

By: Representative Yancey

To: Public Health and Human Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 848

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI
2 CODE OF 1972, TO REMOVE CHEMICAL DEPENDENCY SERVICES AND
3 FACILITIES, INTERMEDIATE CARE FACILITIES, INTERMEDIATE CARE
4 FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, AND
5 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FROM THE REQUIREMENTS
6 OF THE HEALTH CARE CERTIFICATE OF NEED LAW; TO AMEND SECTIONS
7 41-77-1, 41-77-5, 41-77-21, 41-77-23 AND 41-77-25, MISSISSIPPI
8 CODE OF 1972, TO DELETE ALL REFERENCES TO THE CERTIFICATE OF NEED
9 LAW IN THE LICENSURE LAWS FOR BIRTHING CENTERS; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
13 amended as follows:

14 41-7-173. For the purposes of Section 41-7-171 et seq., the
15 following words shall have the meanings ascribed herein, unless
16 the context otherwise requires:

- 17 (a) "Affected person" means (i) the applicant; (ii) a
18 person residing within the geographic area to be served by the
19 applicant's proposal; (iii) a person who regularly uses health
20 care facilities or HMOs located in the geographic area of the
21 proposal which provide similar service to that which is proposed;
22 (iv) health care facilities and HMOs which have, prior to receipt



23 of the application under review, formally indicated an intention
24 to provide service similar to that of the proposal being
25 considered at a future date; (v) third-party payers who reimburse
26 health care facilities located in the geographical area of the
27 proposal; or (vi) any agency that establishes rates for health
28 care services or HMOs located in the geographic area of the
29 proposal.

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

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

43 (ii) "Capital expenditure," when pertaining to
44 other than major medical equipment, shall mean any expenditure
45 which under generally accepted accounting principles consistently
46 applied is not properly chargeable as an expense of operation and
47 maintenance and which exceeds, for clinical health services, as



48 defined in * * * paragraph (k) below, Five Million Dollars
49 (\$5,000,000.00), adjusted for inflation as published by the State
50 Department of Health or which exceeds, for nonclinical health
51 services, as defined in * * * paragraph (k) below, Ten Million
52 Dollars (\$10,000,000.00), adjusted for inflation as published by
53 the State Department of Health.

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

64 (iv) In those instances where a health care
65 facility or other provider of health services proposes to provide
66 a service in which the capital expenditure for major medical
67 equipment or other than major medical equipment or a combination
68 of the two (2) may have been split between separate parties, the
69 total capital expenditure required to provide the proposed service
70 shall be considered in determining the necessity of certificate of
71 need review and in determining the appropriate certificate of need
72 review fee to be paid. The capital expenditure associated with



73 facilities and equipment to provide services in Mississippi shall
74 be considered regardless of where the capital expenditure was
75 made, in state or out of state, and regardless of the domicile of
76 the party making the capital expenditure, in state or out of
77 state.

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

90 (e) "Commencement of construction" means that all of
91 the following have been completed with respect to a proposal or
92 project proposing construction, renovating, remodeling or
93 alteration:

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



98 plans which have been approved by the licensing authority of the
99 State Department of Health;

100 (ii) Any and all permits and/or approvals deemed
101 lawfully necessary by all authorities with responsibility for such
102 have been secured; and

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

109 Force account expenditures, such as deposits, securities,
110 bonds, et cetera, may, in the discretion of the State Department
111 of Health, be excluded from any or all of the provisions of
112 defined commencement of construction.

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

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



122 (h) "Health care facility" includes hospitals,
123 psychiatric hospitals, * * * skilled nursing facilities, end-stage
124 renal disease (ESRD) facilities, including freestanding
125 hemodialysis units, * * * ambulatory surgical facilities, * * *
126 home health agencies, * * * pediatric skilled nursing facilities,
127 long-term care hospitals, comprehensive medical rehabilitation
128 facilities, including facilities owned or operated by the state or
129 a political subdivision or instrumentality of the state, but does
130 not include Christian Science sanatoriums operated or listed and
131 certified by the First Church of Christ, Scientist, Boston,
132 Massachusetts. This definition shall not apply to facilities for
133 the private practice, either independently or by incorporated
134 medical groups, of physicians, dentists or health care
135 professionals except where such facilities are an integral part of
136 an institutional health service. The various health care
137 facilities listed in this paragraph shall be defined as follows:

138 (i) "Hospital" means an institution which is
139 primarily engaged in providing to inpatients, by or under the
140 supervision of physicians, diagnostic services and therapeutic
141 services for medical diagnosis, treatment and care of injured,
142 disabled or sick persons, or rehabilitation services for the
143 rehabilitation of injured, disabled or sick persons. Such term
144 does not include psychiatric hospitals.

145 (ii) "Psychiatric hospital" means an institution
146 which is primarily engaged in providing to inpatients, by or under



147 the supervision of a physician, psychiatric services for the
148 diagnosis and treatment of persons with mental illness.

149 (iii) * * * [Deleted]

150 (iv) "Skilled nursing facility" means an
151 institution or a distinct part of an institution which is
152 primarily engaged in providing to inpatients skilled nursing care
153 and related services for patients who require medical or nursing
154 care or rehabilitation services for the rehabilitation of injured,
155 disabled or sick persons.

156 (v) "End-stage renal disease (ESRD) facilities"
157 means kidney disease treatment centers, which includes
158 freestanding hemodialysis units and limited care facilities. The
159 term "limited care facility" generally refers to an
160 off-hospital-premises facility, regardless of whether it is
161 provider or nonprovider operated, which is engaged primarily in
162 furnishing maintenance hemodialysis services to stabilized
163 patients.

164 (vi) * * * [Deleted]

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



172 (viii) * * * [Deleted]

173 (ix) "Home health agency" means a public or
174 privately owned agency or organization, or a subdivision of such
175 an agency or organization, properly authorized to conduct business
176 in Mississippi, which is primarily engaged in providing to
177 individuals at the written direction of a licensed physician, in
178 the individual's place of residence, skilled nursing services
179 provided by or under the supervision of a registered nurse
180 licensed to practice in Mississippi, and one or more of the
181 following services or items:

- 182 1. Physical, occupational or speech therapy;
- 183 2. Medical social services;
- 184 3. Part-time or intermittent services of a
185 home health aide;
- 186 4. Other services as approved by the
187 licensing agency for home health agencies;
- 188 5. Medical supplies, other than drugs and
189 biologicals, and the use of medical appliances; or
- 190 6. Medical services provided by an intern or
191 resident-in-training at a hospital under a teaching program of
192 such hospital.

193 Further, all skilled nursing services and those services
194 listed in items 1 through 4 of this subparagraph (ix) must be
195 provided directly by the licensed home health agency. For
196 purposes of this subparagraph, "directly" means either through an



197 agency employee or by an arrangement with another individual not
198 defined as a health care facility.

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

202 (x) * * * [Deleted]

203 (xi) "Pediatric skilled nursing facility" means an
204 institution or a distinct part of an institution that is primarily
205 engaged in providing to inpatients skilled nursing care and
206 related services for persons under twenty-one (21) years of age
207 who require medical or nursing care or rehabilitation services for
208 the rehabilitation of injured, disabled or sick persons.

209 (xii) "Long-term care hospital" means a
210 freestanding, Medicare-certified hospital that has an average
211 length of inpatient stay greater than twenty-five (25) days, which
212 is primarily engaged in providing chronic or long-term medical
213 care to patients who do not require more than three (3) hours of
214 rehabilitation or comprehensive rehabilitation per day, and has a
215 transfer agreement with an acute care medical center and a
216 comprehensive medical rehabilitation facility. Long-term care
217 hospitals shall not use rehabilitation, comprehensive medical
218 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
219 nursing home, skilled nursing facility or sub-acute care facility
220 in association with its name.



221 (xiii) "Comprehensive medical rehabilitation
222 facility" means a hospital or hospital unit that is licensed
223 and/or certified as a comprehensive medical rehabilitation
224 facility which provides specialized programs that are accredited
225 by the Commission on Accreditation of Rehabilitation Facilities
226 and supervised by a physician board certified or board eligible in
227 physiatry or other doctor of medicine or osteopathy with at least
228 two (2) years of training in the medical direction of a
229 comprehensive rehabilitation program that:

230 1. Includes evaluation and treatment of
231 individuals with physical disabilities;

232 2. Emphasizes education and training of
233 individuals with disabilities;

234 3. Incorporates at least the following core
235 disciplines:

236 * * *a. Physical Therapy;

237 * * *b. Occupational Therapy;

238 * * *c. Speech and Language Therapy;

239 * * *d. Rehabilitation Nursing; and

240 4. Incorporates at least three (3) of the
241 following disciplines:

242 * * *a. Psychology;

243 * * *b. Audiology;

244 * * *c. Respiratory Therapy;

245 * * *d. Therapeutic Recreation;



- 246 * * *e. Orthotics;
- 247 * * *f. Prosthetics;
- 248 * * *g. Special Education;
- 249 * * *h. Vocational Rehabilitation;
- 250 * * *i. Psychotherapy;
- 251 * * *j. Social Work;
- 252 * * *k. Rehabilitation Engineering.

