.** Section 41-7-188, Mississippi Code of 1972, is  
472 brought forward as follows:

473 41-7-188. (1) The State Department of Health is hereby  
474 authorized and empowered to assess fees for reviewing applications  
475 for certificates of need. The State Department of Health shall  
476 promulgate such rules and regulations as are necessary to  
477 effectuate the intent of this section in keeping with the  
478 standards hereinbelow:

- 479 (a) The fees assessed shall be uniform to all  
480 applicants.
- 481 (b) The fees assessed shall be nonrefundable.
- 482 (c) The fee shall be .5 of 1% of the amount of a  
483 proposed capital expenditure.
- 484 (d) The minimum fee shall not be less than Five Hundred  
485 Dollars (\$500.00) regardless of the amount of the proposed capital  
486 expenditure, and the maximum fee permitted shall not exceed  
487 Twenty-five Thousand Dollars (\$25,000.00), regardless of category.



488           (e) No application shall be deemed complete for the  
489 review process until such required fee is received by the State  
490 Department of Health.

491           (f) The required fee shall be paid to the State  
492 Department of Health and may be paid by check, draft or money  
493 order.

494           (g) There shall be no filing fee requirement for any  
495 application submitted by an agency, department, institution or  
496 facility which is operated, owned by and/or controlled by the  
497 State of Mississippi and which received operating and/or capital  
498 expenditure funds solely by appropriations from the Legislature of  
499 the state.

500           (h) There shall be no filing fee requirement for any  
501 health-care facility submitting an application for repairs or  
502 renovations determined by the State Department of Health in  
503 writing, to be necessary in order to avoid revocation of license  
504 and/or loss of certification for participation in the Medicaid  
505 and/or Medicare programs. Any proposed expenditure in excess of  
506 the amount determined by the State Department of Health to be  
507 necessary to accomplish the stated purposes shall be subject to  
508 the fee requirements of this section.

509           (2) The revenue derived from the fees imposed in subsection  
510 (1) of this section shall be deposited by the State Department of  
511 Health in a special fund, hereby created in the State Treasury,  
512 which is earmarked for use by the State Department of Health in



513 conducting its health planning and certificate of need review  
514 activities. It is the intent of the Legislature that the health  
515 planning and certificate of need programs be continued for the  
516 protection of the individuals within the state requiring health  
517 care.

518 (3) The State Department of Health is authorized and  
519 empowered to assess fees for reviewing applications for  
520 certificates of authority for health maintenance organizations and  
521 for the issuance and renewal of such certificates of authority.  
522 The fees assessed shall be uniform to all applicants and to all  
523 holders of certificates of authority, and shall be nonrefundable.  
524 The fees for applications, original certificates of authority and  
525 renewals of certificates of authority shall not exceed Five  
526 Thousand Dollars (\$5,000.00) each. The revenues derived from the  
527 fees assessed under this subsection shall be deposited by the  
528 department in a special fund hereby created in the State Treasury,  
529 which is earmarked for the use of the department in its regulation  
530 of the operation of health maintenance organizations.

531 **SECTION 8.** Section 41-7-189, Mississippi Code of 1972, is  
532 brought forward as follows:

533 41-7-189. (1) Prior to review of new institutional health  
534 services or other proposals requiring a certificate of need, the  
535 State Department of Health shall disseminate to all health care  
536 facilities and health maintenance organizations within the state,  
537 and shall publish in one or more newspapers of general circulation



538 in the state, a description of the scope of coverage of the  
539 commission's certificate of need program. Whenever the scope of  
540 such coverage is revised, the State Department of Health shall  
541 disseminate and publish a revised description thereof in like  
542 manner.

543 (2) Selected statistical data and information obtained by  
544 the State Department of Health as the licensing agency for health  
545 care facilities requiring licensure by the state and as the agency  
546 which provides certification for the Medicaid and/or Medicare  
547 program, may be utilized by the department in performing the  
548 statutory duties imposed upon it by any law over which it has  
549 authority, and regulations necessarily promulgated for such  
550 facilities to participate in the Medicaid and/or Medicare program;  
551 provided, however, that the names of individual patients shall not  
552 be revealed except in hearings or judicial proceedings regarding  
553 questions of licensure.

554 **SECTION 9.** Section 41-7-190, Mississippi Code of 1972, is  
555 brought forward as follows:

556 41-7-190. No corporation, foreign or domestic, partnership,  
557 individual(s) or association of such entities or of persons  
558 whatsoever, or any combination thereof, shall own, possess or  
559 exercise control over, in any manner, more than twenty percent  
560 (20%) of the beds in health care facilities defined in Section  
561 41-7-173(h) (iv) and (vi) in the defined health service area of the  
562 State of Mississippi.



563 Health care facilities owned, operated or under control of  
564 the United States government, the state government or political  
565 subdivision of either are excluded from the limitation of this  
566 section.

567 **SECTION 10.** Section 41-7-191, Mississippi Code of 1972, is  
568 brought forward as follows:

569 41-7-191. (1) No person shall engage in any of the  
570 following activities without obtaining the required certificate of  
571 need:

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

576 (b) The relocation of a health care facility or portion  
577 thereof, or major medical equipment, unless such relocation of a  
578 health care facility or portion thereof, or major medical  
579 equipment, which does not involve a capital expenditure by or on  
580 behalf of a health care facility, is within five thousand two  
581 hundred eighty (5,280) feet from the main entrance of the health  
582 care facility;

583 (c) Any change in the existing bed complement of any  
584 health care facility through the addition or conversion of any  
585 beds or the alteration, modernizing or refurbishing of any unit or  
586 department in which the beds may be located; however, if a health  
587 care facility has voluntarily delicensed some of its existing bed





588 complement, it may later relicense some or all of its delicensed  
589 beds without the necessity of having to acquire a certificate of  
590 need. The State Department of Health shall maintain a record of  
591 the delicensing health care facility and its voluntarily  
592 delicensed beds and continue counting those beds as part of the  
593 state's total bed count for health care planning purposes. If a  
594 health care facility that has voluntarily delicensed some of its  
595 beds later desires to relicense some or all of its voluntarily  
596 delicensed beds, it shall notify the State Department of Health of  
597 its intent to increase the number of its licensed beds. The State  
598 Department of Health shall survey the health care facility within  
599 thirty (30) days of that notice and, if appropriate, issue the  
600 health care facility a new license reflecting the new contingent  
601 of beds. However, in no event may a health care facility that has  
602 voluntarily delicensed some of its beds be reissued a license to  
603 operate beds in excess of its bed count before the voluntary  
604 delicensure of some of its beds without seeking certificate of  
605 need approval;

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

- 610 (i) Open-heart surgery services;
- 611 (ii) Cardiac catheterization services;



612 (iii) Comprehensive inpatient rehabilitation  
613 services;

614 (iv) Licensed psychiatric services;

615 (v) Licensed chemical dependency services;

616 (vi) Radiation therapy services;

617 (vii) Diagnostic imaging services of an invasive  
618 nature, i.e. invasive digital angiography;

619 (viii) Nursing home care as defined in  
620 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

621 (ix) Home health services;

622 (x) Swing-bed services;

623 (xi) Ambulatory surgical services;

624 (xii) Magnetic resonance imaging services;

625 (xiii) [Deleted]

626 (xiv) Long-term care hospital services;

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

628 (e) The relocation of one or more health services from  
629 one physical facility or site to another physical facility or  
630 site, unless such relocation, which does not involve a capital  
631 expenditure by or on behalf of a health care facility, (i) is to a  
632 physical facility or site within five thousand two hundred eighty  
633 (5,280) feet from the main entrance of the health care facility  
634 where the health care service is located, or (ii) is the result of  
635 an order of a court of appropriate jurisdiction or a result of  
636 pending litigation in such court, or by order of the State



637 Department of Health, or by order of any other agency or legal  
638 entity of the state, the federal government, or any political  
639 subdivision of either, whose order is also approved by the State  
640 Department of Health;

641 (f) The acquisition or otherwise control of any major  
642 medical equipment for the provision of medical services; however,  
643 (i) the acquisition of any major medical equipment used only for  
644 research purposes, and (ii) the acquisition of major medical  
645 equipment to replace medical equipment for which a facility is  
646 already providing medical services and for which the State  
647 Department of Health has been notified before the date of such  
648 acquisition shall be exempt from this paragraph; an acquisition  
649 for less than fair market value must be reviewed, if the  
650 acquisition at fair market value would be subject to review;

651 (g) Changes of ownership of existing health care  
652 facilities in which a notice of intent is not filed with the State  
653 Department of Health at least thirty (30) days prior to the date  
654 such change of ownership occurs, or a change in services or bed  
655 capacity as prescribed in paragraph (c) or (d) of this subsection  
656 as a result of the change of ownership; an acquisition for less  
657 than fair market value must be reviewed, if the acquisition at  
658 fair market value would be subject to review;

659 (h) The change of ownership of any health care facility  
660 defined in subparagraphs (iv), (vi) and (viii) of Section  
661 41-7-173(h), in which a notice of intent as described in paragraph



662 (g) has not been filed and if the Executive Director, Division of  
663 Medicaid, Office of the Governor, has not certified in writing  
664 that there will be no increase in allowable costs to Medicaid from  
665 revaluation of the assets or from increased interest and  
666 depreciation as a result of the proposed change of ownership;

667 (i) Any activity described in paragraphs (a) through  
668 (h) if undertaken by any person if that same activity would  
669 require certificate of need approval if undertaken by a health  
670 care facility;

671 (j) Any capital expenditure or deferred capital  
672 expenditure by or on behalf of a health care facility not covered  
673 by paragraphs (a) through (h);

674 (k) The contracting of a health care facility as  
675 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
676 to establish a home office, subunit, or branch office in the space  
677 operated as a health care facility through a formal arrangement  
678 with an existing health care facility as defined in subparagraph  
679 (ix) of Section 41-7-173(h);

680 (l) The replacement or relocation of a health care  
681 facility designated as a critical access hospital shall be exempt  
682 from subsection (1) of this section so long as the critical access  
683 hospital complies with all applicable federal law and regulations  
684 regarding such replacement or relocation;

685 (m) Reopening a health care facility that has ceased to  
686 operate for a period of sixty (60) months or more, which reopening



687 requires a certificate of need for the establishment of a new  
688 health care facility.

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

696 (a) The department may issue a certificate of need to  
697 any person proposing the new construction of any health care  
698 facility defined in subparagraphs (iv) and (vi) of Section  
699 41-7-173(h) as part of a life care retirement facility, in any  
700 county bordering on the Gulf of Mexico in which is located a  
701 National Aeronautics and Space Administration facility, not to  
702 exceed forty (40) beds. From and after July 1, 1999, there shall  
703 be no prohibition or restrictions on participation in the Medicaid  
704 program (Section 43-13-101 et seq.) for the beds in the health  
705 care facility that were authorized under this paragraph (a).

706 (b) The department may issue certificates of need in  
707 Harrison County to provide skilled nursing home care for  
708 Alzheimer's disease patients and other patients, not to exceed one  
709 hundred fifty (150) beds. From and after July 1, 1999, there  
710 shall be no prohibition or restrictions on participation in the



711 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
712 nursing facilities that were authorized under this paragraph (b).

713 (c) The department may issue a certificate of need for  
714 the addition to or expansion of any skilled nursing facility that  
715 is part of an existing continuing care retirement community  
716 located in Madison County, provided that the recipient of the  
717 certificate of need agrees in writing that the skilled nursing  
718 facility will not at any time participate in the Medicaid program  
719 (Section 43-13-101 et seq.) or admit or keep any patients in the  
720 skilled nursing facility who are participating in the Medicaid  
721 program. This written agreement by the recipient of the  
722 certificate of need shall be fully binding on any subsequent owner  
723 of the skilled nursing facility, if the ownership of the facility  
724 is transferred at any time after the issuance of the certificate  
725 of need. Agreement that the skilled nursing facility will not  
726 participate in the Medicaid program shall be a condition of the  
727 issuance of a certificate of need to any person under this  
728 paragraph (c), and if such skilled nursing facility at any time  
729 after the issuance of the certificate of need, regardless of the  
730 ownership of the facility, participates in the Medicaid program or  
731 admits or keeps any patients in the facility who are participating  
732 in the Medicaid program, the State Department of Health shall  
733 revoke the certificate of need, if it is still outstanding, and  
734 shall deny or revoke the license of the skilled nursing facility,  
735 at the time that the department determines, after a hearing



736 complying with due process, that the facility has failed to comply  
737 with any of the conditions upon which the certificate of need was  
738 issued, as provided in this paragraph and in the written agreement  
739 by the recipient of the certificate of need. The total number of  
740 beds that may be authorized under the authority of this paragraph  
741 (c) shall not exceed sixty (60) beds.

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

750 (e) The State Department of Health may issue a  
751 certificate of need for the construction of a nursing facility or  
752 the conversion of beds to nursing facility beds at a personal care  
753 facility for the elderly in Lowndes County that is owned and  
754 operated by a Mississippi nonprofit corporation, not to exceed  
755 sixty (60) beds. From and after July 1, 1999, there shall be no  
756 prohibition or restrictions on participation in the Medicaid  
757 program (Section 43-13-101 et seq.) for the beds in the nursing  
758 facility that were authorized under this paragraph (e).

759 (f) The State Department of Health may issue a  
760 certificate of need for conversion of a county hospital facility



761 in Itawamba County to a nursing facility, not to exceed sixty (60)  
762 beds, including any necessary construction, renovation or  
763 expansion. From and after July 1, 1999, there shall be no  
764 prohibition or restrictions on participation in the Medicaid  
765 program (Section 43-13-101 et seq.) for the beds in the nursing  
766 facility that were authorized under this paragraph (f).

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

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

783 (i) The department may issue a certificate of need for  
784 the new construction of a skilled nursing facility in Leake  
785 County, provided that the recipient of the certificate of need





786 agrees in writing that the skilled nursing facility will not at  
787 any time participate in the Medicaid program (Section 43-13-101 et  
788 seq.) or admit or keep any patients in the skilled nursing  
789 facility who are participating in the Medicaid program. This  
790 written agreement by the recipient of the certificate of need  
791 shall be fully binding on any subsequent owner of the skilled  
792 nursing facility, if the ownership of the facility is transferred  
793 at any time after the issuance of the certificate of need.  
794 Agreement that the skilled nursing facility will not participate  
795 in the Medicaid program shall be a condition of the issuance of a  
796 certificate of need to any person under this paragraph (i), and if  
797 such skilled nursing facility at any time after the issuance of  
798 the certificate of need, regardless of the ownership of the  
799 facility, participates in the Medicaid program or admits or keeps  
800 any patients in the facility who are participating in the Medicaid  
801 program, the State Department of Health shall revoke the  
802 certificate of need, if it is still outstanding, and shall deny or  
803 revoke the license of the skilled nursing facility, at the time  
804 that the department determines, after a hearing complying with due  
805 process, that the facility has failed to comply with any of the  
806 conditions upon which the certificate of need was issued, as  
807 provided in this paragraph and in the written agreement by the  
808 recipient of the certificate of need. The provision of Section  
809 41-7-193(1) regarding substantial compliance of the projection of  
810 need as reported in the current State Health Plan is waived for



811 the purposes of this paragraph. The total number of nursing  
812 facility beds that may be authorized by any certificate of need  
813 issued under this paragraph (i) shall not exceed sixty (60) beds.  
814 If the skilled nursing facility authorized by the certificate of  
815 need issued under this paragraph is not constructed and fully  
816 operational within eighteen (18) months after July 1, 1994, the  
817 State Department of Health, after a hearing complying with due  
818 process, shall revoke the certificate of need, if it is still  
819 outstanding, and shall not issue a license for the skilled nursing  
820 facility at any time after the expiration of the eighteen-month  
821 period.

822 (j) The department may issue certificates of need to  
823 allow any existing freestanding long-term care facility in  
824 Tishomingo County and Hancock County that on July 1, 1995, is  
825 licensed with fewer than sixty (60) beds. For the purposes of  
826 this paragraph (j), the provisions of Section 41-7-193(1)  
827 requiring substantial compliance with the projection of need as  
828 reported in the current State Health Plan are waived. From and  
829 after July 1, 1999, there shall be no prohibition or restrictions  
830 on participation in the Medicaid program (Section 43-13-101 et  
831 seq.) for the beds in the long-term care facilities that were  
832 authorized under this paragraph (j).

833 (k) The department may issue a certificate of need for  
834 the construction of a nursing facility at a continuing care  
835 retirement community in Lowndes County. The total number of beds



836 that may be authorized under the authority of this paragraph (k)  
837 shall not exceed sixty (60) beds. From and after July 1, 2001,  
838 the prohibition on the facility participating in the Medicaid  
839 program (Section 43-13-101 et seq.) that was a condition of  
840 issuance of the certificate of need under this paragraph (k) shall  
841 be revised as follows: The nursing facility may participate in  
842 the Medicaid program from and after July 1, 2001, if the owner of  
843 the facility on July 1, 2001, agrees in writing that no more than  
844 thirty (30) of the beds at the facility will be certified for  
845 participation in the Medicaid program, and that no claim will be  
846 submitted for Medicaid reimbursement for more than thirty (30)  
847 patients in the facility in any month or for any patient in the  
848 facility who is in a bed that is not Medicaid-certified. This  
849 written agreement by the owner of the facility shall be a  
850 condition of licensure of the facility, and the agreement shall be  
851 fully binding on any subsequent owner of the facility if the  
852 ownership of the facility is transferred at any time after July 1,  
853 2001. After this written agreement is executed, the Division of  
854 Medicaid and the State Department of Health shall not certify more  
855 than thirty (30) of the beds in the facility for participation in  
856 the Medicaid program. If the facility violates the terms of the  
857 written agreement by admitting or keeping in the facility on a  
858 regular or continuing basis more than thirty (30) patients who are  
859 participating in the Medicaid program, the State Department of  
860 Health shall revoke the license of the facility, at the time that



861 the department determines, after a hearing complying with due  
862 process, that the facility has violated the written agreement.

863 (l) Provided that funds are specifically appropriated  
864 therefor by the Legislature, the department may issue a  
865 certificate of need to a rehabilitation hospital in Hinds County  
866 for the construction of a sixty-bed long-term care nursing  
867 facility dedicated to the care and treatment of persons with  
868 severe disabilities including persons with spinal cord and  
869 closed-head injuries and ventilator dependent patients. The  
870 provisions of Section 41-7-193(1) regarding substantial compliance  
871 with projection of need as reported in the current State Health  
872 Plan are waived for the purpose of this paragraph.

873 (m) The State Department of Health may issue a  
874 certificate of need to a county-owned hospital in the Second  
875 Judicial District of Panola County for the conversion of not more  
876 than seventy-two (72) hospital beds to nursing facility beds,  
877 provided that the recipient of the certificate of need agrees in  
878 writing that none of the beds at the nursing facility will be  
879 certified for participation in the Medicaid program (Section  
880 43-13-101 et seq.), and that no claim will be submitted for  
881 Medicaid reimbursement in the nursing facility in any day or for  
882 any patient in the nursing facility. This written agreement by  
883 the recipient of the certificate of need shall be a condition of  
884 the issuance of the certificate of need under this paragraph, and  
885 the agreement shall be fully binding on any subsequent owner of



886 the nursing facility if the ownership of the nursing facility is  
887 transferred at any time after the issuance of the certificate of  
888 need. After this written agreement is executed, the Division of  
889 Medicaid and the State Department of Health shall not certify any  
890 of the beds in the nursing facility for participation in the  
891 Medicaid program. If the nursing facility violates the terms of  
892 the written agreement by admitting or keeping in the nursing  
893 facility on a regular or continuing basis any patients who are  
894 participating in the Medicaid program, the State Department of  
895 Health shall revoke the license of the nursing facility, at the  
896 time that the department determines, after a hearing complying  
897 with due process, that the nursing facility has violated the  
898 condition upon which the certificate of need was issued, as  
899 provided in this paragraph and in the written agreement. If the  
900 certificate of need authorized under this paragraph is not issued  
901 within twelve (12) months after July 1, 2001, the department shall  
902 deny the application for the certificate of need and shall not  
903 issue the certificate of need at any time after the twelve-month  
904 period, unless the issuance is contested. If the certificate of  
905 need is issued and substantial construction of the nursing  
906 facility beds has not commenced within eighteen (18) months after  
907 July 1, 2001, the State Department of Health, after a hearing  
908 complying with due process, shall revoke the certificate of need  
909 if it is still outstanding, and the department shall not issue a  
910 license for the nursing facility at any time after the



911 eighteen-month period. However, if the issuance of the  
912 certificate of need is contested, the department shall require  
913 substantial construction of the nursing facility beds within six  
914 (6) months after final adjudication on the issuance of the  
915 certificate of need.