253 These specialized programs include, but are not limited to:
254 spinal cord injury programs, head injury programs and infant and
255 early childhood development programs.

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

259 (i) Provides or otherwise makes available to
260 enrolled participants health care services, including
261 substantially the following basic health care services: usual
262 physician services, hospitalization, laboratory, x-ray, emergency
263 and preventive services, and out-of-area coverage;

264 (ii) Is compensated (except for copayments) for
265 the provision of the basic health care services listed in
266 subparagraph (i) of this paragraph to enrolled participants on a
267 predetermined basis; and

268 (iii) Provides physician services primarily:

269 1. Directly through physicians who are either
270 employees or partners of such organization; or



271 2. Through arrangements with individual
272 physicians or one or more groups of physicians (organized on a
273 group practice or individual practice basis).

274 (j) "Health service area" means a geographic area of
275 the state designated in the State Health Plan as the area to be
276 used in planning for specified health facilities and services and
277 to be used when considering certificate of need applications to
278 provide health facilities and services.

279 (k) "Health services" means clinically related (i.e.,
280 diagnostic, treatment or rehabilitative) services and
281 includes * * * mental health and home health care services.

282 "Clinical health services" shall only include those activities
283 which contemplate any change in the existing bed complement of any
284 health care facility through the addition or conversion of any
285 beds, under Section 41-7-191(1)(c) or propose to offer any health
286 services if those services have not been provided on a regular
287 basis by the proposed provider of such services within the period
288 of twelve (12) months prior to the time such services would be
289 offered, under Section 41-7-191(1)(d). "Nonclinical health
290 services" shall be all other services which do not involve any
291 change in the existing bed complement or offering health services
292 as described above. "Health services" does not include medical
293 and related services for the diagnosis and treatment of chemical
294 dependency such as alcohol and drug abuse.



295 (l) "Institutional health services" shall mean health
296 services provided in or through health care facilities and shall
297 include the entities in or through which such services are
298 provided.

299 (m) "Major medical equipment" means medical equipment
300 designed for providing medical or any health-related service which
301 costs in excess of One Million Five Hundred Thousand Dollars
302 (\$1,500,000.00). However, this definition shall not be applicable
303 to clinical laboratories if they are determined by the State
304 Department of Health to be independent of any physician's office,
305 hospital or other health care facility or otherwise not so defined
306 by federal or state law, or rules and regulations promulgated
307 thereunder.

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

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

316 (p) "Person" means an individual, a trust or estate,
317 partnership, corporation (including associations, joint-stock
318 companies and insurance companies), the state or a political
319 subdivision or instrumentality of the state.



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

324 (r) "Radiation therapy services" means the treatment of
325 cancer and other diseases using ionizing radiation of either high
326 energy photons (x-rays or gamma rays) or charged particles
327 (electrons, protons or heavy nuclei). However, for purposes of a
328 certificate of need, radiation therapy services shall not include
329 low energy, superficial, external beam x-ray treatment of
330 superficial skin lesions.

331 (s) "Secretary" means the Secretary of Health and Human
332 Services, and any officer or employee of the Department of Health
333 and Human Services to whom the authority involved has been
334 delegated.

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

340 (u) "State Health Planning and Development Agency"
341 means the agency of state government designated to perform health
342 planning and resource development programs for the State of
343 Mississippi.



344 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is
345 amended as follows:

346 41-7-191. (1) No person shall engage in any of the
347 following activities without obtaining the required certificate of
348 need:

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

353 (b) The relocation of a health care facility or portion
354 thereof, or major medical equipment, unless such relocation of a
355 health care facility or portion thereof, or major medical
356 equipment, which does not involve a capital expenditure by or on
357 behalf of a health care facility, is within five thousand two
358 hundred eighty (5,280) feet from the main entrance of the health
359 care facility;

360 (c) Any change in the existing bed complement of any
361 health care facility through the addition or conversion of any
362 beds or the alteration, modernizing or refurbishing of any unit or
363 department in which the beds may be located; however, if a health
364 care facility has voluntarily delicensed some of its existing bed
365 complement, it may later relicense some or all of its delicensed
366 beds without the necessity of having to acquire a certificate of
367 need. The State Department of Health shall maintain a record of
368 the delicensing health care facility and its voluntarily



369 delicensed beds and continue counting those beds as part of the
370 state's total bed count for health care planning purposes. If a
371 health care facility that has voluntarily delicensed some of its
372 beds later desires to relicense some or all of its voluntarily
373 delicensed beds, it shall notify the State Department of Health of
374 its intent to increase the number of its licensed beds. The State
375 Department of Health shall survey the health care facility within
376 thirty (30) days of that notice and, if appropriate, issue the
377 health care facility a new license reflecting the new contingent
378 of beds. However, in no event may a health care facility that has
379 voluntarily delicensed some of its beds be reissued a license to
380 operate beds in excess of its bed count before the voluntary
381 delicensure of some of its beds without seeking certificate of
382 need approval;

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

- 387 (i) Open-heart surgery services;
- 388 (ii) Cardiac catheterization services;
- 389 (iii) Comprehensive inpatient rehabilitation
390 services;
- 391 (iv) Licensed psychiatric services;
- 392 (v) * * * [Deleted]
- 393 (vi) Radiation therapy services;



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

396 (viii) Nursing home care as defined in * * *
397 subparagraph (iv) * * * of Section 41-7-173(h);

398 (ix) Home health services;

399 (x) Swing-bed services;

400 (xi) Ambulatory surgical services;

401 (xii) Magnetic resonance imaging services;

402 (xiii) [Deleted]

403 (xiv) Long-term care hospital services;

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

405 (e) The relocation of one or more health services from
406 one physical facility or site to another physical facility or
407 site, unless such relocation, which does not involve a capital
408 expenditure by or on behalf of a health care facility, (i) is to a
409 physical facility or site within five thousand two hundred eighty
410 (5,280) feet from the main entrance of the health care facility
411 where the health care service is located, or (ii) is the result of
412 an order of a court of appropriate jurisdiction or a result of
413 pending litigation in such court, or by order of the State
414 Department of Health, or by order of any other agency or legal
415 entity of the state, the federal government, or any political
416 subdivision of either, whose order is also approved by the State
417 Department of Health;



418 (f) The acquisition or otherwise control of any major
419 medical equipment for the provision of medical services; however,
420 (i) the acquisition of any major medical equipment used only for
421 research purposes, and (ii) the acquisition of major medical
422 equipment to replace medical equipment for which a facility is
423 already providing medical services and for which the State
424 Department of Health has been notified before the date of such
425 acquisition shall be exempt from this paragraph; an acquisition
426 for less than fair market value must be reviewed, if the
427 acquisition at fair market value would be subject to review;

428 (g) Changes of ownership of existing health care
429 facilities in which a notice of intent is not filed with the State
430 Department of Health at least thirty (30) days prior to the date
431 such change of ownership occurs, or a change in services or bed
432 capacity as prescribed in paragraph (c) or (d) of this subsection
433 as a result of the change of ownership; an acquisition for less
434 than fair market value must be reviewed, if the acquisition at
435 fair market value would be subject to review;

436 (h) The change of ownership of any health care facility
437 defined in * * * subparagraph (viii) of Section 41-7-173(h), in
438 which a notice of intent as described in paragraph (g) has not
439 been filed and if the Executive Director, Division of Medicaid,
440 Office of the Governor, has not certified in writing that there
441 will be no increase in allowable costs to Medicaid from



442 revaluation of the assets or from increased interest and
443 depreciation as a result of the proposed change of ownership;

444 (i) Any activity described in paragraphs (a) through
445 (h) if undertaken by any person if that same activity would
446 require certificate of need approval if undertaken by a health
447 care facility;

448 (j) Any capital expenditure or deferred capital
449 expenditure by or on behalf of a health care facility not covered
450 by paragraphs (a) through (h);

451 (k) The contracting of a health care facility as
452 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
453 to establish a home office, subunit, or branch office in the space
454 operated as a health care facility through a formal arrangement
455 with an existing health care facility as defined in subparagraph
456 (ix) of Section 41-7-173(h);

457 (l) The replacement or relocation of a health care
458 facility designated as a critical access hospital shall be exempt
459 from subsection (1) of this section so long as the critical access
460 hospital complies with all applicable federal law and regulations
461 regarding such replacement or relocation;

462 (m) Reopening a health care facility that has ceased to
463 operate for a period of sixty (60) months or more, which reopening
464 requires a certificate of need for the establishment of a new
465 health care facility.



466 (2) The State Department of Health shall not grant approval
467 for or issue a certificate of need to any person proposing the new
468 construction of, addition to, or expansion of any health care
469 facility defined in * * * subparagraph (iv) (skilled nursing
470 facility) * * * of Section 41-7-173(h) or the conversion of vacant
471 hospital beds to provide skilled * * * nursing home care, except
472 as hereinafter authorized:

473 (a) The department may issue a certificate of need to
474 any person proposing the new construction of any health care
475 facility defined in subparagraphs (iv) and (vi) of Section
476 41-7-173(h) as part of a life care retirement facility, in any
477 county bordering on the Gulf of Mexico in which is located a
478 National Aeronautics and Space Administration facility, not to
479 exceed forty (40) beds. From and after July 1, 1999, there shall
480 be no prohibition or restrictions on participation in the Medicaid
481 program (Section 43-13-101 et seq.) for the beds in the health
482 care facility that were authorized under this paragraph (a).

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



490 (c) The department may issue a certificate of need for
491 the addition to or expansion of any skilled nursing facility that
492 is part of an existing continuing care retirement community
493 located in Madison County, provided that the recipient of the
494 certificate of need agrees in writing that the skilled nursing
495 facility will not at any time participate in the Medicaid program
496 (Section 43-13-101 et seq.) or admit or keep any patients in the
497 skilled nursing facility who are participating in the Medicaid
498 program. This written agreement by the recipient of the
499 certificate of need shall be fully binding on any subsequent owner
500 of the skilled nursing facility, if the ownership of the facility
501 is transferred at any time after the issuance of the certificate
502 of need. Agreement that the skilled nursing facility will not
503 participate in the Medicaid program shall be a condition of the
504 issuance of a certificate of need to any person under this
505 paragraph (c), and if such skilled nursing facility at any time
506 after the issuance of the certificate of need, regardless of the
507 ownership of the facility, participates in the Medicaid program or
508 admits or keeps any patients in the facility who are participating
509 in the Medicaid program, the State Department of Health shall
510 revoke the certificate of need, if it is still outstanding, and
511 shall deny or revoke the license of the skilled nursing facility,
512 at the time that the department determines, after a hearing
513 complying with due process, that the facility has failed to comply
514 with any of the conditions upon which the certificate of need was



515 issued, as provided in this paragraph and in the written agreement
516 by the recipient of the certificate of need. The total number of
517 beds that may be authorized under the authority of this paragraph
518 (c) shall not exceed sixty (60) beds.

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

527 (e) The State Department of Health may issue a
528 certificate of need for the construction of a nursing facility or
529 the conversion of beds to nursing facility beds at a personal care
530 facility for the elderly in Lowndes County that is owned and
531 operated by a Mississippi nonprofit corporation, not to exceed
532 sixty (60) beds. From and after July 1, 1999, there shall be no
533 prohibition or restrictions on participation in the Medicaid
534 program (Section 43-13-101 et seq.) for the beds in the nursing
535 facility that were authorized under this paragraph (e).

536 (f) The State Department of Health may issue a
537 certificate of need for conversion of a county hospital facility
538 in Itawamba County to a nursing facility, not to exceed sixty (60)
539 beds, including any necessary construction, renovation or



540 expansion. From and after July 1, 1999, there shall be no
541 prohibition or restrictions on participation in the Medicaid
542 program (Section 43-13-101 et seq.) for the beds in the nursing
543 facility that were authorized under this paragraph (f).

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

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

560 (i) The department may issue a certificate of need for
561 the new construction of a skilled nursing facility in Leake
562 County, provided that the recipient of the certificate of need
563 agrees in writing that the skilled nursing facility will not at
564 any time participate in the Medicaid program (Section 43-13-101 et



565 seq.) or admit or keep any patients in the skilled nursing
566 facility who are participating in the Medicaid program. This
567 written agreement by the recipient of the certificate of need
568 shall be fully binding on any subsequent owner of the skilled
569 nursing facility, if the ownership of the facility is transferred
570 at any time after the issuance of the certificate of need.
571 Agreement that the skilled nursing facility will not participate
572 in the Medicaid program shall be a condition of the issuance of a
573 certificate of need to any person under this paragraph (i), and if
574 such skilled nursing facility at any time after the issuance of
575 the certificate of need, regardless of the ownership of the
576 facility, participates in the Medicaid program or admits or keeps
577 any patients in the facility who are participating in the Medicaid
578 program, the State Department of Health shall revoke the
579 certificate of need, if it is still outstanding, and shall deny or
580 revoke the license of the skilled nursing facility, at the time
581 that the department determines, after a hearing complying with due
582 process, that the facility has failed to comply with any of the
583 conditions upon which the certificate of need was issued, as
584 provided in this paragraph and in the written agreement by the
585 recipient of the certificate of need. The provision of Section
586 41-7-193(1) regarding substantial compliance of the projection of
587 need as reported in the current State Health Plan is waived for
588 the purposes of this paragraph. The total number of nursing
589 facility beds that may be authorized by any certificate of need



590 issued under this paragraph (i) shall not exceed sixty (60) beds.
591 If the skilled nursing facility authorized by the certificate of
592 need issued under this paragraph is not constructed and fully
593 operational within eighteen (18) months after July 1, 1994, the
594 State Department of Health, after a hearing complying with due
595 process, shall revoke the certificate of need, if it is still
596 outstanding, and shall not issue a license for the skilled nursing
597 facility at any time after the expiration of the eighteen-month
598 period.

599 (j) The department may issue certificates of need to
600 allow any existing freestanding long-term care facility in
601 Tishomingo County and Hancock County that on July 1, 1995, is
602 licensed with fewer than sixty (60) beds. For the purposes of
603 this paragraph (j), the provisions of Section 41-7-193(1)
604 requiring substantial compliance with the projection of need as
605 reported in the current State Health Plan are waived. From and
606 after July 1, 1999, there shall be no prohibition or restrictions
607 on participation in the Medicaid program (Section 43-13-101 et
608 seq.) for the beds in the long-term care facilities that were
609 authorized under this paragraph (j).

610 (k) The department may issue a certificate of need for
611 the construction of a nursing facility at a continuing care
612 retirement community in Lowndes County. The total number of beds
613 that may be authorized under the authority of this paragraph (k)
614 shall not exceed sixty (60) beds. From and after July 1, 2001,



615 the prohibition on the facility participating in the Medicaid
616 program (Section 43-13-101 et seq.) that was a condition of
617 issuance of the certificate of need under this paragraph (k) shall
618 be revised as follows: The nursing facility may participate in
619 the Medicaid program from and after July 1, 2001, if the owner of
620 the facility on July 1, 2001, agrees in writing that no more than
621 thirty (30) of the beds at the facility will be certified for
622 participation in the Medicaid program, and that no claim will be
623 submitted for Medicaid reimbursement for more than thirty (30)
624 patients in the facility in any month or for any patient in the
625 facility who is in a bed that is not Medicaid-certified. This
626 written agreement by the owner of the facility shall be a
627 condition of licensure of the facility, and the agreement shall be
628 fully binding on any subsequent owner of the facility if the
629 ownership of the facility is transferred at any time after July 1,
630 2001. After this written agreement is executed, the Division of
631 Medicaid and the State Department of Health shall not certify more
632 than thirty (30) of the beds in the facility for participation in
633 the Medicaid program. If the facility violates the terms of the
634 written agreement by admitting or keeping in the facility on a
635 regular or continuing basis more than thirty (30) patients who are
636 participating in the Medicaid program, the State Department of
637 Health shall revoke the license of the facility, at the time that
638 the department determines, after a hearing complying with due
639 process, that the facility has violated the written agreement.



640 (1) Provided that funds are specifically appropriated
641 therefor by the Legislature, the department may issue a
642 certificate of need to a rehabilitation hospital in Hinds County
643 for the construction of a sixty-bed long-term care nursing
644 facility dedicated to the care and treatment of persons with
645 severe disabilities including persons with spinal cord and
646 closed-head injuries and ventilator dependent patients. The
647 provisions of Section 41-7-193(1) regarding substantial compliance
648 with projection of need as reported in the current State Health
649 Plan are waived for the purpose of this paragraph.

650 (m) The State Department of Health may issue a
651 certificate of need to a county-owned hospital in the Second
652 Judicial District of Panola County for the conversion of not more
653 than seventy-two (72) hospital beds to nursing facility beds,
654 provided that the recipient of the certificate of need agrees in
655 writing that none of the beds at the nursing facility will be
656 certified for participation in the Medicaid program (Section
657 43-13-101 et seq.), and that no claim will be submitted for
658 Medicaid reimbursement in the nursing facility in any day or for
659 any patient in the nursing facility. This written agreement by
660 the recipient of the certificate of need shall be a condition of
661 the issuance of the certificate of need under this paragraph, and
662 the agreement shall be fully binding on any subsequent owner of
663 the nursing facility if the ownership of the nursing facility is
664 transferred at any time after the issuance of the certificate of



665 need. After this written agreement is executed, the Division of
666 Medicaid and the State Department of Health shall not certify any
667 of the beds in the nursing facility for participation in the
668 Medicaid program. If the nursing facility violates the terms of
669 the written agreement by admitting or keeping in the nursing
670 facility on a regular or continuing basis any patients who are
671 participating in the Medicaid program, the State Department of
672 Health shall revoke the license of the nursing facility, at the
673 time that the department determines, after a hearing complying
674 with due process, that the nursing facility has violated the
675 condition upon which the certificate of need was issued, as
676 provided in this paragraph and in the written agreement. If the
677 certificate of need authorized under this paragraph is not issued
678 within twelve (12) months after July 1, 2001, the department shall
679 deny the application for the certificate of need and shall not
680 issue the certificate of need at any time after the twelve-month
681 period, unless the issuance is contested. If the certificate of
682 need is issued and substantial construction of the nursing
683 facility beds has not commenced within eighteen (18) months after
684 July 1, 2001, the State Department of Health, after a hearing
685 complying with due process, shall revoke the certificate of need
686 if it is still outstanding, and the department shall not issue a
687 license for the nursing facility at any time after the
688 eighteen-month period. However, if the issuance of the
689 certificate of need is contested, the department shall require



690 substantial construction of the nursing facility beds within six
691 (6) months after final adjudication on the issuance of the
692 certificate of need.