916 (n) The department may issue a certificate of need for  
917 the new construction, addition or conversion of skilled nursing  
918 facility beds in Madison County, provided that the recipient of  
919 the certificate of need agrees in writing that the skilled nursing  
920 facility will not at any time participate in the Medicaid program  
921 (Section 43-13-101 et seq.) or admit or keep any patients in the  
922 skilled nursing facility who are participating in the Medicaid  
923 program. This written agreement by the recipient of the  
924 certificate of need shall be fully binding on any subsequent owner  
925 of the skilled nursing facility, if the ownership of the facility  
926 is transferred at any time after the issuance of the certificate  
927 of need. Agreement that the skilled nursing facility will not  
928 participate in the Medicaid program shall be a condition of the  
929 issuance of a certificate of need to any person under this  
930 paragraph (n), and if such skilled nursing facility at any time  
931 after the issuance of the certificate of need, regardless of the  
932 ownership of the facility, participates in the Medicaid program or  
933 admits or keeps any patients in the facility who are participating  
934 in the Medicaid program, the State Department of Health shall  
935 revoke the certificate of need, if it is still outstanding, and



936 shall deny or revoke the license of the skilled nursing facility,  
937 at the time that the department determines, after a hearing  
938 complying with due process, that the facility has failed to comply  
939 with any of the conditions upon which the certificate of need was  
940 issued, as provided in this paragraph and in the written agreement  
941 by the recipient of the certificate of need. The total number of  
942 nursing facility beds that may be authorized by any certificate of  
943 need issued under this paragraph (n) shall not exceed sixty (60)  
944 beds. If the certificate of need authorized under this paragraph  
945 is not issued within twelve (12) months after July 1, 1998, the  
946 department shall deny the application for the certificate of need  
947 and shall not issue the certificate of need at any time after the  
948 twelve-month period, unless the issuance is contested. If the  
949 certificate of need is issued and substantial construction of the  
950 nursing facility beds has not commenced within eighteen (18)  
951 months after July 1, 1998, the State Department of Health, after a  
952 hearing complying with due process, shall revoke the certificate  
953 of need if it is still outstanding, and the department shall not  
954 issue a license for the nursing facility at any time after the  
955 eighteen-month period. However, if the issuance of the  
956 certificate of need is contested, the department shall require  
957 substantial construction of the nursing facility beds within six  
958 (6) months after final adjudication on the issuance of the  
959 certificate of need.



960 (o) The department may issue a certificate of need for  
961 the new construction, addition or conversion of skilled nursing  
962 facility beds in Leake County, provided that the recipient of the  
963 certificate of need agrees in writing that the skilled nursing  
964 facility will not at any time participate in the Medicaid program  
965 (Section 43-13-101 et seq.) or admit or keep any patients in the  
966 skilled nursing facility who are participating in the Medicaid  
967 program. This written agreement by the recipient of the  
968 certificate of need shall be fully binding on any subsequent owner  
969 of the skilled nursing facility, if the ownership of the facility  
970 is transferred at any time after the issuance of the certificate  
971 of need. Agreement that the skilled nursing facility will not  
972 participate in the Medicaid program shall be a condition of the  
973 issuance of a certificate of need to any person under this  
974 paragraph (o), and if such skilled nursing facility at any time  
975 after the issuance of the certificate of need, regardless of the  
976 ownership of the facility, participates in the Medicaid program or  
977 admits or keeps any patients in the facility who are participating  
978 in the Medicaid program, the State Department of Health shall  
979 revoke the certificate of need, if it is still outstanding, and  
980 shall deny or revoke the license of the skilled nursing facility,  
981 at the time that the department determines, after a hearing  
982 complying with due process, that the facility has failed to comply  
983 with any of the conditions upon which the certificate of need was  
984 issued, as provided in this paragraph and in the written agreement





985 by the recipient of the certificate of need. The total number of  
986 nursing facility beds that may be authorized by any certificate of  
987 need issued under this paragraph (o) shall not exceed sixty (60)  
988 beds. If the certificate of need authorized under this paragraph  
989 is not issued within twelve (12) months after July 1, 2001, the  
990 department shall deny the application for the certificate of need  
991 and shall not issue the certificate of need at any time after the  
992 twelve-month period, unless the issuance is contested. If the  
993 certificate of need is issued and substantial construction of the  
994 nursing facility beds has not commenced within eighteen (18)  
995 months after July 1, 2001, the State Department of Health, after a  
996 hearing complying with due process, shall revoke the certificate  
997 of need if it is still outstanding, and the department shall not  
998 issue a license for the nursing facility at any time after the  
999 eighteen-month period. However, if the issuance of the  
1000 certificate of need is contested, the department shall require  
1001 substantial construction of the nursing facility beds within six  
1002 (6) months after final adjudication on the issuance of the  
1003 certificate of need.

1004 (p) The department may issue a certificate of need for  
1005 the construction of a municipally owned nursing facility within  
1006 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
1007 beds, provided that the recipient of the certificate of need  
1008 agrees in writing that the skilled nursing facility will not at  
1009 any time participate in the Medicaid program (Section 43-13-101 et



1010 seq.) or admit or keep any patients in the skilled nursing  
1011 facility who are participating in the Medicaid program. This  
1012 written agreement by the recipient of the certificate of need  
1013 shall be fully binding on any subsequent owner of the skilled  
1014 nursing facility, if the ownership of the facility is transferred  
1015 at any time after the issuance of the certificate of need.  
1016 Agreement that the skilled nursing facility will not participate  
1017 in the Medicaid program shall be a condition of the issuance of a  
1018 certificate of need to any person under this paragraph (p), and if  
1019 such skilled nursing facility at any time after the issuance of  
1020 the certificate of need, regardless of the ownership of the  
1021 facility, participates in the Medicaid program or admits or keeps  
1022 any patients in the facility who are participating in the Medicaid  
1023 program, the State Department of Health shall revoke the  
1024 certificate of need, if it is still outstanding, and shall deny or  
1025 revoke the license of the skilled nursing facility, at the time  
1026 that the department determines, after a hearing complying with due  
1027 process, that the facility has failed to comply with any of the  
1028 conditions upon which the certificate of need was issued, as  
1029 provided in this paragraph and in the written agreement by the  
1030 recipient of the certificate of need. The provision of Section  
1031 41-7-193(1) regarding substantial compliance of the projection of  
1032 need as reported in the current State Health Plan is waived for  
1033 the purposes of this paragraph. If the certificate of need  
1034 authorized under this paragraph is not issued within twelve (12)



1035 months after July 1, 1998, the department shall deny the  
1036 application for the certificate of need and shall not issue the  
1037 certificate of need at any time after the twelve-month period,  
1038 unless the issuance is contested. If the certificate of need is  
1039 issued and substantial construction of the nursing facility beds  
1040 has not commenced within eighteen (18) months after July 1, 1998,  
1041 the State Department of Health, after a hearing complying with due  
1042 process, shall revoke the certificate of need if it is still  
1043 outstanding, and the department shall not issue a license for the  
1044 nursing facility at any time after the eighteen-month period.  
1045 However, if the issuance of the certificate of need is contested,  
1046 the department shall require substantial construction of the  
1047 nursing facility beds within six (6) months after final  
1048 adjudication on the issuance of the certificate of need.

1049           (q) (i) Beginning on July 1, 1999, the State  
1050 Department of Health shall issue certificates of need during each  
1051 of the next four (4) fiscal years for the construction or  
1052 expansion of nursing facility beds or the conversion of other beds  
1053 to nursing facility beds in each county in the state having a need  
1054 for fifty (50) or more additional nursing facility beds, as shown  
1055 in the fiscal year 1999 State Health Plan, in the manner provided  
1056 in this paragraph (q). The total number of nursing facility beds  
1057 that may be authorized by any certificate of need authorized under  
1058 this paragraph (q) shall not exceed sixty (60) beds.



1059                   (ii) Subject to the provisions of subparagraph  
1060 (v), during each of the next four (4) fiscal years, the department  
1061 shall issue six (6) certificates of need for new nursing facility  
1062 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
1063 (1) certificate of need shall be issued for new nursing facility  
1064 beds in the county in each of the four (4) Long-Term Care Planning  
1065 Districts designated in the fiscal year 1999 State Health Plan  
1066 that has the highest need in the district for those beds; and two  
1067 (2) certificates of need shall be issued for new nursing facility  
1068 beds in the two (2) counties from the state at large that have the  
1069 highest need in the state for those beds, when considering the  
1070 need on a statewide basis and without regard to the Long-Term Care  
1071 Planning Districts in which the counties are located. During  
1072 fiscal year 2003, one (1) certificate of need shall be issued for  
1073 new nursing facility beds in any county having a need for fifty  
1074 (50) or more additional nursing facility beds, as shown in the  
1075 fiscal year 1999 State Health Plan, that has not received a  
1076 certificate of need under this paragraph (q) during the three (3)  
1077 previous fiscal years. During fiscal year 2000, in addition to  
1078 the six (6) certificates of need authorized in this subparagraph,  
1079 the department also shall issue a certificate of need for new  
1080 nursing facility beds in Amite County and a certificate of need  
1081 for new nursing facility beds in Carroll County.

1082                   (iii) Subject to the provisions of subparagraph  
1083 (v), the certificate of need issued under subparagraph (ii) for



1084 nursing facility beds in each Long-Term Care Planning District  
1085 during each fiscal year shall first be available for nursing  
1086 facility beds in the county in the district having the highest  
1087 need for those beds, as shown in the fiscal year 1999 State Health  
1088 Plan. If there are no applications for a certificate of need for  
1089 nursing facility beds in the county having the highest need for  
1090 those beds by the date specified by the department, then the  
1091 certificate of need shall be available for nursing facility beds  
1092 in other counties in the district in descending order of the need  
1093 for those beds, from the county with the second highest need to  
1094 the county with the lowest need, until an application is received  
1095 for nursing facility beds in an eligible county in the district.

1096 (iv) Subject to the provisions of subparagraph  
1097 (v), the certificate of need issued under subparagraph (ii) for  
1098 nursing facility beds in the two (2) counties from the state at  
1099 large during each fiscal year shall first be available for nursing  
1100 facility beds in the two (2) counties that have the highest need  
1101 in the state for those beds, as shown in the fiscal year 1999  
1102 State Health Plan, when considering the need on a statewide basis  
1103 and without regard to the Long-Term Care Planning Districts in  
1104 which the counties are located. If there are no applications for  
1105 a certificate of need for nursing facility beds in either of the  
1106 two (2) counties having the highest need for those beds on a  
1107 statewide basis by the date specified by the department, then the  
1108 certificate of need shall be available for nursing facility beds



1109 in other counties from the state at large in descending order of  
1110 the need for those beds on a statewide basis, from the county with  
1111 the second highest need to the county with the lowest need, until  
1112 an application is received for nursing facility beds in an  
1113 eligible county from the state at large.

1114 (v) If a certificate of need is authorized to be  
1115 issued under this paragraph (q) for nursing facility beds in a  
1116 county on the basis of the need in the Long-Term Care Planning  
1117 District during any fiscal year of the four-year period, a  
1118 certificate of need shall not also be available under this  
1119 paragraph (q) for additional nursing facility beds in that county  
1120 on the basis of the need in the state at large, and that county  
1121 shall be excluded in determining which counties have the highest  
1122 need for nursing facility beds in the state at large for that  
1123 fiscal year. After a certificate of need has been issued under  
1124 this paragraph (q) for nursing facility beds in a county during  
1125 any fiscal year of the four-year period, a certificate of need  
1126 shall not be available again under this paragraph (q) for  
1127 additional nursing facility beds in that county during the  
1128 four-year period, and that county shall be excluded in determining  
1129 which counties have the highest need for nursing facility beds in  
1130 succeeding fiscal years.

1131 (vi) If more than one (1) application is made for  
1132 a certificate of need for nursing home facility beds available  
1133 under this paragraph (q), in Yalobusha, Newton or Tallahatchie



1134 County, and one (1) of the applicants is a county-owned hospital  
1135 located in the county where the nursing facility beds are  
1136 available, the department shall give priority to the county-owned  
1137 hospital in granting the certificate of need if the following  
1138 conditions are met:

1139                   1. The county-owned hospital fully meets all  
1140 applicable criteria and standards required to obtain a certificate  
1141 of need for the nursing facility beds; and

1142                   2. The county-owned hospital's qualifications  
1143 for the certificate of need, as shown in its application and as  
1144 determined by the department, are at least equal to the  
1145 qualifications of the other applicants for the certificate of  
1146 need.

1147                   (r) (i) Beginning on July 1, 1999, the State  
1148 Department of Health shall issue certificates of need during each  
1149 of the next two (2) fiscal years for the construction or expansion  
1150 of nursing facility beds or the conversion of other beds to  
1151 nursing facility beds in each of the four (4) Long-Term Care  
1152 Planning Districts designated in the fiscal year 1999 State Health  
1153 Plan, to provide care exclusively to patients with Alzheimer's  
1154 disease.

1155                   (ii) Not more than twenty (20) beds may be  
1156 authorized by any certificate of need issued under this paragraph  
1157 (r), and not more than a total of sixty (60) beds may be  
1158 authorized in any Long-Term Care Planning District by all



1159 certificates of need issued under this paragraph (r). However,  
1160 the total number of beds that may be authorized by all  
1161 certificates of need issued under this paragraph (r) during any  
1162 fiscal year shall not exceed one hundred twenty (120) beds, and  
1163 the total number of beds that may be authorized in any Long-Term  
1164 Care Planning District during any fiscal year shall not exceed  
1165 forty (40) beds. Of the certificates of need that are issued for  
1166 each Long-Term Care Planning District during the next two (2)  
1167 fiscal years, at least one (1) shall be issued for beds in the  
1168 northern part of the district, at least one (1) shall be issued  
1169 for beds in the central part of the district, and at least one (1)  
1170 shall be issued for beds in the southern part of the district.

1171 (iii) The State Department of Health, in  
1172 consultation with the Department of Mental Health and the Division  
1173 of Medicaid, shall develop and prescribe the staffing levels,  
1174 space requirements and other standards and requirements that must  
1175 be met with regard to the nursing facility beds authorized under  
1176 this paragraph (r) to provide care exclusively to patients with  
1177 Alzheimer's disease.

1178 (s) The State Department of Health may issue a  
1179 certificate of need to a nonprofit skilled nursing facility using  
1180 the Green House model of skilled nursing care and located in Yazoo  
1181 City, Yazoo County, Mississippi, for the construction, expansion  
1182 or conversion of not more than nineteen (19) nursing facility  
1183 beds. For purposes of this paragraph (s), the provisions of





1184 Section 41-7-193(1) requiring substantial compliance with the  
1185 projection of need as reported in the current State Health Plan  
1186 and the provisions of Section 41-7-197 requiring a formal  
1187 certificate of need hearing process are waived. There shall be no  
1188 prohibition or restrictions on participation in the Medicaid  
1189 program for the person receiving the certificate of need  
1190 authorized under this paragraph (s).

1191 (t) The State Department of Health shall issue  
1192 certificates of need to the owner of a nursing facility in  
1193 operation at the time of Hurricane Katrina in Hancock County that  
1194 was not operational on December 31, 2005, because of damage  
1195 sustained from Hurricane Katrina to authorize the following: (i)  
1196 the construction of a new nursing facility in Harrison County;  
1197 (ii) the relocation of forty-nine (49) nursing facility beds from  
1198 the Hancock County facility to the new Harrison County facility;  
1199 (iii) the establishment of not more than twenty (20) non-Medicaid  
1200 nursing facility beds at the Hancock County facility; and (iv) the  
1201 establishment of not more than twenty (20) non-Medicaid beds at  
1202 the new Harrison County facility. The certificates of need that  
1203 authorize the non-Medicaid nursing facility beds under  
1204 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1205 subject to the following conditions: The owner of the Hancock  
1206 County facility and the new Harrison County facility must agree in  
1207 writing that no more than fifty (50) of the beds at the Hancock  
1208 County facility and no more than forty-nine (49) of the beds at



1209 the Harrison County facility will be certified for participation  
1210 in the Medicaid program, and that no claim will be submitted for  
1211 Medicaid reimbursement for more than fifty (50) patients in the  
1212 Hancock County facility in any month, or for more than forty-nine  
1213 (49) patients in the Harrison County facility in any month, or for  
1214 any patient in either facility who is in a bed that is not  
1215 Medicaid-certified. This written agreement by the owner of the  
1216 nursing facilities shall be a condition of the issuance of the  
1217 certificates of need under this paragraph (t), and the agreement  
1218 shall be fully binding on any later owner or owners of either  
1219 facility if the ownership of either facility is transferred at any  
1220 time after the certificates of need are issued. After this  
1221 written agreement is executed, the Division of Medicaid and the  
1222 State Department of Health shall not certify more than fifty (50)  
1223 of the beds at the Hancock County facility or more than forty-nine  
1224 (49) of the beds at the Harrison County facility for participation  
1225 in the Medicaid program. If the Hancock County facility violates  
1226 the terms of the written agreement by admitting or keeping in the  
1227 facility on a regular or continuing basis more than fifty (50)  
1228 patients who are participating in the Medicaid program, or if the  
1229 Harrison County facility violates the terms of the written  
1230 agreement by admitting or keeping in the facility on a regular or  
1231 continuing basis more than forty-nine (49) patients who are  
1232 participating in the Medicaid program, the State Department of  
1233 Health shall revoke the license of the facility that is in



1234 violation of the agreement, at the time that the department  
1235 determines, after a hearing complying with due process, that the  
1236 facility has violated the agreement.

1237           (u) The State Department of Health shall issue a  
1238 certificate of need to a nonprofit venture for the establishment,  
1239 construction and operation of a skilled nursing facility of not  
1240 more than sixty (60) beds to provide skilled nursing care for  
1241 ventilator dependent or otherwise medically dependent pediatric  
1242 patients who require medical and nursing care or rehabilitation  
1243 services to be located in a county in which an academic medical  
1244 center and a children's hospital are located, and for any  
1245 construction and for the acquisition of equipment related to those  
1246 beds. The facility shall be authorized to keep such ventilator  
1247 dependent or otherwise medically dependent pediatric patients  
1248 beyond age twenty-one (21) in accordance with regulations of the  
1249 State Board of Health. For purposes of this paragraph (u), the  
1250 provisions of Section 41-7-193(1) requiring substantial compliance  
1251 with the projection of need as reported in the current State  
1252 Health Plan are waived, and the provisions of Section 41-7-197  
1253 requiring a formal certificate of need hearing process are waived.  
1254 The beds authorized by this paragraph shall be counted as  
1255 pediatric skilled nursing facility beds for health planning  
1256 purposes under Section 41-7-171 et seq. There shall be no  
1257 prohibition of or restrictions on participation in the Medicaid



1258 program for the person receiving the certificate of need  
1259 authorized by this paragraph.

1260 (3) The State Department of Health may grant approval for  
1261 and issue certificates of need to any person proposing the new  
1262 construction of, addition to, conversion of beds of or expansion  
1263 of any health care facility defined in subparagraph (x)  
1264 (psychiatric residential treatment facility) of Section  
1265 41-7-173(h). The total number of beds which may be authorized by  
1266 such certificates of need shall not exceed three hundred  
1267 thirty-four (334) beds for the entire state.

1268 (a) Of the total number of beds authorized under this  
1269 subsection, the department shall issue a certificate of need to a  
1270 privately owned psychiatric residential treatment facility in  
1271 Simpson County for the conversion of sixteen (16) intermediate  
1272 care facility for the mentally retarded (ICF-MR) beds to  
1273 psychiatric residential treatment facility beds, provided that  
1274 facility agrees in writing that the facility shall give priority  
1275 for the use of those sixteen (16) beds to Mississippi residents  
1276 who are presently being treated in out-of-state facilities.