693 (n) The department may issue a certificate of need for
694 the new construction, addition or conversion of skilled nursing
695 facility beds in Madison County, provided that the recipient of
696 the certificate of need agrees in writing that the skilled nursing
697 facility will not at any time participate in the Medicaid program
698 (Section 43-13-101 et seq.) or admit or keep any patients in the
699 skilled nursing facility who are participating in the Medicaid
700 program. This written agreement by the recipient of the
701 certificate of need shall be fully binding on any subsequent owner
702 of the skilled nursing facility, if the ownership of the facility
703 is transferred at any time after the issuance of the certificate
704 of need. Agreement that the skilled nursing facility will not
705 participate in the Medicaid program shall be a condition of the
706 issuance of a certificate of need to any person under this
707 paragraph (n), and if such skilled nursing facility at any time
708 after the issuance of the certificate of need, regardless of the
709 ownership of the facility, participates in the Medicaid program or
710 admits or keeps any patients in the facility who are participating
711 in the Medicaid program, the State Department of Health shall
712 revoke the certificate of need, if it is still outstanding, and
713 shall deny or revoke the license of the skilled nursing facility,
714 at the time that the department determines, after a hearing



715 complying with due process, that the facility has failed to comply
716 with any of the conditions upon which the certificate of need was
717 issued, as provided in this paragraph and in the written agreement
718 by the recipient of the certificate of need. The total number of
719 nursing facility beds that may be authorized by any certificate of
720 need issued under this paragraph (n) shall not exceed sixty (60)
721 beds. If the certificate of need authorized under this paragraph
722 is not issued within twelve (12) months after July 1, 1998, the
723 department shall deny the application for the certificate of need
724 and shall not issue the certificate of need at any time after the
725 twelve-month period, unless the issuance is contested. If the
726 certificate of need is issued and substantial construction of the
727 nursing facility beds has not commenced within eighteen (18)
728 months after July 1, 1998, the State Department of Health, after a
729 hearing complying with due process, shall revoke the certificate
730 of need if it is still outstanding, and the department shall not
731 issue a license for the nursing facility at any time after the
732 eighteen-month period. However, if the issuance of the
733 certificate of need is contested, the department shall require
734 substantial construction of the nursing facility beds within six
735 (6) months after final adjudication on the issuance of the
736 certificate of need.

737 (o) The department may issue a certificate of need for
738 the new construction, addition or conversion of skilled nursing
739 facility beds in Leake County, provided that the recipient of the



740 certificate of need agrees in writing that the skilled nursing
741 facility will not at any time participate in the Medicaid program
742 (Section 43-13-101 et seq.) or admit or keep any patients in the
743 skilled nursing facility who are participating in the Medicaid
744 program. This written agreement by the recipient of the
745 certificate of need shall be fully binding on any subsequent owner
746 of the skilled nursing facility, if the ownership of the facility
747 is transferred at any time after the issuance of the certificate
748 of need. Agreement that the skilled nursing facility will not
749 participate in the Medicaid program shall be a condition of the
750 issuance of a certificate of need to any person under this
751 paragraph (o), and if such skilled nursing facility at any time
752 after the issuance of the certificate of need, regardless of the
753 ownership of the facility, participates in the Medicaid program or
754 admits or keeps any patients in the facility who are participating
755 in the Medicaid program, the State Department of Health shall
756 revoke the certificate of need, if it is still outstanding, and
757 shall deny or revoke the license of the skilled nursing facility,
758 at the time that the department determines, after a hearing
759 complying with due process, that the facility has failed to comply
760 with any of the conditions upon which the certificate of need was
761 issued, as provided in this paragraph and in the written agreement
762 by the recipient of the certificate of need. The total number of
763 nursing facility beds that may be authorized by any certificate of
764 need issued under this paragraph (o) shall not exceed sixty (60)



765 beds. If the certificate of need authorized under this paragraph
766 is not issued within twelve (12) months after July 1, 2001, the
767 department shall deny the application for the certificate of need
768 and shall not issue the certificate of need at any time after the
769 twelve-month period, unless the issuance is contested. If the
770 certificate of need is issued and substantial construction of the
771 nursing facility beds has not commenced within eighteen (18)
772 months after July 1, 2001, the State Department of Health, after a
773 hearing complying with due process, shall revoke the certificate
774 of need if it is still outstanding, and the department shall not
775 issue a license for the nursing facility at any time after the
776 eighteen-month period. However, if the issuance of the
777 certificate of need is contested, the department shall require
778 substantial construction of the nursing facility beds within six
779 (6) months after final adjudication on the issuance of the
780 certificate of need.

781 (p) The department may issue a certificate of need for
782 the construction of a municipally owned nursing facility within
783 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
784 beds, provided that the recipient of the certificate of need
785 agrees in writing that the skilled nursing facility will not at
786 any time participate in the Medicaid program (Section 43-13-101 et
787 seq.) or admit or keep any patients in the skilled nursing
788 facility who are participating in the Medicaid program. This
789 written agreement by the recipient of the certificate of need



790 shall be fully binding on any subsequent owner of the skilled
791 nursing facility, if the ownership of the facility is transferred
792 at any time after the issuance of the certificate of need.
793 Agreement that the skilled nursing facility will not participate
794 in the Medicaid program shall be a condition of the issuance of a
795 certificate of need to any person under this paragraph (p), and if
796 such skilled nursing facility at any time after the issuance of
797 the certificate of need, regardless of the ownership of the
798 facility, participates in the Medicaid program or admits or keeps
799 any patients in the facility who are participating in the Medicaid
800 program, the State Department of Health shall revoke the
801 certificate of need, if it is still outstanding, and shall deny or
802 revoke the license of the skilled nursing facility, at the time
803 that the department determines, after a hearing complying with due
804 process, that the facility has failed to comply with any of the
805 conditions upon which the certificate of need was issued, as
806 provided in this paragraph and in the written agreement by the
807 recipient of the certificate of need. The provision of Section
808 41-7-193(1) regarding substantial compliance of the projection of
809 need as reported in the current State Health Plan is waived for
810 the purposes of this paragraph. If the certificate of need
811 authorized under this paragraph is not issued within twelve (12)
812 months after July 1, 1998, the department shall deny the
813 application for the certificate of need and shall not issue the
814 certificate of need at any time after the twelve-month period,



815 unless the issuance is contested. If the certificate of need is
816 issued and substantial construction of the nursing facility beds
817 has not commenced within eighteen (18) months after July 1, 1998,
818 the State Department of Health, after a hearing complying with due
819 process, shall revoke the certificate of need if it is still
820 outstanding, and the department shall not issue a license for the
821 nursing facility at any time after the eighteen-month period.
822 However, if the issuance of the certificate of need is contested,
823 the department shall require substantial construction of the
824 nursing facility beds within six (6) months after final
825 adjudication on the issuance of the certificate of need.

826 (q) (i) Beginning on July 1, 1999, the State
827 Department of Health shall issue certificates of need during each
828 of the next four (4) fiscal years for the construction or
829 expansion of nursing facility beds or the conversion of other beds
830 to nursing facility beds in each county in the state having a need
831 for fifty (50) or more additional nursing facility beds, as shown
832 in the fiscal year 1999 State Health Plan, in the manner provided
833 in this paragraph (q). The total number of nursing facility beds
834 that may be authorized by any certificate of need authorized under
835 this paragraph (q) shall not exceed sixty (60) beds.

836 (ii) Subject to the provisions of subparagraph
837 (v), during each of the next four (4) fiscal years, the department
838 shall issue six (6) certificates of need for new nursing facility
839 beds, as follows: During fiscal years 2000, 2001 and 2002, one



840 (1) certificate of need shall be issued for new nursing facility
841 beds in the county in each of the four (4) Long-Term Care Planning
842 Districts designated in the fiscal year 1999 State Health Plan
843 that has the highest need in the district for those beds; and two
844 (2) certificates of need shall be issued for new nursing facility
845 beds in the two (2) counties from the state at large that have the
846 highest need in the state for those beds, when considering the
847 need on a statewide basis and without regard to the Long-Term Care
848 Planning Districts in which the counties are located. During
849 fiscal year 2003, one (1) certificate of need shall be issued for
850 new nursing facility beds in any county having a need for fifty
851 (50) or more additional nursing facility beds, as shown in the
852 fiscal year 1999 State Health Plan, that has not received a
853 certificate of need under this paragraph (q) during the three (3)
854 previous fiscal years. During fiscal year 2000, in addition to
855 the six (6) certificates of need authorized in this subparagraph,
856 the department also shall issue a certificate of need for new
857 nursing facility beds in Amite County and a certificate of need
858 for new nursing facility beds in Carroll County.

859 (iii) Subject to the provisions of subparagraph
860 (v), the certificate of need issued under subparagraph (ii) for
861 nursing facility beds in each Long-Term Care Planning District
862 during each fiscal year shall first be available for nursing
863 facility beds in the county in the district having the highest
864 need for those beds, as shown in the fiscal year 1999 State Health



865 Plan. If there are no applications for a certificate of need for
866 nursing facility beds in the county having the highest need for
867 those beds by the date specified by the department, then the
868 certificate of need shall be available for nursing facility beds
869 in other counties in the district in descending order of the need
870 for those beds, from the county with the second highest need to
871 the county with the lowest need, until an application is received
872 for nursing facility beds in an eligible county in the district.

873 (iv) Subject to the provisions of subparagraph
874 (v), the certificate of need issued under subparagraph (ii) for
875 nursing facility beds in the two (2) counties from the state at
876 large during each fiscal year shall first be available for nursing
877 facility beds in the two (2) counties that have the highest need
878 in the state for those beds, as shown in the fiscal year 1999
879 State Health Plan, when considering the need on a statewide basis
880 and without regard to the Long-Term Care Planning Districts in
881 which the counties are located. If there are no applications for
882 a certificate of need for nursing facility beds in either of the
883 two (2) counties having the highest need for those beds on a
884 statewide basis by the date specified by the department, then the
885 certificate of need shall be available for nursing facility beds
886 in other counties from the state at large in descending order of
887 the need for those beds on a statewide basis, from the county with
888 the second highest need to the county with the lowest need, until



889 an application is received for nursing facility beds in an
890 eligible county from the state at large.

891 (v) If a certificate of need is authorized to be
892 issued under this paragraph (q) for nursing facility beds in a
893 county on the basis of the need in the Long-Term Care Planning
894 District during any fiscal year of the four-year period, a
895 certificate of need shall not also be available under this
896 paragraph (q) for additional nursing facility beds in that county
897 on the basis of the need in the state at large, and that county
898 shall be excluded in determining which counties have the highest
899 need for nursing facility beds in the state at large for that
900 fiscal year. After a certificate of need has been issued under
901 this paragraph (q) for nursing facility beds in a county during
902 any fiscal year of the four-year period, a certificate of need
903 shall not be available again under this paragraph (q) for
904 additional nursing facility beds in that county during the
905 four-year period, and that county shall be excluded in determining
906 which counties have the highest need for nursing facility beds in
907 succeeding fiscal years.

908 (vi) If more than one (1) application is made for
909 a certificate of need for nursing home facility beds available
910 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
911 County, and one (1) of the applicants is a county-owned hospital
912 located in the county where the nursing facility beds are
913 available, the department shall give priority to the county-owned



914 hospital in granting the certificate of need if the following
915 conditions are met:

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

919 2. The county-owned hospital's qualifications
920 for the certificate of need, as shown in its application and as
921 determined by the department, are at least equal to the
922 qualifications of the other applicants for the certificate of
923 need.

924 (r) (i) Beginning on July 1, 1999, the State
925 Department of Health shall issue certificates of need during each
926 of the next two (2) fiscal years for the construction or expansion
927 of nursing facility beds or the conversion of other beds to
928 nursing facility beds in each of the four (4) Long-Term Care
929 Planning Districts designated in the fiscal year 1999 State Health
930 Plan, to provide care exclusively to patients with Alzheimer's
931 disease.

932 (ii) Not more than twenty (20) beds may be
933 authorized by any certificate of need issued under this paragraph
934 (r), and not more than a total of sixty (60) beds may be
935 authorized in any Long-Term Care Planning District by all
936 certificates of need issued under this paragraph (r). However,
937 the total number of beds that may be authorized by all
938 certificates of need issued under this paragraph (r) during any



939 fiscal year shall not exceed one hundred twenty (120) beds, and
940 the total number of beds that may be authorized in any Long-Term
941 Care Planning District during any fiscal year shall not exceed
942 forty (40) beds. Of the certificates of need that are issued for
943 each Long-Term Care Planning District during the next two (2)
944 fiscal years, at least one (1) shall be issued for beds in the
945 northern part of the district, at least one (1) shall be issued
946 for beds in the central part of the district, and at least one (1)
947 shall be issued for beds in the southern part of the district.

948 (iii) The State Department of Health, in
949 consultation with the Department of Mental Health and the Division
950 of Medicaid, shall develop and prescribe the staffing levels,
951 space requirements and other standards and requirements that must
952 be met with regard to the nursing facility beds authorized under
953 this paragraph (r) to provide care exclusively to patients with
954 Alzheimer's disease.

955 (s) The State Department of Health may issue a
956 certificate of need to a nonprofit skilled nursing facility using
957 the Green House model of skilled nursing care and located in Yazoo
958 City, Yazoo County, Mississippi, for the construction, expansion
959 or conversion of not more than nineteen (19) nursing facility
960 beds. For purposes of this paragraph (s), the provisions of
961 Section 41-7-193(1) requiring substantial compliance with the
962 projection of need as reported in the current State Health Plan
963 and the provisions of Section 41-7-197 requiring a formal



964 certificate of need hearing process are waived. There shall be no
965 prohibition or restrictions on participation in the Medicaid
966 program for the person receiving the certificate of need
967 authorized under this paragraph (s).

968 (t) The State Department of Health shall issue
969 certificates of need to the owner of a nursing facility in
970 operation at the time of Hurricane Katrina in Hancock County that
971 was not operational on December 31, 2005, because of damage
972 sustained from Hurricane Katrina to authorize the following: (i)
973 the construction of a new nursing facility in Harrison County;
974 (ii) the relocation of forty-nine (49) nursing facility beds from
975 the Hancock County facility to the new Harrison County facility;
976 (iii) the establishment of not more than twenty (20) non-Medicaid
977 nursing facility beds at the Hancock County facility; and (iv) the
978 establishment of not more than twenty (20) non-Medicaid beds at
979 the new Harrison County facility. The certificates of need that
980 authorize the non-Medicaid nursing facility beds under
981 subparagraphs (iii) and (iv) of this paragraph (t) shall be
982 subject to the following conditions: The owner of the Hancock
983 County facility and the new Harrison County facility must agree in
984 writing that no more than fifty (50) of the beds at the Hancock
985 County facility and no more than forty-nine (49) of the beds at
986 the Harrison County facility will be certified for participation
987 in the Medicaid program, and that no claim will be submitted for
988 Medicaid reimbursement for more than fifty (50) patients in the



989 Hancock County facility in any month, or for more than forty-nine
990 (49) patients in the Harrison County facility in any month, or for
991 any patient in either facility who is in a bed that is not
992 Medicaid-certified. This written agreement by the owner of the
993 nursing facilities shall be a condition of the issuance of the
994 certificates of need under this paragraph (t), and the agreement
995 shall be fully binding on any later owner or owners of either
996 facility if the ownership of either facility is transferred at any
997 time after the certificates of need are issued. After this
998 written agreement is executed, the Division of Medicaid and the
999 State Department of Health shall not certify more than fifty (50)
1000 of the beds at the Hancock County facility or more than forty-nine
1001 (49) of the beds at the Harrison County facility for participation
1002 in the Medicaid program. If the Hancock County facility violates
1003 the terms of the written agreement by admitting or keeping in the
1004 facility on a regular or continuing basis more than fifty (50)
1005 patients who are participating in the Medicaid program, or if the
1006 Harrison County facility violates the terms of the written
1007 agreement by admitting or keeping in the facility on a regular or
1008 continuing basis more than forty-nine (49) patients who are
1009 participating in the Medicaid program, the State Department of
1010 Health shall revoke the license of the facility that is in
1011 violation of the agreement, at the time that the department
1012 determines, after a hearing complying with due process, that the
1013 facility has violated the agreement.