1277 (b) Of the total number of beds authorized under this  
1278 subsection, the department may issue a certificate or certificates  
1279 of need for the construction or expansion of psychiatric  
1280 residential treatment facility beds or the conversion of other  
1281 beds to psychiatric residential treatment facility beds in Warren  
1282 County, not to exceed sixty (60) psychiatric residential treatment



1283 facility beds, provided that the facility agrees in writing that  
1284 no more than thirty (30) of the beds at the psychiatric  
1285 residential treatment facility will be certified for participation  
1286 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1287 any patients other than those who are participating only in the  
1288 Medicaid program of another state, and that no claim will be  
1289 submitted to the Division of Medicaid for Medicaid reimbursement  
1290 for more than thirty (30) patients in the psychiatric residential  
1291 treatment facility in any day or for any patient in the  
1292 psychiatric residential treatment facility who is in a bed that is  
1293 not Medicaid-certified. This written agreement by the recipient  
1294 of the certificate of need shall be a condition of the issuance of  
1295 the certificate of need under this paragraph, and the agreement  
1296 shall be fully binding on any subsequent owner of the psychiatric  
1297 residential treatment facility if the ownership of the facility is  
1298 transferred at any time after the issuance of the certificate of  
1299 need. After this written agreement is executed, the Division of  
1300 Medicaid and the State Department of Health shall not certify more  
1301 than thirty (30) of the beds in the psychiatric residential  
1302 treatment facility for participation in the Medicaid program for  
1303 the use of any patients other than those who are participating  
1304 only in the Medicaid program of another state. If the psychiatric  
1305 residential treatment facility violates the terms of the written  
1306 agreement by admitting or keeping in the facility on a regular or  
1307 continuing basis more than thirty (30) patients who are



1308 participating in the Mississippi Medicaid program, the State  
1309 Department of Health shall revoke the license of the facility, at  
1310 the time that the department determines, after a hearing complying  
1311 with due process, that the facility has violated the condition  
1312 upon which the certificate of need was issued, as provided in this  
1313 paragraph and in the written agreement.

1314         The State Department of Health, on or before July 1, 2002,  
1315 shall transfer the certificate of need authorized under the  
1316 authority of this paragraph (b), or reissue the certificate of  
1317 need if it has expired, to River Region Health System.

1318         (c) Of the total number of beds authorized under this  
1319 subsection, the department shall issue a certificate of need to a  
1320 hospital currently operating Medicaid-certified acute psychiatric  
1321 beds for adolescents in DeSoto County, for the establishment of a  
1322 forty-bed psychiatric residential treatment facility in DeSoto  
1323 County, provided that the hospital agrees in writing (i) that the  
1324 hospital shall give priority for the use of those forty (40) beds  
1325 to Mississippi residents who are presently being treated in  
1326 out-of-state facilities, and (ii) that no more than fifteen (15)  
1327 of the beds at the psychiatric residential treatment facility will  
1328 be certified for participation in the Medicaid program (Section  
1329 43-13-101 et seq.), and that no claim will be submitted for  
1330 Medicaid reimbursement for more than fifteen (15) patients in the  
1331 psychiatric residential treatment facility in any day or for any  
1332 patient in the psychiatric residential treatment facility who is



1333 in a bed that is not Medicaid-certified. This written agreement  
1334 by the recipient of the certificate of need shall be a condition  
1335 of the issuance of the certificate of need under this paragraph,  
1336 and the agreement shall be fully binding on any subsequent owner  
1337 of the psychiatric residential treatment facility if the ownership  
1338 of the facility is transferred at any time after the issuance of  
1339 the certificate of need. After this written agreement is  
1340 executed, the Division of Medicaid and the State Department of  
1341 Health shall not certify more than fifteen (15) of the beds in the  
1342 psychiatric residential treatment facility for participation in  
1343 the Medicaid program. If the psychiatric residential treatment  
1344 facility violates the terms of the written agreement by admitting  
1345 or keeping in the facility on a regular or continuing basis more  
1346 than fifteen (15) patients who are participating in the Medicaid  
1347 program, the State Department of Health shall revoke the license  
1348 of the facility, at the time that the department determines, after  
1349 a hearing complying with due process, that the facility has  
1350 violated the condition upon which the certificate of need was  
1351 issued, as provided in this paragraph and in the written  
1352 agreement.

1353 (d) Of the total number of beds authorized under this  
1354 subsection, the department may issue a certificate or certificates  
1355 of need for the construction or expansion of psychiatric  
1356 residential treatment facility beds or the conversion of other  
1357 beds to psychiatric treatment facility beds, not to exceed thirty



1358 (30) psychiatric residential treatment facility beds, in either  
1359 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1360 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1361 (e) Of the total number of beds authorized under this  
1362 subsection (3) the department shall issue a certificate of need to  
1363 a privately owned, nonprofit psychiatric residential treatment  
1364 facility in Hinds County for an eight-bed expansion of the  
1365 facility, provided that the facility agrees in writing that the  
1366 facility shall give priority for the use of those eight (8) beds  
1367 to Mississippi residents who are presently being treated in  
1368 out-of-state facilities.

1369 (f) The department shall issue a certificate of need to  
1370 a one-hundred-thirty-four-bed specialty hospital located on  
1371 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1372 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1373 Mississippi, for the addition, construction or expansion of  
1374 child/adolescent psychiatric residential treatment facility beds  
1375 in Lauderdale County. As a condition of issuance of the  
1376 certificate of need under this paragraph, the facility shall give  
1377 priority in admissions to the child/adolescent psychiatric  
1378 residential treatment facility beds authorized under this  
1379 paragraph to patients who otherwise would require out-of-state  
1380 placement. The Division of Medicaid, in conjunction with the  
1381 Department of Human Services, shall furnish the facility a list of  
1382 all out-of-state patients on a quarterly basis. Furthermore,





1383 notice shall also be provided to the parent, custodial parent or  
1384 guardian of each out-of-state patient notifying them of the  
1385 priority status granted by this paragraph. For purposes of this  
1386 paragraph, the provisions of Section 41-7-193(1) requiring  
1387 substantial compliance with the projection of need as reported in  
1388 the current State Health Plan are waived. The total number of  
1389 child/adolescent psychiatric residential treatment facility beds  
1390 that may be authorized under the authority of this paragraph shall  
1391 be sixty (60) beds. There shall be no prohibition or restrictions  
1392 on participation in the Medicaid program (Section 43-13-101 et  
1393 seq.) for the person receiving the certificate of need authorized  
1394 under this paragraph or for the beds converted pursuant to the  
1395 authority of that certificate of need.

1396 (4) (a) From and after March 25, 2021, the department may  
1397 issue a certificate of need to any person for the new construction  
1398 of any hospital, psychiatric hospital or chemical dependency  
1399 hospital that will contain any child/adolescent psychiatric or  
1400 child/adolescent chemical dependency beds, or for the conversion  
1401 of any other health care facility to a hospital, psychiatric  
1402 hospital or chemical dependency hospital that will contain any  
1403 child/adolescent psychiatric or child/adolescent chemical  
1404 dependency beds. There shall be no prohibition or restrictions on  
1405 participation in the Medicaid program (Section 43-13-101 et seq.)  
1406 for the person(s) receiving the certificate(s) of need authorized  
1407 under this paragraph (a) or for the beds converted pursuant to the



1408 authority of that certificate of need. In issuing any new  
1409 certificate of need for any child/adolescent psychiatric or  
1410 child/adolescent chemical dependency beds, either by new  
1411 construction or conversion of beds of another category, the  
1412 department shall give preference to beds which will be located in  
1413 an area of the state which does not have such beds located in it,  
1414 and to a location more than sixty-five (65) miles from existing  
1415 beds. Upon receiving 2020 census data, the department may amend  
1416 the State Health Plan regarding child/adolescent psychiatric and  
1417 child/adolescent chemical dependency beds to reflect the need  
1418 based on new census data.

1419 (i) [Deleted]

1420 (ii) The department may issue a certificate of  
1421 need for the conversion of existing beds in a county hospital in  
1422 Choctaw County from acute care beds to child/adolescent chemical  
1423 dependency beds. For purposes of this subparagraph (ii), the  
1424 provisions of Section 41-7-193(1) requiring substantial compliance  
1425 with the projection of need as reported in the current State  
1426 Health Plan are waived. The total number of beds that may be  
1427 authorized under authority of this subparagraph shall not exceed  
1428 twenty (20) beds. There shall be no prohibition or restrictions  
1429 on participation in the Medicaid program (Section 43-13-101 et  
1430 seq.) for the hospital receiving the certificate of need  
1431 authorized under this subparagraph or for the beds converted  
1432 pursuant to the authority of that certificate of need.



1433 (iii) The department may issue a certificate or  
1434 certificates of need for the construction or expansion of  
1435 child/adolescent psychiatric beds or the conversion of other beds  
1436 to child/adolescent psychiatric beds in Warren County. For  
1437 purposes of this subparagraph (iii), the provisions of Section  
1438 41-7-193(1) requiring substantial compliance with the projection  
1439 of need as reported in the current State Health Plan are waived.  
1440 The total number of beds that may be authorized under the  
1441 authority of this subparagraph shall not exceed twenty (20) beds.  
1442 There shall be no prohibition or restrictions on participation in  
1443 the Medicaid program (Section 43-13-101 et seq.) for the person  
1444 receiving the certificate of need authorized under this  
1445 subparagraph or for the beds converted pursuant to the authority  
1446 of that certificate of need.

1447 If by January 1, 2002, there has been no significant  
1448 commencement of construction of the beds authorized under this  
1449 subparagraph (iii), or no significant action taken to convert  
1450 existing beds to the beds authorized under this subparagraph, then  
1451 the certificate of need that was previously issued under this  
1452 subparagraph shall expire. If the previously issued certificate  
1453 of need expires, the department may accept applications for  
1454 issuance of another certificate of need for the beds authorized  
1455 under this subparagraph, and may issue a certificate of need to  
1456 authorize the construction, expansion or conversion of the beds  
1457 authorized under this subparagraph.



1458                   (iv) The department shall issue a certificate of  
1459 need to the Region 7 Mental Health/Retardation Commission for the  
1460 construction or expansion of child/adolescent psychiatric beds or  
1461 the conversion of other beds to child/adolescent psychiatric beds  
1462 in any of the counties served by the commission. For purposes of  
1463 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1464 requiring substantial compliance with the projection of need as  
1465 reported in the current State Health Plan are waived. The total  
1466 number of beds that may be authorized under the authority of this  
1467 subparagraph shall not exceed twenty (20) beds. There shall be no  
1468 prohibition or restrictions on participation in the Medicaid  
1469 program (Section 43-13-101 et seq.) for the person receiving the  
1470 certificate of need authorized under this subparagraph or for the  
1471 beds converted pursuant to the authority of that certificate of  
1472 need.

1473                   (v) The department may issue a certificate of need  
1474 to any county hospital located in Leflore County for the  
1475 construction or expansion of adult psychiatric beds or the  
1476 conversion of other beds to adult psychiatric beds, not to exceed  
1477 twenty (20) beds, provided that the recipient of the certificate  
1478 of need agrees in writing that the adult psychiatric beds will not  
1479 at any time be certified for participation in the Medicaid program  
1480 and that the hospital will not admit or keep any patients who are  
1481 participating in the Medicaid program in any of such adult  
1482 psychiatric beds. This written agreement by the recipient of the



1483 certificate of need shall be fully binding on any subsequent owner  
1484 of the hospital if the ownership of the hospital is transferred at  
1485 any time after the issuance of the certificate of need. Agreement  
1486 that the adult psychiatric beds will not be certified for  
1487 participation in the Medicaid program shall be a condition of the  
1488 issuance of a certificate of need to any person under this  
1489 subparagraph (v), and if such hospital at any time after the  
1490 issuance of the certificate of need, regardless of the ownership  
1491 of the hospital, has any of such adult psychiatric beds certified  
1492 for participation in the Medicaid program or admits or keeps any  
1493 Medicaid patients in such adult psychiatric beds, the State  
1494 Department of Health shall revoke the certificate of need, if it  
1495 is still outstanding, and shall deny or revoke the license of the  
1496 hospital at the time that the department determines, after a  
1497 hearing complying with due process, that the hospital has failed  
1498 to comply with any of the conditions upon which the certificate of  
1499 need was issued, as provided in this subparagraph and in the  
1500 written agreement by the recipient of the certificate of need.

1501 (vi) The department may issue a certificate or  
1502 certificates of need for the expansion of child psychiatric beds  
1503 or the conversion of other beds to child psychiatric beds at the  
1504 University of Mississippi Medical Center. For purposes of this  
1505 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1506 substantial compliance with the projection of need as reported in  
1507 the current State Health Plan are waived. The total number of



1508 beds that may be authorized under the authority of this  
1509 subparagraph shall not exceed fifteen (15) beds. There shall be  
1510 no prohibition or restrictions on participation in the Medicaid  
1511 program (Section 43-13-101 et seq.) for the hospital receiving the  
1512 certificate of need authorized under this subparagraph or for the  
1513 beds converted pursuant to the authority of that certificate of  
1514 need.

1515 (b) From and after July 1, 1990, no hospital,  
1516 psychiatric hospital or chemical dependency hospital shall be  
1517 authorized to add any child/adolescent psychiatric or  
1518 child/adolescent chemical dependency beds or convert any beds of  
1519 another category to child/adolescent psychiatric or  
1520 child/adolescent chemical dependency beds without a certificate of  
1521 need under the authority of subsection (1)(c) and subsection  
1522 (4)(a) of this section.

1523 (5) The department may issue a certificate of need to a  
1524 county hospital in Winston County for the conversion of fifteen  
1525 (15) acute care beds to geriatric psychiatric care beds.

1526 (6) The State Department of Health shall issue a certificate  
1527 of need to a Mississippi corporation qualified to manage a  
1528 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1529 Harrison County, not to exceed eighty (80) beds, including any  
1530 necessary renovation or construction required for licensure and  
1531 certification, provided that the recipient of the certificate of  
1532 need agrees in writing that the long-term care hospital will not



1533 at any time participate in the Medicaid program (Section 43-13-101  
1534 et seq.) or admit or keep any patients in the long-term care  
1535 hospital who are participating in the Medicaid program. This  
1536 written agreement by the recipient of the certificate of need  
1537 shall be fully binding on any subsequent owner of the long-term  
1538 care hospital, if the ownership of the facility is transferred at  
1539 any time after the issuance of the certificate of need. Agreement  
1540 that the long-term care hospital will not participate in the  
1541 Medicaid program shall be a condition of the issuance of a  
1542 certificate of need to any person under this subsection (6), and  
1543 if such long-term care hospital at any time after the issuance of  
1544 the certificate of need, regardless of the ownership of the  
1545 facility, participates in the Medicaid program or admits or keeps  
1546 any patients in the facility who are participating in the Medicaid  
1547 program, the State Department of Health shall revoke the  
1548 certificate of need, if it is still outstanding, and shall deny or  
1549 revoke the license of the long-term care hospital, at the time  
1550 that the department determines, after a hearing complying with due  
1551 process, that the facility has failed to comply with any of the  
1552 conditions upon which the certificate of need was issued, as  
1553 provided in this subsection and in the written agreement by the  
1554 recipient of the certificate of need. For purposes of this  
1555 subsection, the provisions of Section 41-7-193(1) requiring  
1556 substantial compliance with the projection of need as reported in  
1557 the current State Health Plan are waived.



1558 (7) The State Department of Health may issue a certificate  
1559 of need to any hospital in the state to utilize a portion of its  
1560 beds for the "swing-bed" concept. Any such hospital must be in  
1561 conformance with the federal regulations regarding such swing-bed  
1562 concept at the time it submits its application for a certificate  
1563 of need to the State Department of Health, except that such  
1564 hospital may have more licensed beds or a higher average daily  
1565 census (ADC) than the maximum number specified in federal  
1566 regulations for participation in the swing-bed program. Any  
1567 hospital meeting all federal requirements for participation in the  
1568 swing-bed program which receives such certificate of need shall  
1569 render services provided under the swing-bed concept to any  
1570 patient eligible for Medicare (Title XVIII of the Social Security  
1571 Act) who is certified by a physician to be in need of such  
1572 services, and no such hospital shall permit any patient who is  
1573 eligible for both Medicaid and Medicare or eligible only for  
1574 Medicaid to stay in the swing beds of the hospital for more than  
1575 thirty (30) days per admission unless the hospital receives prior  
1576 approval for such patient from the Division of Medicaid, Office of  
1577 the Governor. Any hospital having more licensed beds or a higher  
1578 average daily census (ADC) than the maximum number specified in  
1579 federal regulations for participation in the swing-bed program  
1580 which receives such certificate of need shall develop a procedure  
1581 to ensure that before a patient is allowed to stay in the swing  
1582 beds of the hospital, there are no vacant nursing home beds





1583 available for that patient located within a fifty-mile radius of  
1584 the hospital. When any such hospital has a patient staying in the  
1585 swing beds of the hospital and the hospital receives notice from a  
1586 nursing home located within such radius that there is a vacant bed  
1587 available for that patient, the hospital shall transfer the  
1588 patient to the nursing home within a reasonable time after receipt  
1589 of the notice. Any hospital which is subject to the requirements  
1590 of the two (2) preceding sentences of this subsection may be  
1591 suspended from participation in the swing-bed program for a  
1592 reasonable period of time by the State Department of Health if the  
1593 department, after a hearing complying with due process, determines  
1594 that the hospital has failed to comply with any of those  
1595 requirements.

1596 (8) The Department of Health shall not grant approval for or  
1597 issue a certificate of need to any person proposing the new  
1598 construction of, addition to or expansion of a health care  
1599 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1600 except as hereinafter provided: The department may issue a  
1601 certificate of need to a nonprofit corporation located in Madison  
1602 County, Mississippi, for the construction, expansion or conversion  
1603 of not more than twenty (20) beds in a community living program  
1604 for developmentally disabled adults in a facility as defined in  
1605 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1606 subsection (8), the provisions of Section 41-7-193(1) requiring  
1607 substantial compliance with the projection of need as reported in



1608 the current State Health Plan and the provisions of Section  
1609 41-7-197 requiring a formal certificate of need hearing process  
1610 are waived. There shall be no prohibition or restrictions on  
1611 participation in the Medicaid program for the person receiving the  
1612 certificate of need authorized under this subsection (8).

1613 (9) The Department of Health shall not grant approval for or  
1614 issue a certificate of need to any person proposing the  
1615 establishment of, or expansion of the currently approved territory  
1616 of, or the contracting to establish a home office, subunit or  
1617 branch office within the space operated as a health care facility  
1618 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1619 care facility as defined in subparagraph (ix) of Section  
1620 41-7-173(h).

1621 (10) Health care facilities owned and/or operated by the  
1622 state or its agencies are exempt from the restraints in this  
1623 section against issuance of a certificate of need if such addition  
1624 or expansion consists of repairing or renovation necessary to  
1625 comply with the state licensure law. This exception shall not  
1626 apply to the new construction of any building by such state  
1627 facility. This exception shall not apply to any health care  
1628 facilities owned and/or operated by counties, municipalities,  
1629 districts, unincorporated areas, other defined persons, or any  
1630 combination thereof.

1631 (11) The new construction, renovation or expansion of or  
1632 addition to any health care facility defined in subparagraph (ii)



1633 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1634 facility), subparagraph (vi) (intermediate care facility),  
1635 subparagraph (viii) (intermediate care facility for the mentally  
1636 retarded) and subparagraph (x) (psychiatric residential treatment  
1637 facility) of Section 41-7-173(h) which is owned by the State of  
1638 Mississippi and under the direction and control of the State  
1639 Department of Mental Health, and the addition of new beds or the  
1640 conversion of beds from one category to another in any such  
1641 defined health care facility which is owned by the State of  
1642 Mississippi and under the direction and control of the State  
1643 Department of Mental Health, shall not require the issuance of a  
1644 certificate of need under Section 41-7-171 et seq.,  
1645 notwithstanding any provision in Section 41-7-171 et seq. to the  
1646 contrary.