1014 (u) The State Department of Health shall issue a
1015 certificate of need to a nonprofit venture for the establishment,
1016 construction and operation of a skilled nursing facility of not
1017 more than sixty (60) beds to provide skilled nursing care for
1018 ventilator dependent or otherwise medically dependent pediatric
1019 patients who require medical and nursing care or rehabilitation
1020 services to be located in a county in which an academic medical
1021 center and a children's hospital are located, and for any
1022 construction and for the acquisition of equipment related to those
1023 beds. The facility shall be authorized to keep such ventilator
1024 dependent or otherwise medically dependent pediatric patients
1025 beyond age twenty-one (21) in accordance with regulations of the
1026 State Board of Health. For purposes of this paragraph (u), the
1027 provisions of Section 41-7-193(1) requiring substantial compliance
1028 with the projection of need as reported in the current State
1029 Health Plan are waived, and the provisions of Section 41-7-197
1030 requiring a formal certificate of need hearing process are waived.
1031 The beds authorized by this paragraph shall be counted as
1032 pediatric skilled nursing facility beds for health planning
1033 purposes under Section 41-7-171 et seq. There shall be no
1034 prohibition of or restrictions on participation in the Medicaid
1035 program for the person receiving the certificate of need
1036 authorized by this paragraph.

1037 (3) * * * [Deleted]



1038 (4) (a) From and after * * * July 1, 2024, the department
1039 may issue a certificate of need to any person for the new
1040 construction of any hospital * * * or psychiatric hospital * * *
1041 that will contain any child/adolescent psychiatric * * * beds, or
1042 for the conversion of any other health care facility to a
1043 hospital * * * or psychiatric hospital * * * that will contain any
1044 child/adolescent psychiatric * * * beds. There shall be no
1045 prohibition or restrictions on participation in the Medicaid
1046 program (Section 43-13-101 et seq.) for the person(s) receiving
1047 the certificate(s) of need authorized under this paragraph (a) or
1048 for the beds converted pursuant to the authority of that
1049 certificate of need. In issuing any new certificate of need for
1050 any child/adolescent psychiatric * * * beds, either by new
1051 construction or conversion of beds of another category, the
1052 department shall give preference to beds which will be located in
1053 an area of the state which does not have such beds located in it,
1054 and to a location more than sixty-five (65) miles from existing
1055 beds. Upon receiving 2020 census data, the department may amend
1056 the State Health Plan regarding child/adolescent psychiatric * * *
1057 beds to reflect the need based on new census data.

1058 (i) [Deleted]

1059 (ii) * * * [Deleted]

1060 (iii) The department may issue a certificate or
1061 certificates of need for the construction or expansion of
1062 child/adolescent psychiatric beds or the conversion of other beds



1063 to child/adolescent psychiatric beds in Warren County. For
1064 purposes of this subparagraph (iii), the provisions of Section
1065 41-7-193(1) requiring substantial compliance with the projection
1066 of need as reported in the current State Health Plan are waived.
1067 The total number of beds that may be authorized under the
1068 authority of this subparagraph shall not exceed twenty (20) beds.
1069 There shall be no prohibition or restrictions on participation in
1070 the Medicaid program (Section 43-13-101 et seq.) for the person
1071 receiving the certificate of need authorized under this
1072 subparagraph or for the beds converted pursuant to the authority
1073 of that certificate of need.

1074 If by January 1, 2002, there has been no significant
1075 commencement of construction of the beds authorized under this
1076 subparagraph (iii), or no significant action taken to convert
1077 existing beds to the beds authorized under this subparagraph, then
1078 the certificate of need that was previously issued under this
1079 subparagraph shall expire. If the previously issued certificate
1080 of need expires, the department may accept applications for
1081 issuance of another certificate of need for the beds authorized
1082 under this subparagraph, and may issue a certificate of need to
1083 authorize the construction, expansion or conversion of the beds
1084 authorized under this subparagraph.

1085 (iv) The department shall issue a certificate of
1086 need to the Region 7 Mental Health/Retardation Commission for the
1087 construction or expansion of child/adolescent psychiatric beds or



1088 the conversion of other beds to child/adolescent psychiatric beds
1089 in any of the counties served by the commission. For purposes of
1090 this subparagraph (iv), the provisions of Section 41-7-193(1)
1091 requiring substantial compliance with the projection of need as
1092 reported in the current State Health Plan are waived. The total
1093 number of beds that may be authorized under the authority of this
1094 subparagraph shall not exceed twenty (20) beds. There shall be no
1095 prohibition or restrictions on participation in the Medicaid
1096 program (Section 43-13-101 et seq.) for the person receiving the
1097 certificate of need authorized under this subparagraph or for the
1098 beds converted pursuant to the authority of that certificate of
1099 need.

1100 (v) The department may issue a certificate of need
1101 to any county hospital located in Leflore County for the
1102 construction or expansion of adult psychiatric beds or the
1103 conversion of other beds to adult psychiatric beds, not to exceed
1104 twenty (20) beds, provided that the recipient of the certificate
1105 of need agrees in writing that the adult psychiatric beds will not
1106 at any time be certified for participation in the Medicaid program
1107 and that the hospital will not admit or keep any patients who are
1108 participating in the Medicaid program in any of such adult
1109 psychiatric beds. This written agreement by the recipient of the
1110 certificate of need shall be fully binding on any subsequent owner
1111 of the hospital if the ownership of the hospital is transferred at
1112 any time after the issuance of the certificate of need. Agreement



1113 that the adult psychiatric beds will not be certified for
1114 participation in the Medicaid program shall be a condition of the
1115 issuance of a certificate of need to any person under this
1116 subparagraph (v), and if such hospital at any time after the
1117 issuance of the certificate of need, regardless of the ownership
1118 of the hospital, has any of such adult psychiatric beds certified
1119 for participation in the Medicaid program or admits or keeps any
1120 Medicaid patients in such adult psychiatric beds, the State
1121 Department of Health shall revoke the certificate of need, if it
1122 is still outstanding, and shall deny or revoke the license of the
1123 hospital at the time that the department determines, after a
1124 hearing complying with due process, that the hospital has failed
1125 to comply with any of the conditions upon which the certificate of
1126 need was issued, as provided in this subparagraph and in the
1127 written agreement by the recipient of the certificate of need.

1128 (vi) The department may issue a certificate or
1129 certificates of need for the expansion of child psychiatric beds
1130 or the conversion of other beds to child psychiatric beds at the
1131 University of Mississippi Medical Center. For purposes of this
1132 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1133 substantial compliance with the projection of need as reported in
1134 the current State Health Plan are waived. The total number of
1135 beds that may be authorized under the authority of this
1136 subparagraph shall not exceed fifteen (15) beds. There shall be
1137 no prohibition or restrictions on participation in the Medicaid



1138 program (Section 43-13-101 et seq.) for the hospital receiving the
1139 certificate of need authorized under this subparagraph or for the
1140 beds converted pursuant to the authority of that certificate of
1141 need.

1142 (b) From and after July 1, * * * 2024, no
1143 hospital * * * or psychiatric hospital * * * shall be authorized
1144 to add any child/adolescent psychiatric * * * beds or convert any
1145 beds of another category to child/adolescent psychiatric * * *
1146 beds without a certificate of need under the authority of
1147 subsection (1) (c) and subsection (4) (a) of this section.

1148 (5) The department may issue a certificate of need to a
1149 county hospital in Winston County for the conversion of fifteen
1150 (15) acute care beds to geriatric psychiatric care beds.

1151 (6) The State Department of Health shall issue a certificate
1152 of need to a Mississippi corporation qualified to manage a
1153 long-term care hospital as defined in Section 41-7-173(h) (xii) in
1154 Harrison County, not to exceed eighty (80) beds, including any
1155 necessary renovation or construction required for licensure and
1156 certification, provided that the recipient of the certificate of
1157 need agrees in writing that the long-term care hospital will not
1158 at any time participate in the Medicaid program (Section 43-13-101
1159 et seq.) or admit or keep any patients in the long-term care
1160 hospital who are participating in the Medicaid program. This
1161 written agreement by the recipient of the certificate of need
1162 shall be fully binding on any subsequent owner of the long-term



1163 care hospital, if the ownership of the facility is transferred at
1164 any time after the issuance of the certificate of need. Agreement
1165 that the long-term care hospital will not participate in the
1166 Medicaid program shall be a condition of the issuance of a
1167 certificate of need to any person under this subsection (6), and
1168 if such long-term care hospital at any time after the issuance of
1169 the certificate of need, regardless of the ownership of the
1170 facility, participates in the Medicaid program or admits or keeps
1171 any patients in the facility who are participating in the Medicaid
1172 program, the State Department of Health shall revoke the
1173 certificate of need, if it is still outstanding, and shall deny or
1174 revoke the license of the long-term care hospital, at the time
1175 that the department determines, after a hearing complying with due
1176 process, that the facility has failed to comply with any of the
1177 conditions upon which the certificate of need was issued, as
1178 provided in this subsection and in the written agreement by the
1179 recipient of the certificate of need. For purposes of this
1180 subsection, the provisions of Section 41-7-193(1) requiring
1181 substantial compliance with the projection of need as reported in
1182 the current State Health Plan are waived.