1647 (12) The new construction, renovation or expansion of or  
1648 addition to any veterans homes or domiciliaries for eligible  
1649 veterans of the State of Mississippi as authorized under Section  
1650 35-1-19 shall not require the issuance of a certificate of need,  
1651 notwithstanding any provision in Section 41-7-171 et seq. to the  
1652 contrary.

1653 (13) The repair or the rebuilding of an existing, operating  
1654 health care facility that sustained significant damage from a  
1655 natural disaster that occurred after April 15, 2014, in an area  
1656 that is proclaimed a disaster area or subject to a state of  
1657 emergency by the Governor or by the President of the United States



1658 shall be exempt from all of the requirements of the Mississippi  
1659 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1660 rules and regulations promulgated under that law, subject to the  
1661 following conditions:

1662 (a) The repair or the rebuilding of any such damaged  
1663 health care facility must be within one (1) mile of the  
1664 pre-disaster location of the campus of the damaged health care  
1665 facility, except that any temporary post-disaster health care  
1666 facility operating location may be within five (5) miles of the  
1667 pre-disaster location of the damaged health care facility;

1668 (b) The repair or the rebuilding of the damaged health  
1669 care facility (i) does not increase or change the complement of  
1670 its bed capacity that it had before the Governor's or the  
1671 President's proclamation, (ii) does not increase or change its  
1672 levels and types of health care services that it provided before  
1673 the Governor's or the President's proclamation, and (iii) does not  
1674 rebuild in a different county; however, this paragraph does not  
1675 restrict or prevent a health care facility from decreasing its bed  
1676 capacity that it had before the Governor's or the President's  
1677 proclamation, or from decreasing the levels of or decreasing or  
1678 eliminating the types of health care services that it provided  
1679 before the Governor's or the President's proclamation, when the  
1680 damaged health care facility is repaired or rebuilt;

1681 (c) The exemption from Certificate of Need Law provided  
1682 under this subsection (13) is valid for only five (5) years from



1683 the date of the Governor's or the President's proclamation. If  
1684 actual construction has not begun within that five-year period,  
1685 the exemption provided under this subsection is inapplicable; and

1686 (d) The Division of Health Facilities Licensure and  
1687 Certification of the State Department of Health shall provide the  
1688 same oversight for the repair or the rebuilding of the damaged  
1689 health care facility that it provides to all health care facility  
1690 construction projects in the state.

1691 For the purposes of this subsection (13), "significant  
1692 damage" to a health care facility means damage to the health care  
1693 facility requiring an expenditure of at least One Million Dollars  
1694 (\$1,000,000.00).

1695 (14) The State Department of Health shall issue a  
1696 certificate of need to any hospital which is currently licensed  
1697 for two hundred fifty (250) or more acute care beds and is located  
1698 in any general hospital service area not having a comprehensive  
1699 cancer center, for the establishment and equipping of such a  
1700 center which provides facilities and services for outpatient  
1701 radiation oncology therapy, outpatient medical oncology therapy,  
1702 and appropriate support services including the provision of  
1703 radiation therapy services. The provisions of Section 41-7-193(1)  
1704 regarding substantial compliance with the projection of need as  
1705 reported in the current State Health Plan are waived for the  
1706 purpose of this subsection.



1707           (15) The State Department of Health may authorize the  
1708 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1709 North Panola Community Hospital to the South Panola Community  
1710 Hospital. The authorization for the transfer of those beds shall  
1711 be exempt from the certificate of need review process.

1712           (16) The State Department of Health shall issue any  
1713 certificates of need necessary for Mississippi State University  
1714 and a public or private health care provider to jointly acquire  
1715 and operate a linear accelerator and a magnetic resonance imaging  
1716 unit. Those certificates of need shall cover all capital  
1717 expenditures related to the project between Mississippi State  
1718 University and the health care provider, including, but not  
1719 limited to, the acquisition of the linear accelerator, the  
1720 magnetic resonance imaging unit and other radiological modalities;  
1721 the offering of linear accelerator and magnetic resonance imaging  
1722 services; and the cost of construction of facilities in which to  
1723 locate these services. The linear accelerator and the magnetic  
1724 resonance imaging unit shall be (a) located in the City of  
1725 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1726 Mississippi State University and the public or private health care  
1727 provider selected by Mississippi State University through a  
1728 request for proposals (RFP) process in which Mississippi State  
1729 University selects, and the Board of Trustees of State  
1730 Institutions of Higher Learning approves, the health care provider  
1731 that makes the best overall proposal; (c) available to Mississippi



1732 State University for research purposes two-thirds (2/3) of the  
1733 time that the linear accelerator and magnetic resonance imaging  
1734 unit are operational; and (d) available to the public or private  
1735 health care provider selected by Mississippi State University and  
1736 approved by the Board of Trustees of State Institutions of Higher  
1737 Learning one-third (1/3) of the time for clinical, diagnostic and  
1738 treatment purposes. For purposes of this subsection, the  
1739 provisions of Section 41-7-193(1) requiring substantial compliance  
1740 with the projection of need as reported in the current State  
1741 Health Plan are waived.

1742 (17) The State Department of Health shall issue a  
1743 certificate of need for the construction of an acute care hospital  
1744 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1745 be named the "John C. Stennis Memorial Hospital." In issuing the  
1746 certificate of need under this subsection, the department shall  
1747 give priority to a hospital located in Lauderdale County that has  
1748 two hundred fifteen (215) beds. For purposes of this subsection,  
1749 the provisions of Section 41-7-193(1) requiring substantial  
1750 compliance with the projection of need as reported in the current  
1751 State Health Plan and the provisions of Section 41-7-197 requiring  
1752 a formal certificate of need hearing process are waived. There  
1753 shall be no prohibition or restrictions on participation in the  
1754 Medicaid program (Section 43-13-101 et seq.) for the person or  
1755 entity receiving the certificate of need authorized under this



1756 subsection or for the beds constructed under the authority of that  
1757 certificate of need.

1758 (18) The planning, design, construction, renovation,  
1759 addition, furnishing and equipping of a clinical research unit at  
1760 any health care facility defined in Section 41-7-173(h) that is  
1761 under the direction and control of the University of Mississippi  
1762 Medical Center and located in Jackson, Mississippi, and the  
1763 addition of new beds or the conversion of beds from one (1)  
1764 category to another in any such clinical research unit, shall not  
1765 require the issuance of a certificate of need under Section  
1766 41-7-171 et seq., notwithstanding any provision in Section  
1767 41-7-171 et seq. to the contrary.

1768 (19) [Repealed]

1769 (20) Nothing in this section or in any other provision of  
1770 Section 41-7-171 et seq. shall prevent any nursing facility from  
1771 designating an appropriate number of existing beds in the facility  
1772 as beds for providing care exclusively to patients with  
1773 Alzheimer's disease.

1774 (21) Nothing in this section or any other provision of  
1775 Section 41-7-171 et seq. shall prevent any health care facility  
1776 from the new construction, renovation, conversion or expansion of  
1777 new beds in the facility designated as intensive care units,  
1778 negative pressure rooms, or isolation rooms pursuant to the  
1779 provisions of Sections 41-14-1 through 41-14-11, or Section  
1780 41-14-31. For purposes of this subsection, the provisions of





1781 Section 41-7-193(1) requiring substantial compliance with the  
1782 projection of need as reported in the current State Health Plan  
1783 and the provisions of Section 41-7-197 requiring a formal  
1784 certificate of need hearing process are waived.

1785 **SECTION 11.** Section 41-7-193, Mississippi Code of 1972, is  
1786 brought forward as follows:

1787 41-7-193. (1) No person may enter into any financing  
1788 arrangement or commitment for financing a new institutional health  
1789 service or any other project requiring a certificate of need  
1790 unless such certificate has been granted for such purpose. A  
1791 certificate of need shall not be granted or issued to any person  
1792 for any proposal, cause or reason, unless the proposal has been  
1793 reviewed for consistency with the specifications and the criteria  
1794 established by the State Department of Health and substantially  
1795 complies with the projection of need as reported in the state  
1796 health plan in effect at the time the application for the proposal  
1797 was submitted.

1798 (2) An application for a certificate of need for an  
1799 institutional health service, medical equipment or any proposal  
1800 requiring a certificate of need shall specify the time, within  
1801 that granted, such shall be functional or operational according to  
1802 a time schedule submitted with the application. Each certificate  
1803 of need shall specify the maximum amount of capital expenditure  
1804 that may be obligated. The State Department of Health shall



1805 periodically review the progress and time schedule of any person  
1806 issued or granted a certificate of need for any purpose.

1807 (3) An application for a certificate of need may be filed at  
1808 any time with the department after the applicant has given the  
1809 department fifteen (15) days' written notice of its intent to  
1810 apply for a certificate of need. The department shall not delay  
1811 review of an application. The department shall make its  
1812 recommendation approving or disapproving a complete application  
1813 within forty-five (45) days of the date the application was filed  
1814 or within fifteen (15) days of receipt of any requested  
1815 information, whichever is later, said request to be made by the  
1816 department within fifteen (15) days of the filing of the  
1817 application.

1818 **SECTION 12.** Section 41-7-195, Mississippi Code of 1972, is  
1819 brought forward as follows:

1820 41-7-195. (1) A certificate of need shall be valid only for  
1821 the defined scope, physical location and person named in the  
1822 application. A certificate of need shall not be transferable or  
1823 assignable nor shall a project or capital expenditure project be  
1824 transferred from one person to another, except with the approval  
1825 of the State Department of Health. A certificate of need shall be  
1826 valid for the period of time specified therein.

1827 (2) A certificate of need shall be issued for a period of  
1828 twelve (12) months, or such other lesser period as specified by  
1829 the State Department of Health.



1830 (3) The State Department of Health may define by regulation,  
1831 not to exceed six (6) months, the time for which a certificate of  
1832 need may be extended.

1833 (4) If commencement of construction or other preparation is  
1834 not substantially undertaken during a valid certificate of need  
1835 period or the State Department of Health determines the applicant  
1836 is not making a good faith effort to obligate such approved  
1837 expenditure, the State Department of Health shall have the right  
1838 to withdraw, revoke or rescind the certificate.

1839 (5) The State Department of Health may approve or disapprove  
1840 a proposal for a certificate of need as originally presented in  
1841 final form, or it may approve a certificate of need by a  
1842 modification, by reduction only, of such proposal provided the  
1843 proponent agrees to such modification.

1844 **SECTION 13.** Section 41-7-197, Mississippi Code of 1972, is  
1845 brought forward as follows:

1846 41-7-197. (1) The State Department of Health shall adopt  
1847 and utilize procedures for conducting certificate of need reviews.  
1848 Such procedures shall include, inter alia, the following: (a)  
1849 written notification to the applicant; (b) written notification to  
1850 health care facilities in the same health service area as the  
1851 proposed service; (c) written notification to other persons who  
1852 prior to the receipt of the application have filed a formal notice  
1853 of intent to provide the proposed services in the same service  
1854 area; and (d) notification to members of the public who reside in



1855 the service area where the service is proposed, which may be  
1856 provided through newspapers or public information channels.

1857 (2) All notices provided shall include, inter alia, the  
1858 following: (a) the proposed schedule for the review; (b) written  
1859 notification of the period within which a public hearing during  
1860 the course of the review may be requested in writing by one or  
1861 more affected persons, such request to be made within ten (10)  
1862 days of the department's staff recommendation for approval or  
1863 disapproval of an application; and (c) the manner in which  
1864 notification will be provided of the time and place of any hearing  
1865 so requested. Any such hearing shall be commenced by an  
1866 independent hearing officer designated by the State Department of  
1867 Health within sixty (60) days of the filing of the hearing request  
1868 unless all parties to the hearing agree to extend the time for the  
1869 commencement of the hearing. At such hearing, the hearing officer  
1870 and any person affected by the proposal being reviewed may conduct  
1871 reasonable questioning of persons who make relevant factual  
1872 allegations concerning the proposal. The hearing officer shall  
1873 require that all persons be sworn before they may offer any  
1874 testimony at the hearing, and the hearing officer is authorized to  
1875 administer oaths. Any person so choosing may be represented by  
1876 counsel at the hearing. A record of the hearing shall be made,  
1877 which shall consist of a transcript of all testimony received, all  
1878 documents and other material introduced by any interested person,  
1879 the staff report and recommendation and such other material as the



1880 hearing officer considers relevant, including his own  
1881 recommendation, which he shall make, after reviewing, studying and  
1882 analyzing the evidence presented during the hearing, within a  
1883 reasonable period of time after the hearing is closed, which in no  
1884 event shall exceed forty-five (45) days. The completed record  
1885 shall be certified to the State Health Officer, who shall consider  
1886 only the record in making his decision, and shall not consider any  
1887 evidence or material which is not included therein. All final  
1888 decisions regarding the issuance of a certificate of need shall be  
1889 made by the State Health Officer. The State Health Officer shall  
1890 make his or her written findings and issue his or her order after  
1891 reviewing said record. The findings and decision of the State  
1892 Health Officer shall not be deferred to any later date.

1893 (3) Unless a hearing is held, if review by the State  
1894 Department of Health concerning the issuance of a certificate of  
1895 need is not complete with a final decision issued by the State  
1896 Health Officer within the time specified by rule or regulation,  
1897 which shall not exceed ninety (90) days from the filing of the  
1898 application for a certificate of need, the proponent of the  
1899 proposal may, within thirty (30) days after the expiration of the  
1900 specified time for review, commence such legal action as is  
1901 necessary, in the Chancery Court of the First Judicial District of  
1902 Hinds County or in the chancery court of the county in which the  
1903 service or facility is proposed to be provided, to compel the



1904 State Health Officer to issue written findings and written order  
1905 approving or disapproving the proposal in question.

1906 **SECTION 14.** Section 41-7-201, Mississippi Code of 1972, is  
1907 brought forward as follows:

1908 41-7-201. (1) The provisions of this subsection (1) shall  
1909 apply to any party appealing any final order of the State  
1910 Department of Health pertaining to a certificate of need for a  
1911 home health agency, as defined in Section 41-7-173(h) (ix):

1912 (a) In addition to other remedies now available at law  
1913 or in equity, any party aggrieved by any such final order of the  
1914 State Department of Health shall have the right of appeal to the  
1915 Chancery Court of the First Judicial District of Hinds County,  
1916 Mississippi, which appeal must be filed within thirty (30) days  
1917 after the date of the final order. Provided, however, that any  
1918 appeal of an order disapproving an application for such a  
1919 certificate of need may be made to the chancery court of the  
1920 county where the proposed construction, expansion or alteration  
1921 was to be located or the new service or purpose of the capital  
1922 expenditure was to be located. Such appeal must be filed in  
1923 accordance with the thirty (30) days for filing as heretofore  
1924 provided. Any appeal shall state briefly the nature of the  
1925 proceedings before the State Department of Health and shall  
1926 specify the order complained of. Any appeal shall state briefly  
1927 the nature of the proceedings before the State Department of  
1928 Health and shall specify the order complained of. Any person



1929 whose rights may be materially affected by the action of the State  
1930 Department of Health may appear and become a party or the court  
1931 may, upon motion, order that any such person, organization or  
1932 entity be joined as a necessary party.

1933 (b) Upon the filing of such an appeal, the clerk of the  
1934 chancery court shall serve notice thereof upon the State  
1935 Department of Health, whereupon the State Department of Health  
1936 shall, within thirty (30) days or within such additional time as  
1937 the court may by order for cause allow from the service of such  
1938 notice, certify to the chancery court the record in the case,  
1939 which records shall include a transcript of all testimony,  
1940 together with all exhibits or copies thereof, all pleadings,  
1941 proceedings, orders, findings and opinions entered in the case;  
1942 provided, however, that the parties and the State Department of  
1943 Health may stipulate that a specified portion only of the record  
1944 shall be certified to the court as the record on appeal.

1945 (c) The court may dispose of the appeal in termtime or  
1946 vacation and may sustain or dismiss the appeal, modify or vacate  
1947 the order complained of, in whole or in part, as the case may be;  
1948 but in case the order is wholly or partly vacated, the court may  
1949 also, in its discretion, remand the matter to the State Department  
1950 of Health for such further proceedings, not inconsistent with the  
1951 court's order, as, in the opinion of the court, justice may  
1952 require. The order shall not be vacated or set aside, either in  
1953 whole or in part, except for errors of law, unless the court finds



1954 that the order of the State Department of Health is not supported  
1955 by substantial evidence, is contrary to the manifest weight of the  
1956 evidence, is in excess of the statutory authority or jurisdiction  
1957 of the State Department of Health, or violates any vested  
1958 constitutional rights of any party involved in the appeal.

1959 Provided, however, an order of the chancery court reversing the  
1960 denial of a certificate of need by the State Department of Health  
1961 shall not entitle the applicant to effectuate the certificate of  
1962 need until either:

1963 (i) Such order of the chancery court has become  
1964 final and has not been appealed to the Supreme Court; or

1965 (ii) The Supreme Court has entered a final order  
1966 affirming the chancery court.

1967 (d) Appeals in accordance with law may be had to the  
1968 Supreme Court of the State of Mississippi from any final judgment  
1969 of the chancery court.

1970 (2) The provisions of this subsection (2) shall apply to any  
1971 party appealing any final order of the State Department of Health  
1972 pertaining to a certificate of need for any health care facility  
1973 as defined in Section 41-7-173(h), with the exception of any home  
1974 health agency as defined in Section 41-7-173(h)(ix):

1975 (a) There shall be a "stay of proceedings" of any final  
1976 order issued by the State Department of Health pertaining to the  
1977 issuance of a certificate of need for the establishment,  
1978 construction, expansion or replacement of a health care facility





1979 for a period of thirty (30) days from the date of the order, if an  
1980 existing provider located in the same service area where the  
1981 health care facility is or will be located has requested a hearing  
1982 during the course of review in opposition to the issuance of the  
1983 certificate of need. The stay of proceedings shall expire at the  
1984 termination of thirty (30) days; however, no construction,  
1985 renovation or other capital expenditure that is the subject of the  
1986 order shall be undertaken, no license to operate any facility that  
1987 is the subject of the order shall be issued by the licensing  
1988 agency, and no certification to participate in the Title XVII or  
1989 Title XIX programs of the Social Security Act shall be granted,  
1990 until all statutory appeals have been exhausted or the time for  
1991 such appeals has expired. Notwithstanding the foregoing, the  
1992 filing of an appeal from a final order of the State Department of  
1993 Health or the chancery court for the issuance of a certificate of  
1994 need shall not prevent the purchase of medical equipment or  
1995 development or offering of institutional health services granted  
1996 in a certificate of need issued by the State Department of Health.

1997 (b) In addition to other remedies now available at law  
1998 or in equity, any party aggrieved by such final order of the State  
1999 Department of Health shall have the right of appeal to the  
2000 Chancery Court of the First Judicial District of Hinds County,  
2001 Mississippi, which appeal must be filed within twenty (20) days  
2002 after the date of the final order. Provided, however, that any  
2003 appeal of an order disapproving an application for such a



2004 certificate of need may be made to the chancery court of the  
2005 county where the proposed construction, expansion or alteration  
2006 was to be located or the new service or purpose of the capital  
2007 expenditure was to be located. Such appeal must be filed in  
2008 accordance with the twenty (20) days for filing as heretofore  
2009 provided. Any appeal shall state briefly the nature of the  
2010 proceedings before the State Department of Health and shall  
2011 specify the order complained of.

2012 (c) Upon the filing of such an appeal, the clerk of the  
2013 chancery court shall serve notice thereof upon the State  
2014 Department of Health, whereupon the State Department of Health  
2015 shall, within thirty (30) days of the date of the filing of the  
2016 appeal, certify to the chancery court the record in the case,  
2017 which records shall include a transcript of all testimony,  
2018 together with all exhibits or copies thereof, all proceedings,  
2019 orders, findings and opinions entered in the case; provided,  
2020 however, that the parties and the State Department of Health may  
2021 stipulate that a specified portion only of the record shall be  
2022 certified to the court as the record on appeal. The chancery  
2023 court shall give preference to any such appeal from a final order  
2024 by the State Department of Health in a certificate of need  
2025 proceeding, and shall render a final order regarding such appeal  
2026 no later than one hundred twenty (120) days from the date of the  
2027 final order by the State Department of Health. If the chancery  
2028 court has not rendered a final order within this



2029 one-hundred-twenty-day period, then the final order of the State  
2030 Department of Health shall be deemed to have been affirmed by the  
2031 chancery court, and any party to the appeal shall have the right  
2032 to appeal from the chancery court to the Supreme Court on the  
2033 record certified by the State Department of Health as otherwise  
2034 provided in paragraph (g) of this subsection. In the event the  
2035 chancery court has not rendered a final order within the  
2036 one-hundred-twenty-day period and an appeal is made to the Supreme  
2037 Court as provided herein, the Supreme Court shall remand the case  
2038 to the chancery court to make an award of costs, fees, reasonable  
2039 expenses and attorney's fees incurred in favor of appellee payable  
2040 by the appellant(s) should the Supreme Court affirm the order of  
2041 the State Department of Health.