1183 (7) The State Department of Health may issue a certificate
1184 of need to any hospital in the state to utilize a portion of its
1185 beds for the "swing-bed" concept. Any such hospital must be in
1186 conformance with the federal regulations regarding such swing-bed
1187 concept at the time it submits its application for a certificate



1188 of need to the State Department of Health, except that such
1189 hospital may have more licensed beds or a higher average daily
1190 census (ADC) than the maximum number specified in federal
1191 regulations for participation in the swing-bed program. Any
1192 hospital meeting all federal requirements for participation in the
1193 swing-bed program which receives such certificate of need shall
1194 render services provided under the swing-bed concept to any
1195 patient eligible for Medicare (Title XVIII of the Social Security
1196 Act) who is certified by a physician to be in need of such
1197 services, and no such hospital shall permit any patient who is
1198 eligible for both Medicaid and Medicare or eligible only for
1199 Medicaid to stay in the swing beds of the hospital for more than
1200 thirty (30) days per admission unless the hospital receives prior
1201 approval for such patient from the Division of Medicaid, Office of
1202 the Governor. Any hospital having more licensed beds or a higher
1203 average daily census (ADC) than the maximum number specified in
1204 federal regulations for participation in the swing-bed program
1205 which receives such certificate of need shall develop a procedure
1206 to ensure that before a patient is allowed to stay in the swing
1207 beds of the hospital, there are no vacant nursing home beds
1208 available for that patient located within a fifty-mile radius of
1209 the hospital. When any such hospital has a patient staying in the
1210 swing beds of the hospital and the hospital receives notice from a
1211 nursing home located within such radius that there is a vacant bed
1212 available for that patient, the hospital shall transfer the



1213 patient to the nursing home within a reasonable time after receipt
1214 of the notice. Any hospital which is subject to the requirements
1215 of the two (2) preceding sentences of this subsection may be
1216 suspended from participation in the swing-bed program for a
1217 reasonable period of time by the State Department of Health if the
1218 department, after a hearing complying with due process, determines
1219 that the hospital has failed to comply with any of those
1220 requirements.

1221 (8) * * * [Deleted]

1222 (9) The Department of Health shall not grant approval for or
1223 issue a certificate of need to any person proposing the
1224 establishment of, or expansion of the currently approved territory
1225 of, or the contracting to establish a home office, subunit or
1226 branch office within the space operated as a health care facility
1227 as defined in Section 41-7-173(h)(i) through (viii) by a health
1228 care facility as defined in subparagraph (ix) of Section
1229 41-7-173(h).

1230 (10) Health care facilities owned and/or operated by the
1231 state or its agencies are exempt from the restraints in this
1232 section against issuance of a certificate of need if such addition
1233 or expansion consists of repairing or renovation necessary to
1234 comply with the state licensure law. This exception shall not
1235 apply to the new construction of any building by such state
1236 facility. This exception shall not apply to any health care
1237 facilities owned and/or operated by counties, municipalities,



1238 districts, unincorporated areas, other defined persons, or any
1239 combination thereof.

1240 (11) The new construction, renovation or expansion of or
1241 addition to any health care facility defined in subparagraph (ii)
1242 (psychiatric hospital) * * * and subparagraph (iv) (skilled
1243 nursing facility) * * * of Section 41-7-173(h) which is owned by
1244 the State of Mississippi and under the direction and control of
1245 the State Department of Mental Health, and the addition of new
1246 beds or the conversion of beds from one category to another in any
1247 such defined health care facility which is owned by the State of
1248 Mississippi and under the direction and control of the State
1249 Department of Mental Health, shall not require the issuance of a
1250 certificate of need under Section 41-7-171 et seq.,
1251 notwithstanding any provision in Section 41-7-171 et seq. to the
1252 contrary.

1253 (12) The new construction, renovation or expansion of or
1254 addition to any veterans homes or domiciliaries for eligible
1255 veterans of the State of Mississippi as authorized under Section
1256 35-1-19 shall not require the issuance of a certificate of need,
1257 notwithstanding any provision in Section 41-7-171 et seq. to the
1258 contrary.

1259 (13) The repair or the rebuilding of an existing, operating
1260 health care facility that sustained significant damage from a
1261 natural disaster that occurred after April 15, 2014, in an area
1262 that is proclaimed a disaster area or subject to a state of



1263 emergency by the Governor or by the President of the United States
1264 shall be exempt from all of the requirements of the Mississippi
1265 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1266 rules and regulations promulgated under that law, subject to the
1267 following conditions:

1268 (a) The repair or the rebuilding of any such damaged
1269 health care facility must be within one (1) mile of the
1270 pre-disaster location of the campus of the damaged health care
1271 facility, except that any temporary post-disaster health care
1272 facility operating location may be within five (5) miles of the
1273 pre-disaster location of the damaged health care facility;

1274 (b) The repair or the rebuilding of the damaged health
1275 care facility (i) does not increase or change the complement of
1276 its bed capacity that it had before the Governor's or the
1277 President's proclamation, (ii) does not increase or change its
1278 levels and types of health care services that it provided before
1279 the Governor's or the President's proclamation, and (iii) does not
1280 rebuild in a different county; however, this paragraph does not
1281 restrict or prevent a health care facility from decreasing its bed
1282 capacity that it had before the Governor's or the President's
1283 proclamation, or from decreasing the levels of or decreasing or
1284 eliminating the types of health care services that it provided
1285 before the Governor's or the President's proclamation, when the
1286 damaged health care facility is repaired or rebuilt;



1287 (c) The exemption from Certificate of Need Law provided
1288 under this subsection (13) is valid for only five (5) years from
1289 the date of the Governor's or the President's proclamation. If
1290 actual construction has not begun within that five-year period,
1291 the exemption provided under this subsection is inapplicable; and

1292 (d) The Division of Health Facilities Licensure and
1293 Certification of the State Department of Health shall provide the
1294 same oversight for the repair or the rebuilding of the damaged
1295 health care facility that it provides to all health care facility
1296 construction projects in the state.

1297 For the purposes of this subsection (13), "significant
1298 damage" to a health care facility means damage to the health care
1299 facility requiring an expenditure of at least One Million Dollars
1300 (\$1,000,000.00).

1301 (14) The State Department of Health shall issue a
1302 certificate of need to any hospital which is currently licensed
1303 for two hundred fifty (250) or more acute care beds and is located
1304 in any general hospital service area not having a comprehensive
1305 cancer center, for the establishment and equipping of such a
1306 center which provides facilities and services for outpatient
1307 radiation oncology therapy, outpatient medical oncology therapy,
1308 and appropriate support services including the provision of
1309 radiation therapy services. The provisions of Section 41-7-193(1)
1310 regarding substantial compliance with the projection of need as



1311 reported in the current State Health Plan are waived for the
1312 purpose of this subsection.

1313 (15) The State Department of Health may authorize the
1314 transfer of hospital beds, not to exceed sixty (60) beds, from the
1315 North Panola Community Hospital to the South Panola Community
1316 Hospital. The authorization for the transfer of those beds shall
1317 be exempt from the certificate of need review process.

1318 (16) The State Department of Health shall issue any
1319 certificates of need necessary for Mississippi State University
1320 and a public or private health care provider to jointly acquire
1321 and operate a linear accelerator and a magnetic resonance imaging
1322 unit. Those certificates of need shall cover all capital
1323 expenditures related to the project between Mississippi State
1324 University and the health care provider, including, but not
1325 limited to, the acquisition of the linear accelerator, the
1326 magnetic resonance imaging unit and other radiological modalities;
1327 the offering of linear accelerator and magnetic resonance imaging
1328 services; and the cost of construction of facilities in which to
1329 locate these services. The linear accelerator and the magnetic
1330 resonance imaging unit shall be (a) located in the City of
1331 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1332 Mississippi State University and the public or private health care
1333 provider selected by Mississippi State University through a
1334 request for proposals (RFP) process in which Mississippi State
1335 University selects, and the Board of Trustees of State



1336 Institutions of Higher Learning approves, the health care provider
1337 that makes the best overall proposal; (c) available to Mississippi
1338 State University for research purposes two-thirds (2/3) of the
1339 time that the linear accelerator and magnetic resonance imaging
1340 unit are operational; and (d) available to the public or private
1341 health care provider selected by Mississippi State University and
1342 approved by the Board of Trustees of State Institutions of Higher
1343 Learning one-third (1/3) of the time for clinical, diagnostic and
1344 treatment purposes. For purposes of this subsection, the
1345 provisions of Section 41-7-193(1) requiring substantial compliance
1346 with the projection of need as reported in the current State
1347 Health Plan are waived.

1348 (17) The State Department of Health shall issue a
1349 certificate of need for the construction of an acute care hospital
1350 in Kemper County, not to exceed twenty-five (25) beds, which shall
1351 be named the "John C. Stennis Memorial Hospital." In issuing the
1352 certificate of need under this subsection, the department shall
1353 give priority to a hospital located in Lauderdale County that has
1354 two hundred fifteen (215) beds. For purposes of this subsection,
1355 the provisions of Section 41-7-193(1) requiring substantial
1356 compliance with the projection of need as reported in the current
1357 State Health Plan and the provisions of Section 41-7-197 requiring
1358 a formal certificate of need hearing process are waived. There
1359 shall be no prohibition or restrictions on participation in the
1360 Medicaid program (Section 43-13-101 et seq.) for the person or



1361 entity receiving the certificate of need authorized under this
1362 subsection or for the beds constructed under the authority of that
1363 certificate of need.