2042 (d) Any appeal of a final order by the State Department  
2043 of Health in a certificate of need proceeding shall require the  
2044 giving of a bond by the appellant(s) sufficient to secure the  
2045 appellee against the loss of costs, fees, expenses and attorney's  
2046 fees incurred in defense of the appeal, approved by the chancery  
2047 court within five (5) days of the date of filing the appeal.

2048 (e) No new or additional evidence shall be introduced  
2049 in the chancery court but the case shall be determined upon the  
2050 record certified to the court.

2051 (f) The court may dispose of the appeal in termtime or  
2052 vacation and may sustain or dismiss the appeal, modify or vacate  
2053 the order complained of in whole or in part and may make an award



2054 of costs, fees, expenses and attorney's fees, as the case may be;  
2055 but in case the order is wholly or partly vacated, the court may  
2056 also, in its discretion, remand the matter to the State Department  
2057 of Health for such further proceedings, not inconsistent with the  
2058 court's order, as, in the opinion of the court, justice may  
2059 require. The court, as part of the final order, shall make an  
2060 award of costs, fees, reasonable expenses and attorney's fees  
2061 incurred in favor of appellee payable by the appellant(s) should  
2062 the court affirm the order of the State Department of Health. The  
2063 order shall not be vacated or set aside, either in whole or in  
2064 part, except for errors of law, unless the court finds that the  
2065 order of the State Department of Health is not supported by  
2066 substantial evidence, is contrary to the manifest weight of the  
2067 evidence, is in excess of the statutory authority or jurisdiction  
2068 of the State Department of Health, or violates any vested  
2069 constitutional rights of any party involved in the appeal.  
2070 Provided, however, an order of the chancery court reversing the  
2071 denial of a certificate of need by the State Department of Health  
2072 shall not entitle the applicant to effectuate the certificate of  
2073 need until either:  
2074                   (i) Such order of the chancery court has become  
2075 final and has not been appealed to the Supreme Court; or  
2076                   (ii) The Supreme Court has entered a final order  
2077 affirming the chancery court.



2078 (g) Appeals in accordance with law may be had to the  
2079 Supreme Court of the State of Mississippi from any final judgment  
2080 of the chancery court. The Supreme Court must give preference and  
2081 conduct an expedited judicial review of an appeal of a final order  
2082 of the chancery court relating to a certificate of need proceeding  
2083 and must render a final order regarding the appeal no later than  
2084 one hundred twenty (120) days from the date the final order by the  
2085 chancery court is certified to the Supreme Court. The Supreme  
2086 Court shall consider such appeals in an expeditious manner without  
2087 regard to position on the court docket.

2088 (h) Within thirty (30) days from the date of a final  
2089 order by the Supreme Court or a final order of the chancery court  
2090 not appealed to the Supreme Court that modifies or wholly or  
2091 partly vacates the final order of the State Department of Health  
2092 granting a certificate of need, the State Department of Health  
2093 shall issue another order in conformity with the final order of  
2094 the Supreme Court, or the final order of the chancery court not  
2095 appealed to the Supreme Court.

2096 **SECTION 15.** Section 41-7-202, Mississippi Code of 1972, is  
2097 brought forward as follows:

2098 41-7-202. There shall be a "stay of proceedings" of any  
2099 written decision of the State Department of Health pertaining to a  
2100 certificate of need for a home health agency, as defined in  
2101 Section 41-7-173(h) (ix), for a period of thirty (30) days from the  
2102 date of that decision. The stay of proceedings shall expire at



2103 the termination of thirty (30) days; however, no license to  
2104 operate any such home health agency that is the subject of the  
2105 decision shall be issued by the licensing agency, and no  
2106 certification for such home health agency to participate in the  
2107 Title XVIII or Title XIX programs of the Social Security Act shall  
2108 be granted until all statutory appeals have been exhausted or the  
2109 time for such appeals has expired. The stay of proceedings  
2110 provided for in this section shall not apply to any party  
2111 appealing any final order of the State Department of Health  
2112 pertaining to a certificate of need for any health care facility  
2113 as defined in Section 41-7-173(h), with the exception of any home  
2114 health agency as defined in Section 41-7-173(h)(ix).

2115       **SECTION 16.** Section 41-7-205, Mississippi Code of 1972, is  
2116 brought forward as follows:

2117       41-7-205. An applicant proposing a project which may be  
2118 governed by the provisions of Section 41-7-171 et seq. may submit  
2119 a determination of reviewability request to obtain a written  
2120 declaratory opinion regarding the reviewability of the proposed  
2121 project. If such opinion is sought, the requestor and department  
2122 shall abide by the provisions of Section 25-43-2.103 as they are  
2123 effective on July 1, 2016, except that the department's response  
2124 shall be provided within forty-five (45) days of the request.

2125       **SECTION 17.** Section 41-7-207, Mississippi Code of 1972, is  
2126 brought forward as follows:



2127 41-7-207. Notwithstanding any other provisions of Sections  
2128 41-7-171 through 41-7-209, except when the owner of a damaged  
2129 health care facility applies to repair or rebuild the facility in  
2130 accordance with the provisions of Section 41-7-191(13), when the  
2131 need for any emergency replacement occurs, the certificate of need  
2132 review process shall be expedited by promulgation of  
2133 administrative procedures for expenditures necessary to alleviate  
2134 an emergency condition and restore health care access. Emergency  
2135 replacement means the replacement, and/or a necessary relocation,  
2136 of all or the damaged part of the facilities or equipment the  
2137 replacement of which is not exempt from certificate of need review  
2138 under the medical equipment replacement exemption provided in  
2139 Section 41-7-191(1)(f), without which the operation of the  
2140 facility and the health and safety of patients would be  
2141 immediately jeopardized and health care access would be denied to  
2142 such patients. Expenditures under this section shall be limited  
2143 to the replacement of those necessary facilities or equipment, the  
2144 loss of which constitutes an emergency; however, in the case of  
2145 the destruction or major damage to a health care facility, the  
2146 department shall be authorized to issue a certificate of need to  
2147 address the current and future health care needs of the community,  
2148 including, but not limited to, the expansion of the health care  
2149 facility and/or the relocation of the health care facility. In  
2150 exercising the authority granted in this section, the department  
2151 may waive all or part of the required certificate of need



2152 application fee for any application filed under this section if  
2153 the expenditure would create a further hardship or undue burden on  
2154 the health care facility.

2155           **SECTION 18.** Section 41-7-209, Mississippi Code of 1972, is  
2156 brought forward as follows:

2157           41-7-209. (1) Any person or entity violating the provisions  
2158 of Sections 41-7-171 through 41-7-209, or regulations promulgated  
2159 thereunder, by not obtaining a certificate of need, by deviating  
2160 from the provisions of a certificate of need, or by refusing or  
2161 failing to cooperate with the State Department of Health in its  
2162 exercise or execution of its functions, responsibilities and  
2163 powers shall be subject to the following:

2164           (a) Revocation of the license of a health care facility  
2165 or a designated section, component or bed service thereof, or  
2166 revocation of the license of any other person for which the State  
2167 Department of Health is the licensing agency. If the State  
2168 Department of Health lacks jurisdiction to revoke the license of  
2169 such person, the State Health Officer shall recommend and show  
2170 cause to the appropriate licensing agency that such license should  
2171 be revoked;

2172           (b) Nonlicensure by the State Department of Health of a  
2173 specific or designated bed service offered by the entity or  
2174 person;





2175 (c) Nonlicensure by the State Department of Health  
2176 where infractions occur concerning the acquisition or control of  
2177 major medical equipment;

2178 (d) Revoking, rescinding or withdrawing a certificate  
2179 of need previously issued.

2180 (2) Violations of Sections 41-7-171 through 41-7-209, or any  
2181 rules or regulations promulgated in furtherance thereof by intent,  
2182 fraud, deceit, unlawful design, willful and/or deliberate  
2183 misrepresentation, or by careless, negligent or incautious  
2184 disregard for such statutes or rules and regulations, either by  
2185 persons acting individually or in concert with others, shall  
2186 constitute a misdemeanor and shall be punishable by a fine not to  
2187 exceed One Thousand Dollars (\$1,000.00) for each such offense.  
2188 Each day of continuing violation shall be considered a separate  
2189 offense. The venue for prosecution of any such violation shall be  
2190 in any county of the state wherein any such violation, or portion  
2191 thereof, occurred.

2192 (3) The Attorney General, upon certification by the State  
2193 Health Officer, shall seek injunctive relief in a court of proper  
2194 jurisdiction to prevent violations of Sections 41-7-171 through  
2195 41-7-209 or any rules or regulations promulgated in furtherance of  
2196 Sections 41-7-171 through 41-7-209 in cases where other  
2197 administrative penalties and legal sanctions imposed have failed  
2198 to prevent or cause a discontinuance of any such violation.



2199 (4) Major third party payers, public or private, shall be  
2200 notified of any violation or infraction under this section and  
2201 shall be requested to take such appropriate punitive action as is  
2202 provided by law.

2203 **SECTION 19.** Section 23-15-625, Mississippi Code of 1972, is  
2204 brought forward as follows:

2205 23-15-625. (1) The registrar shall be responsible for  
2206 providing applications for absentee voting as provided in this  
2207 section. At least sixty (60) days before any election in which  
2208 absentee voting is provided for by law, the registrar shall  
2209 provide a sufficient number of applications. In the event a  
2210 special election is called and set at a date which makes it  
2211 impractical or impossible to prepare applications for absent  
2212 elector's ballot sixty (60) days before the election, the  
2213 registrar shall provide applications as soon as practicable after  
2214 the election is called. The registrar shall fill in the date of  
2215 the particular election on the application for which the  
2216 application will be used.

2217 (2) The registrar shall be authorized to disburse  
2218 applications for absentee ballots to any qualified elector within  
2219 the county where he or she serves. Any person who presents to the  
2220 registrar an oral or written request for an absentee ballot  
2221 application for a voter entitled to vote absentee by mail, other  
2222 than the elector who seeks to vote by absentee ballot, shall, in  
2223 the presence of the registrar, sign the application and print on



2224 the application his or her name and address and the name of the  
2225 elector for whom the application is being requested in the place  
2226 provided for on the application for that purpose. However, if for  
2227 any reason such person is unable to write the information  
2228 required, then the registrar shall write the information on a  
2229 printed form which has been prescribed by the Secretary of State.  
2230 The form shall provide a place for such person to place his or her  
2231 mark after the form has been filled out by the registrar.

2232 (3) It shall be unlawful for any person to solicit absentee  
2233 ballot applications or absentee ballots for persons staying in any  
2234 skilled nursing facility as defined in Section 41-7-173 unless the  
2235 person soliciting the absentee ballot applications or absentee  
2236 ballots is:

2237 (a) A family member of the person staying in the  
2238 skilled nursing facility; or

2239 (b) A person designated by the person for whom the  
2240 absentee ballot application or absentee ballot is sought, the  
2241 registrar or the deputy registrar.

2242 As used in this subsection, "family member" means a spouse,  
2243 parent, grandparent, sibling, adult child, grandchild or legal  
2244 guardian.

2245 (4) The registrar in the county wherein a voter is qualified  
2246 to vote upon receiving by mail the envelope containing the  
2247 absentee ballots shall keep an accurate list of all persons  
2248 preparing such ballots. The list shall be kept in a conspicuous



2249 place accessible to the public near the entrance to the  
2250 registrar's office. The registrar shall also furnish to each  
2251 precinct manager a list of the names of all persons in each  
2252 respective precinct voting absentee by mail and in person to be  
2253 posted in a conspicuous place at the polling place for public  
2254 notice. The application on file with the registrar and the  
2255 envelopes containing the ballots that voters mailed to the  
2256 registrar shall be kept by the registrar in his or her office in a  
2257 secure location. At the time such boxes are delivered to the  
2258 election commissioners or managers, the registrar shall also turn  
2259 over a list of all such persons who have voted and whose mailed  
2260 ballots are in the registrar's office.

2261 (5) The registrar shall also be authorized to mail one (1)  
2262 application to any qualified elector of the county, who is  
2263 eligible to vote by absentee ballot, for use in a particular  
2264 election.

2265 (6) The registrar shall process all applications for  
2266 absentee ballots by using the Statewide Election Management  
2267 System. The registrar shall account for all absentee ballots  
2268 delivered to and received by mail as well as those who voted  
2269 absentee in person from qualified voters by processing such  
2270 ballots using the Statewide Election Management System.

2271 **SECTION 20.** Section 25-41-7, Mississippi Code of 1972, is  
2272 brought forward as follows:



2273           25-41-7. (1) Any public body may enter into executive  
2274 session for the transaction of public business; however, all  
2275 meetings of any public body shall commence as an open meeting, and  
2276 an affirmative vote of three-fifths (3/5) of all members present  
2277 shall be required to declare an executive session.

2278           (2) The procedure to be followed by any public body in  
2279 declaring an executive session shall be as follows: Any member  
2280 shall have the right to request by motion a closed determination  
2281 upon the issue of whether or not to declare an executive session.  
2282 The motion, by majority vote, shall require the meeting to be  
2283 closed for a preliminary determination of the necessity for  
2284 executive session. No other business shall be transacted until  
2285 the discussion of the nature of the matter requiring executive  
2286 session has been completed and a vote, as required in subsection  
2287 (1) hereof, has been taken on the issue.

2288           (3) An executive session shall be limited to matters allowed  
2289 to be exempted from open meetings by subsection (4) of this  
2290 section. The reason for holding an executive session shall be  
2291 stated in an open meeting, and the reason so stated shall be  
2292 recorded in the minutes of the meeting. Nothing in this section  
2293 shall be construed to require that any meeting be closed to the  
2294 public, nor shall any executive session be used to circumvent or  
2295 to defeat the purposes of this chapter.

2296           (4) A public body may hold an executive session pursuant to  
2297 this section for one or more of the following reasons:



2298           (a) Transaction of business and discussion of personnel  
2299 matters relating to the job performance, character, professional  
2300 competence, or physical or mental health of a person holding a  
2301 specific position, or matters relating to the terms of any  
2302 potential or current employment or services agreement with any  
2303 physicians or other employees of public hospitals, including any  
2304 discussion of any person applying for medical staff privileges or  
2305 membership with a public hospital.

2306           (b) Strategy sessions or negotiations with respect to  
2307 prospective litigation, litigation or issuance of an appealable  
2308 order when an open meeting would have a detrimental effect on the  
2309 litigating position of the public body.

2310           (c) Transaction of business and discussion regarding  
2311 the report, development or course of action regarding security  
2312 personnel, plans or devices.

2313           (d) Investigative proceedings by any public body  
2314 regarding allegations of misconduct or violation of law.

2315           (e) Any body of the Legislature which is meeting on  
2316 matters within the jurisdiction of that body.

2317           (f) Cases of extraordinary emergency which would pose  
2318 immediate or irrevocable harm or damage to persons or property, or  
2319 both, within the jurisdiction of the public body.

2320           (g) Transaction of business and discussion regarding  
2321 the prospective purchase, sale or leasing of lands.



2322           (h) Discussions between a school board and individual  
2323 students who attend a school within the jurisdiction of the school  
2324 board or the parents or teachers of the students regarding  
2325 problems of the students or their parents or teachers.

2326           (i) Transaction of business and discussion concerning  
2327 the preparation of tests for admission to practice in recognized  
2328 professions.

2329           (j) Transaction of business and discussions or  
2330 negotiations regarding the location, relocation or expansion of a  
2331 business, medical service or an industry.

2332           (k) Transaction of business and discussions regarding  
2333 employment or job performance of a person in a specific position  
2334 or termination of an employee holding a specific position. The  
2335 exemption provided by this paragraph includes transaction of  
2336 business and discussion in executive session by the board of  
2337 trustees of a public hospital regarding any employee or medical  
2338 staff member or applicant for medical staff privileges and any  
2339 such individual's credentialing, health, performance, salary,  
2340 raises or disciplinary action. The exemption provided by this  
2341 paragraph includes the right to enter into executive session  
2342 concerning a line item in a budget which might affect the  
2343 termination of an employee or employees. All other budget items  
2344 shall be considered in open meetings and final budgetary adoption  
2345 shall not be taken in executive session.



2346 (l) Discussions regarding material or data exempt from  
2347 the Mississippi Public Records Act of 1983 pursuant to Section  
2348 25-11-121.

2349 (m) Transaction of business and discussion regarding  
2350 prospective strategic business decisions of public hospitals,  
2351 including without limitation, decisions to open a new service  
2352 line, implement capital improvements, or file applications for  
2353 certificates of need or determinations of nonreviewability with  
2354 the State Department of Health.

2355 (n) Transaction of business of the boards of trustees  
2356 of public hospitals that would require discussion of any  
2357 identifiable patient information, including without limitation,  
2358 patient complaints, patients' accounts, patients receiving charity  
2359 care, or treatment that could be identified to a patient.

2360 (o) Investigative discussions, investigative  
2361 strategies, probative strategies related to identifiable instances  
2362 of human trafficking or commercial sexual exploitation, and  
2363 discussions involving locations of shelters or safe-houses for  
2364 victims of human trafficking or commercial sexual exploitation.

2365 (p) Transaction of business of committees,  
2366 subcommittees or boards that would require discussion of any  
2367 identifiable information of victims of human trafficking or  
2368 children under eighteen years old who are victims of commercial  
2369 sexual exploitation.





2370 (5) The total vote on the question of entering into an  
2371 executive session shall be recorded and spread upon the minutes of  
2372 the public body.

2373 (6) Any vote whereby an executive session is declared shall  
2374 be applicable only to that particular meeting on that particular  
2375 day.

2376 **SECTION 21.** Section 35-1-19, Mississippi Code of 1972, is  
2377 brought forward as follows:

2378 35-1-19. There is hereby authorized to be established by the  
2379 State Veterans Affairs Board, the Mississippi State Veterans Home  
2380 on a site to be determined by the State Veterans Affairs Board,  
2381 with the approval of the Bureau of Building, Grounds and Real  
2382 Property Management of the Governor's Office of General Services,  
2383 when funds are made available for such purpose by any agency of  
2384 the federal government or other sources. The object and purpose  
2385 of the establishment of the Mississippi State Veterans Home shall  
2386 be to provide domiciliary care and other related services for  
2387 eligible veterans of the State of Mississippi.

2388 One or more additional veterans homes or domiciliaries are  
2389 hereby authorized to be established by the State Veterans Affairs  
2390 Board on sites in northern, central or southern Mississippi, to be  
2391 determined by the State Veterans Affairs Board, with the approval  
2392 of the Department of Finance and Administration, when funds are  
2393 made available for such purpose by any agency of the federal  
2394 government or other sources. The Veterans Affairs Board shall



2395 give the three (3) regions, northern, southern and central  
2396 priority as to where the veterans home shall be located, with the  
2397 northern region having first priority, the southern region having  
2398 the next level priority and the central region being third in  
2399 order of priority. The Veterans Affairs Board shall establish and  
2400 operate the veterans home in Rankin County under the provisions of  
2401 Chapter 389, Laws of 2023. The object and purpose of the  
2402 establishment of such additional homes or domiciliaries shall be  
2403 to provide domiciliary care and other related services for  
2404 eligible veterans of the State of Mississippi. The State Veterans  
2405 Affairs Board shall not be required to obtain certificates of need  
2406 to carry out the intent and purpose of this section.

2407       **SECTION 22.** Section 41-3-15, Mississippi Code of 1972, is  
2408 brought forward as follows:

2409       41-3-15. (1) (a) There shall be a State Department of  
2410 Health.

2411               (b) The State Board of Health shall have the following  
2412 powers and duties:

2413                       (i) To formulate the policy of the State  
2414 Department of Health regarding public health matters within the  
2415 jurisdiction of the department;

2416                       (ii) To adopt, modify, repeal and promulgate,  
2417 after due notice and hearing, and enforce rules and regulations  
2418 implementing or effectuating the powers and duties of the



2419 department under any and all statutes within the department's  
2420 jurisdiction, and as the board may deem necessary;

2421 (iii) To apply for, receive, accept and expend any  
2422 federal or state funds or contributions, gifts, trusts, devises,  
2423 bequests, grants, endowments or funds from any other source or  
2424 transfers of property of any kind;

2425 (iv) To enter into, and to authorize the executive  
2426 officer to execute contracts, grants and cooperative agreements  
2427 with any federal or state agency or subdivision thereof, or any  
2428 public or private institution located inside or outside the State  
2429 of Mississippi, or any person, corporation or association in  
2430 connection with carrying out the provisions of this chapter, if it  
2431 finds those actions to be in the public interest and the contracts  
2432 or agreements do not have a financial cost that exceeds the  
2433 amounts appropriated for those purposes by the Legislature;

2434 (v) To appoint, upon recommendation of the  
2435 Executive Officer of the State Department of Health, a Director of  
2436 Internal Audit who shall be either a Certified Public Accountant  
2437 or Certified Internal Auditor, and whose employment shall be  
2438 continued at the discretion of the board, and who shall report  
2439 directly to the board, or its designee; and

2440 (vi) To discharge such other duties,  
2441 responsibilities and powers as are necessary to implement the  
2442 provisions of this chapter.



2443 (c) The Executive Officer of the State Department of  
2444 Health shall have the following powers and duties:

2445 (i) To administer the policies of the State Board  
2446 of Health within the authority granted by the board;

2447 (ii) To supervise and direct all administrative  
2448 and technical activities of the department, except that the  
2449 department's internal auditor shall be subject to the sole  
2450 supervision and direction of the board;

2451 (iii) To organize the administrative units of the  
2452 department in accordance with the plan adopted by the board and,  
2453 with board approval, alter the organizational plan and reassign  
2454 responsibilities as he or she may deem necessary to carry out the  
2455 policies of the board;

2456 (iv) To coordinate the activities of the various  
2457 offices of the department;

2458 (v) To employ, subject to regulations of the State  
2459 Personnel Board, qualified professional personnel in the subject  
2460 matter or fields of each office, and such other technical and  
2461 clerical staff as may be required for the operation of the  
2462 department. The executive officer shall be the appointing  
2463 authority for the department, and shall have the power to delegate  
2464 the authority to appoint or dismiss employees to appropriate  
2465 subordinates, subject to the rules and regulations of the State  
2466 Personnel Board;



2467 (vi) To recommend to the board such studies and  
2468 investigations as he or she may deem appropriate, and to carry out  
2469 the approved recommendations in conjunction with the various  
2470 offices;

2471 (vii) To prepare and deliver to the Legislature  
2472 and the Governor on or before January 1 of each year, and at such  
2473 other times as may be required by the Legislature or Governor, a  
2474 full report of the work of the department and the offices thereof,  
2475 including a detailed statement of expenditures of the department  
2476 and any recommendations the board may have;

2477 (viii) To prepare and deliver to the Chairmen of  
2478 the Public Health and Welfare/Human Services Committees of the  
2479 Senate and House on or before January 1 of each year, a plan for  
2480 monitoring infant mortality in Mississippi and a full report of  
2481 the work of the department on reducing Mississippi's infant  
2482 mortality and morbidity rates and improving the status of maternal  
2483 and infant health; and

2484 (ix) To enter into contracts, grants and  
2485 cooperative agreements with any federal or state agency or  
2486 subdivision thereof, or any public or private institution located  
2487 inside or outside the State of Mississippi, or any person,  
2488 corporation or association in connection with carrying out the  
2489 provisions of this chapter, if he or she finds those actions to be  
2490 in the public interest and the contracts or agreements do not have  
2491 a financial cost that exceeds the amounts appropriated for those



2492 purposes by the Legislature. Each contract or agreement entered  
2493 into by the executive officer shall be submitted to the board  
2494 before its next meeting.

2495 (2) The State Board of Health shall have the authority to  
2496 establish an Office of Rural Health within the department. The  
2497 duties and responsibilities of this office shall include the  
2498 following:

2499 (a) To collect and evaluate data on rural health  
2500 conditions and needs;

2501 (b) To engage in policy analysis, policy development  
2502 and economic impact studies with regard to rural health issues;

2503 (c) To develop and implement plans and provide  
2504 technical assistance to enable community health systems to respond  
2505 to various changes in their circumstances;

2506 (d) To plan and assist in professional recruitment and  
2507 retention of medical professionals and assistants; and

2508 (e) To establish information clearinghouses to improve  
2509 access to and sharing of rural health care information.

2510 (3) The State Board of Health shall have general supervision  
2511 of the health interests of the people of the state and to exercise  
2512 the rights, powers and duties of those acts which it is authorized  
2513 by law to enforce.

2514 (4) The State Board of Health shall have authority:

2515 (a) To make investigations and inquiries with respect  
2516 to the causes of disease and death, and to investigate the effect



2517 of environment, including conditions of employment and other  
2518 conditions that may affect health, and to make such other  
2519 investigations as it may deem necessary for the preservation and  
2520 improvement of health.

2521 (b) To make such sanitary investigations as it may,  
2522 from time to time, deem necessary for the protection and  
2523 improvement of health and to investigate nuisance questions that  
2524 affect the security of life and health within the state.

2525 (c) To direct and control sanitary and quarantine  
2526 measures for dealing with all diseases within the state possible  
2527 to suppress same and prevent their spread.

2528 (d) To obtain, collect and preserve such information  
2529 relative to mortality, morbidity, disease and health as may be  
2530 useful in the discharge of its duties or may contribute to the  
2531 prevention of disease or the promotion of health in this state.

2532 (e) To charge and collect reasonable fees for health  
2533 services, including immunizations, inspections and related  
2534 activities, and the board shall charge fees for those services;  
2535 however, if it is determined that a person receiving services is  
2536 unable to pay the total fee, the board shall collect any amount  
2537 that the person is able to pay. Any increase in the fees charged  
2538 by the board under this paragraph shall be in accordance with the  
2539 provisions of Section 41-3-65.

2540 (f) (i) To establish standards for, issue permits and  
2541 exercise control over, any cafes, restaurants, food or drink



2542 stands, sandwich manufacturing establishments, and all other  
2543 establishments, other than churches, church-related and private  
2544 schools, and other nonprofit or charitable organizations, where  
2545 food or drink is regularly prepared, handled and served for pay;  
2546 and

2547 (ii) To require that a permit be obtained from the  
2548 Department of Health before those persons begin operation. If any  
2549 such person fails to obtain the permit required in this  
2550 subparagraph (ii), the State Board of Health, after due notice and  
2551 opportunity for a hearing, may impose a monetary penalty not to  
2552 exceed One Thousand Dollars (\$1,000.00) for each violation.  
2553 However, the department is not authorized to impose a monetary  
2554 penalty against any person whose gross annual prepared food sales  
2555 are less than Five Thousand Dollars (\$5,000.00). Money collected  
2556 by the board under this subparagraph (ii) shall be deposited to  
2557 the credit of the State General Fund of the State Treasury.

2558 (g) To promulgate rules and regulations and exercise  
2559 control over the production and sale of milk pursuant to the  
2560 provisions of Sections 75-31-41 through 75-31-49.

2561 (h) On presentation of proper authority, to enter into  
2562 and inspect any public place or building where the State Health  
2563 Officer or his representative deems it necessary and proper to  
2564 enter for the discovery and suppression of disease and for the  
2565 enforcement of any health or sanitary laws and regulations in the  
2566 state.





2567           (i) To conduct investigations, inquiries and hearings,  
2568 and to issue subpoenas for the attendance of witnesses and the  
2569 production of books and records at any hearing when authorized and  
2570 required by statute to be conducted by the State Health Officer or  
2571 the State Board of Health.

2572           (j) To promulgate rules and regulations, and to collect  
2573 data and information, on (i) the delivery of services through the  
2574 practice of telemedicine; and (ii) the use of electronic records  
2575 for the delivery of telemedicine services.

2576           (k) To enforce and regulate domestic and imported fish  
2577 as authorized under Section 69-7-601 et seq.

2578           (5) (a) The State Board of Health shall have the authority,  
2579 in its discretion, to establish programs to promote the public  
2580 health, to be administered by the State Department of Health.  
2581 Specifically, those programs may include, but shall not be limited  
2582 to, programs in the following areas:

2583                   (i) Maternal and child health;

2584                   (ii) Family planning;

2585                   (iii) Pediatric services;

2586                   (iv) Services to crippled and disabled children;

2587                   (v) Control of communicable and noncommunicable  
2588 disease;

2589                   (vi) Chronic disease;

2590                   (vii) Accidental deaths and injuries;

2591                   (viii) Child care licensure;



2592 (ix) Radiological health;  
2593 (x) Dental health;  
2594 (xi) Milk sanitation;  
2595 (xii) Occupational safety and health;  
2596 (xiii) Food, vector control and general  
2597 sanitation;  
2598 (xiv) Protection of drinking water;  
2599 (xv) Sanitation in food handling establishments  
2600 open to the public;  
2601 (xvi) Registration of births and deaths and other  
2602 vital events;  
2603 (xvii) Such public health programs and services as  
2604 may be assigned to the State Board of Health by the Legislature or  
2605 by executive order; and  
2606 (xviii) Regulation of domestic and imported fish  
2607 for human consumption.  
2608 (b) The State Board of Health and State Department of  
2609 Health shall not be authorized to sell, transfer, alienate or  
2610 otherwise dispose of any of the home health agencies owned and  
2611 operated by the department on January 1, 1995, and shall not be  
2612 authorized to sell, transfer, assign, alienate or otherwise  
2613 dispose of the license of any of those home health agencies,  
2614 except upon the specific authorization of the Legislature by an  
2615 amendment to this section. However, this paragraph (b) shall not  
2616 prevent the board or the department from closing or terminating



2617 the operation of any home health agency owned and operated by the  
2618 department, or closing or terminating any office, branch office or  
2619 clinic of any such home health agency, or otherwise discontinuing  
2620 the providing of home health services through any such home health  
2621 agency, office, branch office or clinic, if the board first  
2622 demonstrates that there are other providers of home health  
2623 services in the area being served by the department's home health  
2624 agency, office, branch office or clinic that will be able to  
2625 provide adequate home health services to the residents of the area  
2626 if the department's home health agency, office, branch office or  
2627 clinic is closed or otherwise discontinues the providing of home  
2628 health services. This demonstration by the board that there are  
2629 other providers of adequate home health services in the area shall  
2630 be spread at length upon the minutes of the board at a regular or  
2631 special meeting of the board at least thirty (30) days before a  
2632 home health agency, office, branch office or clinic is proposed to  
2633 be closed or otherwise discontinue the providing of home health  
2634 services.

2635 (c) The State Department of Health may undertake such  
2636 technical programs and activities as may be required for the  
2637 support and operation of those programs, including maintaining  
2638 physical, chemical, bacteriological and radiological laboratories,  
2639 and may make such diagnostic tests for diseases and tests for the  
2640 evaluation of health hazards as may be deemed necessary for the  
2641 protection of the people of the state.



2642 (6) (a) The State Board of Health shall administer the  
2643 local governments and rural water systems improvements loan  
2644 program in accordance with the provisions of Section 41-3-16.

2645 (b) The State Board of Health shall have authority:

2646 (i) To enter into capitalization grant agreements  
2647 with the United States Environmental Protection Agency, or any  
2648 successor agency thereto;

2649 (ii) To accept capitalization grant awards made  
2650 under the federal Safe Drinking Water Act, as amended;

2651 (iii) To provide annual reports and audits to the  
2652 United States Environmental Protection Agency, as may be required  
2653 by federal capitalization grant agreements; and

2654 (iv) To establish and collect fees to defray the  
2655 reasonable costs of administering the revolving fund or emergency  
2656 fund if the State Board of Health determines that those costs will  
2657 exceed the limitations established in the federal Safe Drinking  
2658 Water Act, as amended. The administration fees may be included in  
2659 loan amounts to loan recipients for the purpose of facilitating  
2660 payment to the board; however, those fees may not exceed five  
2661 percent (5%) of the loan amount.

2662 (7) Notwithstanding any other provision to the contrary, the  
2663 State Department of Health shall have the following specific  
2664 powers: The department shall issue a license to Alexander Milne  
2665 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the  
2666 construction, conversion, expansion and operation of not more than



2667 forty-five (45) beds for developmentally disabled adults who have  
2668 been displaced from New Orleans, Louisiana, with the beds to be  
2669 located in a certified ICF-MR facility in the City of Laurel,  
2670 Mississippi. There shall be no prohibition or restrictions on  
2671 participation in the Medicaid program for the person receiving the  
2672 license under this subsection (7). The license described in this  
2673 subsection shall expire five (5) years from the date of its issue.  
2674 The license authorized by this subsection shall be issued upon the  
2675 initial payment by the licensee of an application fee of  
2676 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of  
2677 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of  
2678 the license, to be paid as long as the licensee continues to  
2679 operate. The initial and monthly licensing fees shall be  
2680 deposited by the State Department of Health into the special fund  
2681 created under Section 41-7-188.

2682 (8) Notwithstanding any other provision to the contrary, the  
2683 State Department of Health shall have the following specific  
2684 powers: The State Department of Health is authorized to issue a  
2685 license to an existing home health agency for the transfer of a  
2686 county from that agency to another existing home health agency,  
2687 and to charge a fee for reviewing and making a determination on  
2688 the application for such transfer not to exceed one-half (1/2) of  
2689 the authorized fee assessed for the original application for the  
2690 home health agency, with the revenue to be deposited by the State



2691 Department of Health into the special fund created under Section  
2692 41-7-188.

2693 (9) Notwithstanding any other provision to the contrary, the  
2694 State Department of Health shall have the following specific  
2695 powers: For the period beginning July 1, 2010, through July 1,  
2696 2017, the State Department of Health is authorized and empowered  
2697 to assess a fee in addition to the fee prescribed in Section  
2698 41-7-188 for reviewing applications for certificates of need in an  
2699 amount not to exceed twenty-five one-hundredths of one percent  
2700 (.25 of 1%) of the amount of a proposed capital expenditure, but  
2701 shall be not less than Two Hundred Fifty Dollars (\$250.00)  
2702 regardless of the amount of the proposed capital expenditure, and  
2703 the maximum additional fee permitted shall not exceed Fifty  
2704 Thousand Dollars (\$50,000.00). Provided that the total  
2705 assessments of fees for certificate of need applications under  
2706 Section 41-7-188 and this section shall not exceed the actual cost  
2707 of operating the certificate of need program.

2708 (10) Notwithstanding any other provision to the contrary,  
2709 the State Department of Health shall have the following specific  
2710 powers: The State Department of Health is authorized to extend  
2711 and renew any certificate of need that has expired, and to charge  
2712 a fee for reviewing and making a determination on the application  
2713 for such action not to exceed one-half (1/2) of the authorized fee  
2714 assessed for the original application for the certificate of need,



2715 with the revenue to be deposited by the State Department of Health  
2716 into the special fund created under Section 41-7-188.

2717 (11) Notwithstanding any other provision to the contrary,  
2718 the State Department of Health shall have the following specific  
2719 powers: The State Department of Health is authorized and  
2720 empowered, to revoke, immediately, the license and require closure  
2721 of any institution for the aged or infirm, including any other  
2722 remedy less than closure to protect the health and safety of the  
2723 residents of said institution or the health and safety of the  
2724 general public.

2725 (12) Notwithstanding any other provision to the contrary,  
2726 the State Department of Health shall have the following specific  
2727 powers: The State Department of Health is authorized and  
2728 empowered, to require the temporary detainment of individuals for  
2729 disease control purposes based upon violation of any order of the  
2730 State Health Officer, as provided in Section 41-23-5. For the  
2731 purpose of enforcing such orders of the State Health Officer,  
2732 persons employed by the department as investigators shall have  
2733 general arrest powers. All law enforcement officers are  
2734 authorized and directed to assist in the enforcement of such  
2735 orders of the State Health Officer.

2736 **SECTION 23.** Section 41-4-18, Mississippi Code of 1972, is  
2737 brought forward as follows:

2738 41-4-18. (1) Notwithstanding Section 41-7-191(11) and  
2739 Section 41-7-171 et seq., Mississippi Code of 1972, or any other



2740 section of law, the Department of Mental Health shall have the  
2741 authority to contract with private and/or public entities to  
2742 transfer beds within Intermediate Care Facilities for the Mentally  
2743 Retarded owned and operated by the Department of Mental Health to  
2744 locations owned and operated by private and/or public entities for  
2745 the purpose of serving individuals with intellectual disabilities  
2746 in the settings most appropriate to meet their needs.

2747 (2) Any license granted to the Department of Mental Health  
2748 by the Department of Health for the operation of transferred  
2749 Intermediate Care Facility for the Mentally Retarded beds shall  
2750 remain in the name of the Department of Mental Health and shall  
2751 not be transferred into the name of the contractor unless the  
2752 contractor has received the appropriate certificates of need.

2753 **SECTION 24.** Section 41-9-11, Mississippi Code of 1972, is  
2754 brought forward as follows:

2755 41-9-11. Upon receipt of an application for license and the  
2756 license fee, the licensing agency shall issue a license if the  
2757 applicant and hospital facilities meet the requirements  
2758 established under Sections 41-9-1 through 41-9-35, and the  
2759 requirements of Section 41-7-173 et seq., where determined by the  
2760 licensing agency to be applicable. A license, unless suspended or  
2761 revoked, shall be renewable annually, upon filing by the licensee,  
2762 and approval by the licensing agency of an annual report upon such  
2763 uniform dates and containing such information in such form as the  
2764 licensing agency prescribes by regulation and upon paying the





2765 annual fee for such license as determined by the schedule and  
2766 provisions of Section 41-9-9. Each license shall be issued only  
2767 for the premises and persons or governmental units named in the  
2768 application and shall not be transferable or assignable except  
2769 with the written approval of the licensing agency. Licenses shall  
2770 be posted in a conspicuous place on the licensed premises.

2771 **SECTION 25.** Section 41-9-23, Mississippi Code of 1972, is  
2772 brought forward as follows:

2773 41-9-23. Information received by the licensing agency  
2774 through filed reports, inspection, or as otherwise authorized  
2775 under Sections 41-9-1 through 41-9-35 shall not be disclosed  
2776 publicly in such manner as to identify individuals, except in a  
2777 proceeding involving the questions of licensure; however, the  
2778 licensing agency may utilize statistical data concerning types of  
2779 services and the utilization of these services for hospitals in  
2780 performing the statutory duties imposed upon it by Section  
2781 41-7-171, et seq. and by Section 41-9-29.

2782 **SECTION 26.** Section 41-9-68, Mississippi Code of 1972, is  
2783 brought forward as follows:

2784 41-9-68. (1) Except as otherwise provided in subsection (2)  
2785 of this section, records maintained by public hospitals shall be  
2786 exempt from the provisions of the Mississippi Public Records Act  
2787 of 1983.

2788 (2) The following records of public hospitals shall not be  
2789 exempt from the Mississippi Public Records Act of 1983:



2790           (a) The official minutes of the board of trustees of a  
2791 public hospital;

2792           (b) Financial reports not otherwise exempt that are  
2793 required by state or federal statute or regulation to be filed  
2794 with the owner of the public hospital or with any other agency of  
2795 state or federal government; and

2796           (c) Any other record maintained by a public hospital  
2797 that does not fall within the definition of the term "hospital  
2798 records" as that term is defined in Section 41-9-61, except for  
2799 the following records, which shall be exempt:

2800           (i) Records directly relating to the terms of any  
2801 potential or current employment or services agreement with any  
2802 physicians or other employees of a public hospital, including any  
2803 application for medical staff privileges or membership with a  
2804 public hospital;

2805           (ii) Records directly relating to the  
2806 credentialing, health, performance, salary, raises or disciplinary  
2807 action of any employee or medical staff member or applicant for  
2808 medical staff privileges at a public hospital;

2809           (iii) Records directly relating to prospective  
2810 strategic business decisions of a public hospital, including  
2811 without limitation, decisions to open a new service line,  
2812 implement capital improvements, or file applications for  
2813 certificates of need or determinations of nonreviewability with  
2814 the State Department of Health; and



2815 (iv) Records directly relating to individual  
2816 patient billing and collection information.

2817 **SECTION 27.** Section 41-9-209, Mississippi Code of 1972, is  
2818 brought forward as follows:

2819 41-9-209. Any hospital is authorized to seek designation as  
2820 a critical access hospital. Subject to federal law, there shall  
2821 be no requirement or limitation regarding the distance that a  
2822 critical access hospital must be located from another hospital.  
2823 The bed-size limit for a critical access hospital is twenty-five  
2824 (25) operational acute care beds, and the average maximum length  
2825 of stay for patients in a critical access hospital is ninety-six  
2826 (96) hours, unless a longer period is required because of  
2827 inclement weather or other emergency conditions. In the event the  
2828 critical access hospital is a swing bed facility, any of the  
2829 twenty-five (25) acute care beds allowed in a critical access  
2830 hospital may be used for the provision of extended care services  
2831 or acute care inpatient services so long as the furnishing of such  
2832 services does not exceed twenty-five (25) beds and so long as the  
2833 hospital does not seek Medicaid reimbursement for more than  
2834 fifteen (15) acute care inpatient beds. A critical access  
2835 hospital (a) must make available twenty-four-hour emergency care  
2836 services, as described in the state rural health care plan, for  
2837 ensuring access to emergency care services in the rural area  
2838 served by the critical access hospital, and (b) must be a member  
2839 of a rural health network. Any hospital that has a distinct-part



2840 skilled nursing facility, certified under Title XVIII of the  
2841 federal Social Security Act, at the time it applies for  
2842 designation as a critical access hospital, may continue its  
2843 operation of the distinct-part skilled nursing facility and is not  
2844 required to count the beds in the distinct-part skilled nursing  
2845 facility for purposes of the allowed twenty-five (25) acute care  
2846 inpatient beds. To the extent permitted under Section 41-7-171 et  
2847 seq., a critical access hospital may establish a distinct-part  
2848 psychiatric unit and a distinct-part rehabilitation unit, each of  
2849 which must be certified under Title XVIII of the federal Social  
2850 Security Act and each of which may consist of no more than ten  
2851 (10) beds. No bed in the critical access hospital's distinct-part  
2852 psychiatric unit or distinct-part rehabilitation unit shall be  
2853 counted for purposes of the twenty-five (25) bed limitation. Each  
2854 distinct-part unit in a critical access hospital must comply with  
2855 all applicable state licensure laws and federal certification  
2856 laws.

2857       **SECTION 28.** Section 41-9-210, Mississippi Code of 1972, is  
2858 brought forward as follows:

2859       41-9-210. If a hospital seeks a new license from the  
2860 department in order to be designated as a critical access  
2861 hospital, the department shall maintain a record of the acute care  
2862 beds of that hospital that have been delicensed as a result of  
2863 that designation and continue counting those beds as part of the  
2864 state's total acute care bed count for health care planning



2865 purposes. If a critical access hospital later desires to  
2866 relicense some or all of its delicensed acute care beds, it shall  
2867 notify the department of its intent to increase the number of its  
2868 licensed acute care beds. The department shall survey the  
2869 hospital within thirty (30) days of that notice and, if  
2870 appropriate, issue the hospital a new license reflecting the new  
2871 contingent of beds. That change may be accomplished without the  
2872 need of the hospital to seek certificate of need approval under  
2873 Section 41-7-171 et seq. However, in no event may a hospital that  
2874 has delicensed some of its acute care beds in order to be  
2875 designated as a critical access hospital be reissued a license to  
2876 operate acute care beds in excess of its acute care bed count  
2877 before the delicensure of some of its beds without seeking  
2878 certificate of need approval.

2879 This section shall apply to all hospitals that are designated  
2880 as critical access hospitals on July 1, 2003, and all hospitals  
2881 that may become designated as critical access hospitals after July  
2882 1, 2003.

2883 **SECTION 29.** Section 41-71-7, Mississippi Code of 1972, is  
2884 brought forward as follows:

2885 41-71-7. Upon receipt of an application for a license and  
2886 the license fee, and a determination by the licensing agency that  
2887 the application is in compliance with Section 41-7-173 et seq. and  
2888 in compliance with the provisions of this chapter, such license  
2889 shall be issued. A license, unless suspended or revoked, shall be



2890 renewable annually upon payment by the licensee of a renewal fee  
2891 of One Thousand Dollars (\$1,000.00) and upon approval by the  
2892 licensing agency of an annual report, required to be submitted by  
2893 the licensee, containing such information in such form and at such  
2894 time as the licensing agency prescribes by rule or regulation.  
2895 Any increase in the fee charged by the licensing agency under this  
2896 section shall be in accordance with the provisions of Section  
2897 41-3-65. Each license shall be issued only for the home health  
2898 agency and person or persons or other legal entity or entities  
2899 named in the application and shall not be transferable or  
2900 assignable except with the written approval of the licensing  
2901 agency. Licenses shall be posted in a conspicuous place in the  
2902 designated business office of the licensee. Each licensee shall  
2903 designate, in writing, one (1) individual person as the  
2904 responsible party for the conducting of the business of the home  
2905 health agency with the licensing agency.

2906       **SECTION 30.** Section 41-71-19, Mississippi Code of 1972, is  
2907 brought forward as follows:

2908       41-71-19. Information received by the licensing agency  
2909 through filed reports, inspection, or as otherwise authorized  
2910 under this chapter, shall not be disclosed publicly in such manner  
2911 as to identify individuals, except in proceedings involving the  
2912 question of licensure; however, the licensing agency may utilize  
2913 statistical data concerning types of services and the utilization  
2914 of those services for home health care agencies in performing the



2915 statutory duties imposed upon it by Section 41-7-171 et seq., and  
2916 regulations necessarily promulgated for participation in the  
2917 Medicare or Medicaid programs.

2918           **SECTION 31.** Section 41-73-5, Mississippi Code of 1972, is  
2919 brought forward as follows:

2920           41-73-5. When used in this act, unless the context requires  
2921 a different definition, the following terms shall have the  
2922 following meanings:

2923           (a) "Act" means the Mississippi Hospital Equipment and  
2924 Facilities Authority Act.

2925           (b) "Authority" means the Mississippi Hospital  
2926 Equipment and Facilities Authority created by this act and any  
2927 successor to its functions.

2928           (c) "Bonds" means bonds, notes or other evidences of  
2929 indebtedness of the authority issued pursuant to this act,  
2930 including refunding bonds.

2931           (d) "Cost" as applied to hospital equipment means any  
2932 and all costs of such hospital equipment and, without limiting the  
2933 generality of the foregoing, shall include the following:

2934           (i) All costs of the acquisition, repair,  
2935 restoration, reconditioning, refinancing or installation of any  
2936 such hospital equipment and all costs incident or related thereto;

2937           (ii) The cost of any property interest in such  
2938 hospital equipment including an option to purchase or leasehold  
2939 interest;



2940 (iii) The cost of architectural, engineering,  
2941 legal and related services; the cost of the preparation of plans,  
2942 specifications, studies, surveys and estimates of cost and of  
2943 revenue; and all other expenses necessary or incident to planning,  
2944 providing or determining the need for or the feasibility and  
2945 practicability of such hospital equipment; and the cost of  
2946 providing or establishing a reasonable reserve fund for the  
2947 payment of principal and interest on bonds;

2948 (iv) The cost of financing charges, including  
2949 premiums or prepayment penalties, if any, and interest accrued  
2950 prior to the acquisition and installation or refinancing of such  
2951 hospital equipment and after such acquisition and installation or  
2952 refinancing and start-up costs related to hospital equipment;

2953 (v) Any and all costs paid or incurred in  
2954 connection with the financing of such hospital equipment,  
2955 including out-of-pocket expenses, the cost of financing, legal,  
2956 accounting, financial advisory and consulting fees, expenses and  
2957 disbursements; the cost of any policy of insurance; the cost of  
2958 printing, engraving and reproduction services; and the cost of the  
2959 initial or acceptance fee of any trustee or paying agent;

2960 (vi) All direct or indirect costs of the authority  
2961 incurred in connection with providing such hospital equipment,  
2962 including, without limitation, reasonable sums to reimburse the  
2963 authority for time spent by its agents or employees with respect





2964 to providing such hospital equipment and the financing thereof;  
2965 and

2966 (vii) Any and all costs paid or incurred for the  
2967 administration of any program for the purchase or lease of or the  
2968 making of loans for hospital equipment, by the authority and any  
2969 program for the sale or lease of or the making of loans for such  
2970 hospital equipment to any participating hospital institution.

2971 (e) "Cost," as applied to hospital facilities, means  
2972 any and all costs of such hospital facilities and, without  
2973 limiting the generality of the foregoing, shall include the  
2974 following:

2975 (i) All costs of the establishment, demolition,  
2976 site development of new and rehabilitated buildings,  
2977 rehabilitation, reconstruction repair, erection, building,  
2978 construction, remodeling, adding to and furnishing of any such  
2979 hospital facilities and all costs incident or related thereto;

2980 (ii) The cost of acquiring any property interest  
2981 in such hospital facilities including the purchase thereof, the  
2982 cost of an option to purchase or the cost of any leasehold  
2983 interest;

2984 (iii) The cost of architectural, engineering,  
2985 legal and related services; the cost of the preparation of plans,  
2986 specifications, studies, surveys and estimates of cost and of  
2987 revenue; all other expenses necessary or incident to planning,  
2988 providing or determining the need for or the feasibility and



2989 practicability of such hospital facilities or the acquisition  
2990 thereof; and the cost of providing or establishing a reasonable  
2991 reserve fund for the payment of principal of and interest on  
2992 bonds;

2993 (iv) The cost of financing charges, including  
2994 premiums or prepayment penalties, if any, and interest accrued  
2995 prior to the acquisition and completion or refinancing of such  
2996 hospital facilities and after such acquisition and completion or  
2997 refinancing and start-up costs related to hospital facilities;

2998 (v) Any and all costs paid or incurred in  
2999 connection with the financing of such hospital facilities,  
3000 including out-of-pocket expenses, the cost of financing, legal,  
3001 accounting, financial advisory and consulting fees, expenses and  
3002 disbursement; the cost of any policy of insurance; the cost of  
3003 printing, engraving and reproduction services; and the cost of the  
3004 initial or acceptance fee of any trustee or paying agent;

3005 (vi) All direct or indirect costs of the authority  
3006 incurred in connection with providing such hospital facilities,  
3007 including, without limitation, reasonable sums to reimburse the  
3008 authority for time spent by its agents or employees with respect  
3009 to providing such hospital facilities and the financing thereof;

3010 (vii) Any and all costs paid or incurred for the  
3011 administration of any program for the purchase or lease of or the  
3012 making of loans for hospital facilities, by the authority and any



3013 program for the sale or lease of or the making of loans for such  
3014 hospital facilities to any participating hospital institution; and  
3015 (viii) The cost of providing for the payment or  
3016 the making provision for the payment of, by the appropriate  
3017 escrowing of monies or securities, the principal of and interest  
3018 on which when due will be adequate to make such payment, any  
3019 indebtedness encumbering the revenues or property of a  
3020 participating hospital institution, whether such payment is to be  
3021 effected by redemption of such indebtedness prior to maturity or  
3022 not.

3023 (f) "Hospital equipment" means any personal property  
3024 which is found and determined by the authority to be required or  
3025 necessary or helpful for medical care, research, training or  
3026 teaching, any one (1) or all, in hospital facilities located in  
3027 the state, irrespective of whether such property is in existence  
3028 at the time of, or is to be provided after the making of, such  
3029 finding. Provided further, that major medical equipment as  
3030 defined in Section 41-7-173(n), shall require a certificate of  
3031 need prior to the approval of the authority to contract with said  
3032 hospital.

3033 (g) "Hospital facility" or "hospital facilities" means  
3034 buildings and structures of any and all types used or useful, in  
3035 the discretion of the authority, for providing any types of care  
3036 to the sick, wounded, infirmed, needy, mentally incompetent or  
3037 elderly and shall include, without limiting the generality of the



3038 foregoing, out-patient clinics, laboratories, laundries, nurses',  
3039 doctors' or interns' residences, administration buildings, office  
3040 buildings, facilities for research directly involved with hospital  
3041 care, maintenance, storage or utility facilities, parking lots,  
3042 and garages and all necessary, useful, or related furnishings, and  
3043 appurtenances and all lands necessary or convenient as a site for  
3044 the foregoing.

3045 (h) "Participating hospital institution" or "hospital  
3046 institution" means a public or private corporation, association,  
3047 foundation, trust, cooperative, agency, body politic, or other  
3048 person or organization which provides or operates or proposes to  
3049 provide or operate hospital facilities not for profit, and which,  
3050 pursuant to the provisions of this act, contracts with the  
3051 authority for the financing or refinancing of the lease or other  
3052 acquisition of hospital equipment or hospital facilities, or both.

3053 (i) "State" means the State of Mississippi.

3054 The use of singular terms herein shall also include the  
3055 plural of such term and the use of a plural term herein shall also  
3056 include the singular of such term unless the context clearly  
3057 requires a different connotation.

3058 **SECTION 32.** Section 41-75-1, Mississippi Code of 1972, is  
3059 brought forward as follows:

3060 41-75-1. For the purpose of this chapter:

3061 (a) "Ambulatory surgical facility" means a publicly or  
3062 privately owned institution that is primarily organized,



3063 constructed, renovated or otherwise established for the purpose of  
3064 providing elective surgical treatment of "outpatients" whose  
3065 recovery, under normal and routine circumstances, will not require  
3066 "inpatient" care. The facility defined in this paragraph does not  
3067 include the offices of private physicians or dentists, whether  
3068 practicing individually or in groups, but does include  
3069 organizations or facilities primarily engaged in that outpatient  
3070 surgery, whether using the name "ambulatory surgical facility" or  
3071 a similar or different name. That organization or facility, if in  
3072 any manner considered to be operated or owned by a hospital or a  
3073 hospital holding, leasing or management company, either for profit  
3074 or not for profit, is required to comply with all licensing agency  
3075 ambulatory surgical licensure standards governing a "hospital  
3076 affiliated" facility as adopted under Section 41-9-1 et seq.,  
3077 provided that the organization or facility does not intend to seek  
3078 federal certification as an ambulatory surgical facility as  
3079 provided for at 42 CFR, Parts 405 and 416. If the organization or  
3080 facility is to be operated or owned by a hospital or a hospital  
3081 holding, leasing or management company and intends to seek federal  
3082 certification as an ambulatory facility, then the facility is  
3083 considered to be "freestanding" and must comply with all licensing  
3084 agency ambulatory surgical licensure standards governing a  
3085 "freestanding" facility.

3086       If the organization or facility is to be owned or operated by  
3087 an entity or person other than a hospital or hospital holding,



3088 leasing or management company, then the organization or facility  
3089 must comply with all licensing agency ambulatory surgical facility  
3090 standards governing a "freestanding" facility.

3091 (b) "Hospital affiliated" ambulatory surgical facility  
3092 means a separate and distinct organized unit of a hospital or a  
3093 building owned, leased, rented or utilized by a hospital and  
3094 located in the same county in which the hospital is located, for  
3095 the primary purpose of performing ambulatory surgery procedures.  
3096 The facility is not required to be separately licensed under this  
3097 chapter and may operate under the hospital's license in compliance  
3098 with all applicable requirements of Section 41-9-1 et seq.

3099 (c) "Freestanding" ambulatory surgical facility means a  
3100 separate and distinct facility or a separate and distinct  
3101 organized unit of a hospital owned, leased, rented or utilized by  
3102 a hospital or other persons for the primary purpose of performing  
3103 ambulatory surgery procedures. The facility must be separately  
3104 licensed as defined in this section and must comply with all  
3105 licensing standards promulgated by the licensing agency under this  
3106 chapter regarding a "freestanding" ambulatory surgical facility.  
3107 Further, the facility must be a separate, identifiable entity and  
3108 must be physically, administratively and financially independent  
3109 and distinct from other operations of any other health facility,  
3110 and shall maintain a separate organized medical and administrative  
3111 staff. Furthermore, once licensed as a "freestanding" ambulatory  
3112 surgical facility, the facility shall not become a component of



3113 any other health facility without securing a certificate of need  
3114 to do that.

3115 (d) "Ambulatory surgery" means surgical procedures that  
3116 are more complex than office procedures performed under local  
3117 anesthesia, but less complex than major procedures requiring  
3118 prolonged postoperative monitoring and hospital care to ensure  
3119 safe recovery and desirable results. General anesthesia is used  
3120 in most cases. The patient must arrive at the facility and expect  
3121 to be discharged on the same day. Ambulatory surgery shall only  
3122 be performed by physicians or dentists licensed to practice in the  
3123 State of Mississippi.

3124 (e) "Abortion" means the use or prescription of any  
3125 instrument, medicine, drug or any other substances or device to  
3126 terminate the pregnancy of a woman known to be pregnant with an  
3127 intention other than to increase the probability of a live birth,  
3128 to preserve the life or health of the child after live birth or to  
3129 remove a dead fetus. Abortion procedures after the first  
3130 trimester shall only be performed at a Level I abortion facility  
3131 or an ambulatory surgical facility or hospital licensed to perform  
3132 that service.

3133 (f) "Abortion facility" means a facility operating  
3134 substantially for the purpose of performing abortions and is a  
3135 separate identifiable legal entity from any other health care  
3136 facility. Abortions shall only be performed by physicians  
3137 licensed to practice in the State of Mississippi. All physicians



3138 associated with the abortion facility must have admitting  
3139 privileges at a local hospital and staff privileges to replace  
3140 local hospital on-staff physicians. All physicians associated  
3141 with an abortion facility must be board certified or eligible in  
3142 obstetrics and gynecology, and a staff member trained in CPR shall  
3143 always be present at the abortion facility when it is open. The  
3144 term "abortion facility" includes physicians' offices that are  
3145 used substantially for the purpose of performing abortions. An  
3146 abortion facility operates substantially for the purpose of  
3147 performing abortions if any of the following conditions are met:

3148 (i) The abortion facility is a provider for  
3149 performing ten (10) or more abortion procedures per calendar month  
3150 during any month of a calendar year, or one hundred (100) or more  
3151 in a calendar year.

3152 (ii) The abortion facility, if operating less than  
3153 twenty (20) days per calendar month, is a provider for performing  
3154 ten (10) or more abortion procedures, or performing a number of  
3155 abortion procedures that would be equivalent to ten (10)  
3156 procedures per month, if the facility were operating twenty (20)  
3157 or more days per calendar month, in any month of a calendar year.

3158 (iii) The abortion facility holds itself out to  
3159 the public as an abortion provider by advertising by any public  
3160 means, such as newspaper, telephone directory, magazine or  
3161 electronic media, that it performs abortions.





3162 (iv) The facility applies to the licensing agency  
3163 for licensure as an abortion facility.

3164 (g) "Licensing agency" means the State Department of  
3165 Health.

3166 (h) "Operating" an abortion facility means that the  
3167 facility is open for any period of time during a day and has on  
3168 site at the facility or on call a physician licensed to practice  
3169 in the State of Mississippi available to provide abortions.

3170 An abortion facility may apply to be licensed as a Level I  
3171 facility or a Level II facility by the licensing agency. Level II  
3172 abortion facilities shall be required to meet minimum standards  
3173 for abortion facilities as established by the licensing agency.  
3174 Level I abortion facilities shall be required to meet minimum  
3175 standards for abortion facilities and minimum standards for  
3176 ambulatory surgical facilities as established by the licensing  
3177 agency.

3178 Any abortion facility that begins operation after June 30,  
3179 1996, shall not be located within one thousand five hundred  
3180 (1,500) feet from the property on which any church, school or  
3181 kindergarten is located. An abortion facility shall not be in  
3182 violation of this paragraph if it is in compliance with this  
3183 paragraph on the date it begins operation and the property on  
3184 which a church, school or kindergarten is located within one  
3185 thousand five hundred (1,500) feet from the facility.



3186 (i) "Freestanding emergency room" is a facility open  
3187 twenty-four (24) hours a day for the treatment of urgent and  
3188 emergent medical conditions which is not located on a hospital  
3189 campus. In order to be eligible for licensure under this chapter,  
3190 the freestanding emergency room shall be located at least fifteen  
3191 (15) miles from the nearest hospital-based emergency room in any  
3192 rural community where the federal CMMS had previously designated a  
3193 rural hospital as a critical access hospital and that designation  
3194 has been revoked.

3195 (j) "Post-acute residential brain injury rehabilitation  
3196 facility" is a facility containing no more than twelve (12) beds  
3197 providing medically directed long-term but nonacute rehabilitation  
3198 to patients who have acquired brain injury. In order to be  
3199 eligible for licensure under this chapter, the post-acute  
3200 residential brain injury rehabilitation facility shall be located  
3201 at least twenty-five (25) miles from the nearest acute care  
3202 rehabilitation hospital and at least five (5) miles from the  
3203 boundaries of any municipality having a population of ten thousand  
3204 (10,000) or more, according to the most recent federal decennial  
3205 census, at the time that facility is established.

3206 (k) "Pilot freestanding emergency room" is a facility  
3207 open twenty-four (24) hours a day for the treatment of urgent and  
3208 emergent medical conditions that is not located on a hospital  
3209 campus. In order to be eligible for licensure under this chapter,  
3210 the pilot freestanding emergency room shall be located at least



3211 fifteen (15) miles from the nearest hospital-based emergency room  
3212 in a county without emergency hospital care that is open  
3213 twenty-four (24) hours a day.

3214 **SECTION 33.** Section 41-75-5, Mississippi Code of 1972, is  
3215 brought forward as follows:

3216 41-75-5. No person as defined in Section 41-7-173, acting  
3217 severally or jointly with any other person, shall establish,  
3218 conduct, operate or maintain an ambulatory surgical facility or an  
3219 abortion facility or a freestanding emergency room or a post-acute  
3220 residential brain injury rehabilitation facility in this state  
3221 without a license under this chapter.

3222 **SECTION 34.** Section 41-75-9, Mississippi Code of 1972, is  
3223 brought forward as follows:

3224 41-75-9. Upon receipt of an application for license and the  
3225 license fee, the licensing agency shall issue a license if the  
3226 applicant and the institutional facilities meet the requirements  
3227 established under this chapter and the requirements of Section  
3228 41-7-173 et seq. where determined by the licensing agency to be  
3229 applicable. A license, unless suspended or revoked, shall be  
3230 renewable annually upon payment of a renewal fee of Three Thousand  
3231 Dollars (\$3,000.00), which shall be paid to the licensing agency,  
3232 and upon filing by the licensee and approval by the licensing  
3233 agency of an annual report upon such uniform dates and containing  
3234 such information in such form as the licensing agency requires.  
3235 Any increase in the fee charged by the licensing agency under this



3236 section shall be in accordance with the provisions of Section  
3237 41-3-65. Each license shall be issued only for the premises and  
3238 person or persons named in the application and shall not be  
3239 transferable or assignable. Licenses shall be posted in a  
3240 conspicuous place on the licensed premises.

3241 **SECTION 35.** Section 41-75-25, Mississippi Code of 1972, is  
3242 brought forward as follows:

3243 41-75-25. Any person or persons or other entity or entities  
3244 establishing, managing or operating an ambulatory surgical  
3245 facility or conducting the business of an ambulatory surgical  
3246 facility without the required license, or which otherwise violate  
3247 any of the provisions of this chapter or the "Mississippi Health  
3248 Care Commission Law of 1979," as amended, or the rules,  
3249 regulations or standards promulgated in furtherance of any law in  
3250 which the commission has authority therefor shall be subject to  
3251 the penalties and sanctions of Section 41-7-209, Mississippi Code  
3252 of 1972.

3253 **SECTION 36.** Section 41-77-1, Mississippi Code of 1972, is  
3254 brought forward as follows:

3255 41-77-1. For purposes of this chapter:

3256 (a) "Birthing center" shall mean a publicly or  
3257 privately owned facility, place or institution constructed,  
3258 renovated, leased or otherwise established where nonemergency  
3259 births are planned to occur away from the mother's usual residence  
3260 following a documented period of prenatal care for a normal



3261 uncomplicated pregnancy which has been determined to be low risk  
3262 through a formal risk scoring examination. Care provided in a  
3263 birthing center shall be provided by a licensed physician, or  
3264 certified nurse midwife, and a registered nurse. Services  
3265 provided in a birthing center shall be limited in the following  
3266 manner: (i) surgical services shall be limited to those normally  
3267 performed during uncomplicated childbirth, such as episiotomy and  
3268 repair, and shall not include operative obstetrics or caesarean  
3269 sections; (ii) labor shall not be inhibited, stimulated or  
3270 augmented with chemical agents during the first or second stage of  
3271 labor; (iii) systemic analgesia may be administered and local  
3272 anesthesia for pudental block and episiotomy repair may be  
3273 performed. General and conductive anesthesia shall not be  
3274 administered at birthing centers; (iv) patients shall not remain  
3275 in the facility in excess of twenty-four (24) hours.

3276         Hospitals are excluded from the definition of a "birthing  
3277 center" unless they choose to and are qualified to designate a  
3278 portion or part of the hospital as a birthing center, and nothing  
3279 herein shall be construed as referring to the usual service  
3280 provided the pregnant female in the obstetric-gynecology service  
3281 of an acute care hospital. Such facility or center, as heretofore  
3282 stated, shall include the offices of physicians in private  
3283 practice alone or in groups of two (2) or more; and such facility  
3284 or center rendering service to pregnant female persons, as stated  
3285 heretofore and by the rules and regulations promulgated by the



3286 licensing agency in furtherance thereof, shall be deemed to be a  
3287 "birthing center" whether using a similar or different name. Such  
3288 center or facility if in any manner is deemed to be or considered  
3289 to be operated or owned by a hospital or a hospital holding  
3290 leasing or management company, for profit or not for profit, is  
3291 required to comply with all birthing center standards governing a  
3292 "hospital affiliated" birthing center as adopted by the licensing  
3293 authority.

3294 (b) "Hospital affiliated" birthing center shall mean a  
3295 separate and distinct unit of a hospital or a building owned,  
3296 leased, rented or utilized by a hospital and located in the same  
3297 county as the hospital for the purpose of providing the service of  
3298 a "birthing center." Such center or facility is not required to  
3299 be licensed separately, and may operate under the license issued  
3300 to the hospital if it is in compliance with Section 41-9-1 et  
3301 seq., where applicable, and the rules and regulations promulgated  
3302 by the licensing agency in furtherance thereof.

3303 (c) "Freestanding" birthing center shall mean a  
3304 separate and distinct facility or center or a separate and  
3305 distinct organized unit of a hospital or other defined persons  
3306 (Section 41-7-173(q)) for the purpose of performing the service of  
3307 a "birthing center." Such facility or center must be separately  
3308 licensed and must comply with all licensing standards promulgated  
3309 by the licensing agency by virtue of this chapter. Further, such  
3310 facility or center must be a separate, identifiable entity and



3311 must be physically, administratively and financially independent  
3312 from other operations of any hospital or other health care  
3313 facility or service and shall maintain a separate and required  
3314 staff, including administrative staff. Further, any "birthing  
3315 center" licensed as a "freestanding" center shall not become a  
3316 component of any hospital or other health care facility without  
3317 securing a "certificate of need."

3318 (d) "Licensing agency" shall mean the State Department  
3319 of Health.

3320 **SECTION 37.** Section 41-77-5, Mississippi Code of 1972, is  
3321 brought forward as follows:

3322 41-77-5. No person as defined in Section 41-7-173(q),  
3323 Mississippi Code of 1972, acting severally or jointly with any  
3324 other person, shall establish, conduct or maintain a "birthing  
3325 center" in this state without a license under this chapter.

3326 **SECTION 38.** Section 41-77-21, Mississippi Code of 1972, is  
3327 brought forward as follows:

3328 41-77-21. Any applicant or licensee aggrieved by the  
3329 decision of the licensing agency after a hearing may, within  
3330 thirty (30) days after the mailing or serving of notice of the  
3331 decision as provided in Section 43-11-11, Mississippi Code of  
3332 1972, file a notice of appeal to the Chancery Court of the First  
3333 Judicial District of Hinds County or in the chancery court of the  
3334 county in which the institution is located or proposed to be  
3335 located. If such notice of appeal is filed, it shall comply with



3336 Section 41-7-201(2), (3) and (4), Mississippi Code of 1972.  
3337 Thereupon, the licensing agency shall, within the time and in the  
3338 manner prescribed in Section 41-7-201(2), certify and file with  
3339 the court a copy of the record and decision, including the  
3340 transcript of the hearings in which the decision is based. No new  
3341 or additional evidence shall be introduced in court; the case  
3342 shall be determined upon the record certified to the court. The  
3343 court may sustain or dismiss the appeal, modify or vacate the  
3344 order complained of in whole or in part, as the case may be; but  
3345 in case the order is wholly or partly vacated, the court may also,  
3346 in its discretion, remand the matter to the licensing agency for  
3347 such further proceedings, not inconsistent with the court's order,  
3348 as, in the opinion of the court, justice may require. The order  
3349 may not be vacated or set aside, either in whole or in part,  
3350 except for errors of law, unless the court finds that the order of  
3351 the licensing agency is not supported by substantial evidence, is  
3352 contrary to the manifest weight of the evidence, is in excess of  
3353 the statutory authority or jurisdiction of the licensing agency,  
3354 or violates any vested constitutional rights of any party involved  
3355 in the appeal. Pending final disposition of the matter, the  
3356 status quo of the applicant or licensee shall be preserved, except  
3357 as the court otherwise orders in the public interest. Rules with  
3358 respect to court costs in other cases in chancery shall apply  
3359 equally to cases hereunder. Appeals in accordance with law may be





3360 had to the Supreme Court of the State of Mississippi from any  
3361 final judgment of the chancery court.

3362         **SECTION 39.** Section 41-77-23, Mississippi Code of 1972, is  
3363 brought forward as follows:

3364         41-77-23. Any person or persons or other entity or entities  
3365 establishing, managing or operating a "birthing center" or  
3366 conducting the business of a "birthing center" without the  
3367 required license, or which otherwise violate any of the provisions  
3368 of this chapter or the Mississippi Health Care Commission Law of  
3369 1979, as amended, or the rules, regulations or standards  
3370 promulgated in furtherance of any law in which the commission has  
3371 authority therefor, shall be subject to the penalties and  
3372 sanctions of Section 41-7-209, Mississippi Code of 1972.

3373         **SECTION 40.** Section 41-77-25, Mississippi Code of 1972, is  
3374 brought forward as follows:

3375         41-77-25. Upon receipt of an application for license and the  
3376 license fee, the licensing agency shall issue a license if the  
3377 applicant and the institutional facilities meet the requirements  
3378 established under this chapter and the requirements of Section  
3379 41-7-173 et seq., where determined by the licensing agency to be  
3380 applicable. A license, unless suspended or revoked, shall be  
3381 renewable annually upon payment of a renewal fee of Three Hundred  
3382 Dollars (\$300.00), which shall be paid to the licensing agency,  
3383 and upon filing by the licensee and approval by the licensing  
3384 agency of an annual report upon such uniform dates and containing



3385 such information in such form as the licensing agency requires.  
3386 Any increase in the fee charged by the licensing agency under this  
3387 section shall be in accordance with the provisions of Section  
3388 41-3-65. Each license shall be issued only for the premises and  
3389 person or persons named in the application and shall not be  
3390 transferable or assignable. Licenses shall be posted in a  
3391 conspicuous place on the licensed premises.

3392 **SECTION 41.** Section 41-95-3, Mississippi Code of 1972, is  
3393 brought forward as follows:

3394 41-95-3. As used in this chapter:

3395 (a) "Authority" means the Mississippi Health Finance  
3396 Authority created under Section 41-95-5.

3397 (b) "Board" means the Mississippi Health Finance  
3398 Authority Board created under Section 41-95-5.

3399 (c) "Health care facility" means all facilities and  
3400 institutions, whether public or private, proprietary or nonprofit,  
3401 which offer diagnosis, treatment, inpatient or ambulatory care to  
3402 two (2) or more unrelated persons, and shall include, but shall  
3403 not be limited to, all facilities and institutions included in  
3404 Section 41-7-173(h).

3405 (d) "Health care provider" means a person, partnership  
3406 or corporation, other than a facility or institution, licensed or  
3407 certified or authorized by state or federal law to provide  
3408 professional health care service in this state to an individual  
3409 during that individual's health care, treatment or confinement.



3410 (e) "Health insurer" means any health insurance  
3411 company, nonprofit hospital and medical service corporation,  
3412 health maintenance organization and, to the extent permitted under  
3413 federal law, any administrator of an insured, self-insured or  
3414 publicly funded health care benefit plan offered by public and  
3415 private entities.

3416 (f) "Resident" means a person who is domiciled in  
3417 Mississippi as evidenced by an intent to maintain a principal  
3418 dwelling place in Mississippi indefinitely and to return to  
3419 Mississippi if temporarily absent, coupled with an act or acts  
3420 consistent with that intent.

3421 (g) "Primary care" or "primary health care" includes  
3422 those health care services provided to individuals, families and  
3423 communities, at a first level of care, which preserve and improve  
3424 health, and encompasses services which promote health, prevent  
3425 disease, treat and cure illness. It is delivered by various  
3426 health care providers in a variety of settings including hospital  
3427 outpatient clinics, private provider offices, group practices,  
3428 health maintenance organizations, public health departments and  
3429 community health centers. A primary care system is characterized  
3430 by coordination of comprehensive services, cultural sensitivity,  
3431 community orientation, continuity, prevention, the absence of  
3432 barriers to receive and provide services, and quality assurance.

3433 **SECTION 42.** Section 43-11-9, Mississippi Code of 1972, is  
3434 brought forward as follows:



3435 43-11-9. (1) Upon receipt of an application for license and  
3436 the license fee, the licensing agency shall issue a license if the  
3437 applicant and the institutional facilities meet the requirements  
3438 established under this chapter and the requirements of Section  
3439 41-7-173 et seq., where determined by the licensing agency to be  
3440 applicable. A license, unless suspended or revoked, shall be  
3441 renewable annually upon payment by (a) the licensee of an  
3442 institution for the aged or infirm, except for personal care  
3443 homes, of a renewal fee of Twenty Dollars (\$20.00) for each bed in  
3444 the institution, with a minimum fee per institution of Two Hundred  
3445 Dollars (\$200.00), or (b) the licensee of a personal care home of  
3446 a renewal fee of Fifteen Dollars (\$15.00) for each bed in the  
3447 institution, with a minimum fee per institution of One Hundred  
3448 Dollars (\$100.00), which shall be paid to the licensing agency,  
3449 and upon filing by the licensee and approval by the licensing  
3450 agency of an annual report upon such uniform dates and containing  
3451 such information in such form as the licensing agency prescribes  
3452 by regulation. Any increase in the fee charged by the licensing  
3453 agency under this subsection shall be in accordance with the  
3454 provisions of Section 41-3-65. Each license shall be issued only  
3455 for the premises and person or persons or other legal entity or  
3456 entities named in the application and shall not be transferable or  
3457 assignable except with the written approval of the licensing  
3458 agency. Licenses shall be posted in a conspicuous place on the  
3459 licensed premises.



3460 (2) A fee known as a "User Fee" shall be applicable and  
3461 shall be paid to the licensing agency as set out in subsection (1)  
3462 of this section. Any increase in the fee charged by the licensing  
3463 agency under this subsection shall be in accordance with the  
3464 provisions of Section 41-3-65. This user fee shall be assessed  
3465 for the purpose of the required reviewing and inspections of the  
3466 proposal of any institution in which there are additions,  
3467 renovations, modernizations, expansion, alterations, conversions,  
3468 modifications or replacement of the entire facility involved in  
3469 such proposal. This fee includes the reviewing of architectural  
3470 plans in all steps required. There shall be a minimum user fee of  
3471 Fifty Dollars (\$50.00) and a maximum user fee of Five Thousand  
3472 Dollars (\$5,000.00).

3473 (3) No governmental entity or agency shall be required to  
3474 pay the fee or fees set forth in this section.

3475 **SECTION 43.** Section 43-11-19, Mississippi Code of 1972, is  
3476 brought forward as follows:

3477 43-11-19. Information received by the licensing agency  
3478 through filed reports, inspection, or as otherwise authorized  
3479 under this chapter, shall not be disclosed publicly in such manner  
3480 as to identify individuals, except in a proceeding involving the  
3481 questions of licensure; however, the licensing agency may utilize  
3482 statistical data concerning types of services and the utilization  
3483 of those services for institutions for the aged or infirm in



3484 performing the statutory duties imposed upon it by Section  
3485 41-7-171, et seq. and by Section 43-11-21.

3486           **SECTION 44.** Section 57-117-5, Mississippi Code of 1972, is  
3487 brought forward as follows:

3488           57-117-5. (1) The MDA may certify an area as a health care  
3489 industry zone if the following requirements are met:

3490                   (a) The area is located within:

3491                           (i) Three (3) contiguous counties which have  
3492 certificates of need of more than three hundred seventy-five (375)  
3493 acute care hospital beds; and/or

3494                           (ii) A county which has a hospital with a minimum  
3495 capital investment of Two Hundred Fifty Million Dollars  
3496 (\$250,000,000.00) and for which construction is completed before  
3497 July 1, 2017;

3498                   (b) The health care industry facility is located within  
3499 a five-mile radius of:

3500                           (i) A facility with a certificate of need for  
3501 hospital beds; and/or

3502                           (ii) A university or college that is:

3503                                   1. Accredited by the Southern Association of  
3504 Colleges and Schools and awards degrees and/or trains workers for  
3505 jobs in health care or pharmaceutical fields of study and/or work,  
3506 and



3507                   2. Located along or near Mississippi Highway  
3508 67 within a master planned community as defined in Section  
3509 19-5-10; and

3510                   (c) The zoning of the local government unit, if  
3511 applicable, allows the construction or operation in the proposed  
3512 health care industry zone of the health care industry facility.

3513                   (2) A health care industry facility that engages in an  
3514 activity for which a certificate of need is required must comply  
3515 with the provisions of Section 41-7-191 in order to be certified  
3516 as a qualified business.

3517                   (3) The MDA may adopt and promulgate such rules and  
3518 regulations, in compliance with the Mississippi Administrative  
3519 Procedures Law, as are necessary for the efficient and effective  
3520 administration of this section in keeping with the purposes for  
3521 which it is enacted.

3522                   **SECTION 45.** Section 41-9-311, Mississippi Code of 1972, is  
3523 brought forward as follows:

3524                   41-9-311. Nothing in this act exempts hospitals from  
3525 compliance with the provisions of Section 41-7-171 et seq.  
3526 concerning certificates of need.

3527                   **SECTION 46.** Section 43-13-117.5, Mississippi Code of 1972,  
3528 is brought forward as follows:

3529                   43-13-117.5. The Division of Medicaid is authorized to  
3530 reimburse for services provided to eligible Medicaid beneficiaries  
3531 by a licensed freestanding psychiatric hospital in a method and



3532 manner to be determined by the division in accordance with federal  
3533 law and federal regulations. The division may seek any necessary  
3534 waivers, make any required amendments to its State Plan, or revise  
3535 any contracts authorized under Section 43-13-117(H) as necessary  
3536 to provide the services authorized under this section. As used in  
3537 this section, the term "psychiatric hospital" shall have the  
3538 meaning as defined in Section 41-7-173(h) (ii), which is an  
3539 institution that is primarily engaged in providing to inpatients,  
3540 by or under the supervision of a physician, psychiatric services  
3541 for the diagnosis and treatment of persons with mental illness.  
3542 It is the intent of the Legislature that the cost of providing  
3543 services to individuals in a psychiatric hospital shall not exceed  
3544 the cost of providing the same services to individuals in a  
3545 hospital as defined by Section 41-7-173(h) (i).

3546       **SECTION 47.** This act shall take effect and be in force from  
3547 and after July 1, 2024.