1364 (18) The planning, design, construction, renovation,
1365 addition, furnishing and equipping of a clinical research unit at
1366 any health care facility defined in Section 41-7-173(h) that is
1367 under the direction and control of the University of Mississippi
1368 Medical Center and located in Jackson, Mississippi, and the
1369 addition of new beds or the conversion of beds from one (1)
1370 category to another in any such clinical research unit, shall not
1371 require the issuance of a certificate of need under Section
1372 41-7-171 et seq., notwithstanding any provision in Section
1373 41-7-171 et seq. to the contrary.

1374 (19) [Repealed]

1375 (20) Nothing in this section or in any other provision of
1376 Section 41-7-171 et seq. shall prevent any nursing facility from
1377 designating an appropriate number of existing beds in the facility
1378 as beds for providing care exclusively to patients with
1379 Alzheimer's disease.

1380 (21) Nothing in this section or any other provision of
1381 Section 41-7-171 et seq. shall prevent any health care facility
1382 from the new construction, renovation, conversion or expansion of
1383 new beds in the facility designated as intensive care units,
1384 negative pressure rooms, or isolation rooms pursuant to the
1385 provisions of Sections 41-14-1 through 41-14-11, or Section



1386 41-14-31. For purposes of this subsection, the provisions of
1387 Section 41-7-193(1) requiring substantial compliance with the
1388 projection of need as reported in the current State Health Plan
1389 and the provisions of Section 41-7-197 requiring a formal
1390 certificate of need hearing process are waived.

1391 **SECTION 3.** Section 41-77-1, Mississippi Code of 1972, is
1392 amended as follows:

1393 41-77-1. For purposes of this chapter:

1394 (a) "Birthing center" * * * means a publicly or
1395 privately owned facility, place or institution constructed,
1396 renovated, leased or otherwise established where nonemergency
1397 births are planned to occur away from the mother's usual residence
1398 following a documented period of prenatal care for a normal
1399 uncomplicated pregnancy which has been determined to be low risk
1400 through a formal risk scoring examination. Care provided in a
1401 birthing center shall be provided by a licensed physician, or
1402 certified nurse midwife, and a registered nurse. Services
1403 provided in a birthing center shall be limited in the following
1404 manner: (i) surgical services shall be limited to those normally
1405 performed during uncomplicated childbirth, such as episiotomy and
1406 repair, and shall not include operative obstetrics or caesarean
1407 sections; (ii) labor shall not be inhibited, stimulated or
1408 augmented with chemical agents during the first or second stage of
1409 labor; (iii) systemic analgesia may be administered and local
1410 anesthesia for pudental block and episiotomy repair may be



1411 performed. General and conductive anesthesia shall not be
1412 administered at birthing centers; (iv) patients shall not remain
1413 in the facility in excess of twenty-four (24) hours.

1414 Hospitals are excluded from the definition of a "birthing
1415 center" unless they choose to and are qualified to designate a
1416 portion or part of the hospital as a birthing center, and nothing
1417 herein shall be construed as referring to the usual service
1418 provided the pregnant female in the obstetric-gynecology service
1419 of an acute care hospital. Such facility or center, as heretofore
1420 stated, shall include the offices of physicians in private
1421 practice alone or in groups of two (2) or more; and such facility
1422 or center rendering service to pregnant female persons, as stated
1423 heretofore and by the rules and regulations promulgated by the
1424 licensing agency in furtherance thereof, shall be deemed to be a
1425 "birthing center" whether using a similar or different name. Such
1426 center or facility if in any manner is deemed to be or considered
1427 to be operated or owned by a hospital or a hospital holding
1428 leasing or management company, for profit or not for profit, is
1429 required to comply with all birthing center standards governing a
1430 "hospital affiliated" birthing center as adopted by the licensing
1431 authority.

1432 (b) "Hospital affiliated" birthing center * * * means a
1433 separate and distinct unit of a hospital or a building owned,
1434 leased, rented or utilized by a hospital and located in the same
1435 county as the hospital for the purpose of providing the service of



1436 a "birthing center." Such center or facility is not required to
1437 be licensed separately, and may operate under the license issued
1438 to the hospital if it is in compliance with Section 41-9-1 et
1439 seq., where applicable, and the rules and regulations promulgated
1440 by the licensing agency in furtherance thereof.

1441 (c) "Freestanding" birthing center * * * means a
1442 separate and distinct facility or center or a separate and
1443 distinct organized unit of a hospital or other * * * entity for
1444 the purpose of performing the service of a "birthing center."
1445 Such facility or center must be separately licensed and must
1446 comply with all licensing standards promulgated by the licensing
1447 agency by virtue of this chapter. Further, such facility or
1448 center must be a separate, identifiable entity and must be
1449 physically, administratively and financially independent from
1450 other operations of any hospital or other health care facility or
1451 service and shall maintain a separate and required staff,
1452 including administrative staff. * * *

1453 (d) "Licensing agency" * * * means the State Department
1454 of Health.

1455 **SECTION 4.** Section 41-77-5, Mississippi Code of 1972, is
1456 amended as follows:

1457 41-77-5. No person * * * or other entity, acting severally
1458 or jointly with any other person or entity, shall establish,
1459 conduct or maintain a "birthing center" in this state without a
1460 license under this chapter.



1461 **SECTION 5.** Section 41-77-21, Mississippi Code of 1972, is
1462 amended as follows:

1463 41-77-21. Any applicant or licensee aggrieved by the
1464 decision of the licensing agency after a hearing may, within
1465 thirty (30) days after the mailing or serving of notice of the
1466 decision as provided in Section 43-11-11, * * * file a notice of
1467 appeal to the Chancery Court of the First Judicial District of
1468 Hinds County or in the chancery court of the county in which the
1469 institution is located or proposed to be located. * * *
1470 Thereupon, the licensing agency shall * * * certify and file with
1471 the court a copy of the record and decision, including the
1472 transcript of the hearings in which the decision is based. No new
1473 or additional evidence shall be introduced in court; the case
1474 shall be determined upon the record certified to the court. The
1475 court may sustain or dismiss the appeal, modify or vacate the
1476 order complained of in whole or in part, as the case may be; but
1477 in case the order is wholly or partly vacated, the court may also,
1478 in its discretion, remand the matter to the licensing agency for
1479 such further proceedings, not inconsistent with the court's order,
1480 as, in the opinion of the court, justice may require. The order
1481 may not be vacated or set aside, either in whole or in part,
1482 except for errors of law, unless the court finds that the order of
1483 the licensing agency is not supported by substantial evidence, is
1484 contrary to the manifest weight of the evidence, is in excess of
1485 the statutory authority or jurisdiction of the licensing agency,



1486 or violates any vested constitutional rights of any party involved
1487 in the appeal. Pending final disposition of the matter, the
1488 status quo of the applicant or licensee shall be preserved, except
1489 as the court otherwise orders in the public interest. Rules with
1490 respect to court costs in other cases in chancery shall apply
1491 equally to cases hereunder. Appeals in accordance with law may be
1492 had to the Supreme Court of the State of Mississippi from any
1493 final judgment of the chancery court.

1494 **SECTION 6.** Section 41-77-23, Mississippi Code of 1972, is
1495 amended as follows:

1496 41-77-23. Any person or persons or other entity or entities
1497 establishing, managing or operating a "birthing center" or
1498 conducting the business of a "birthing center" without the
1499 required license, or which otherwise violate any of the provisions
1500 of this chapter * * * or the rules, regulations or standards
1501 promulgated in furtherance of any law in which the * * * licensing
1502 agency has authority therefor, shall be subject to the following
1503 penalties and sanctions of Section 41-7-209 * * *:

1504 (a) Revocation of the license of the birthing center or
1505 a designated section, component or service thereof; or

1506 (b) Nonlicensure of a specific or designated service
1507 offered by the birthing center.

1508 In addition, any violation of any provision of this chapter
1509 or any rules or regulations promulgated in furtherance thereof by
1510 intent, fraud, deceit, unlawful design, willful and/or deliberate



1511 misrepresentation, or by careless, negligent or incautious
1512 disregard for such statutes or rules and regulations, either by
1513 persons acting individually or in concert with others, shall
1514 constitute a misdemeanor and shall be punishable by a fine not to
1515 exceed One Thousand Dollars (\$1,000.00) for each such offense.
1516 Each day of continuing violation shall be considered a separate
1517 offense. The venue for prosecution of any such violation shall be
1518 in any county of the state in which any such violation, or portion
1519 thereof, occurred.

1520 **SECTION 7.** Section 41-77-25, Mississippi Code of 1972, is
1521 amended as follows:

1522 41-77-25. Upon receipt of an application for license and the
1523 license fee, the licensing agency shall issue a license if the
1524 applicant and the institutional facilities meet the requirements
1525 established under this chapter * * *. A license, unless suspended
1526 or revoked, shall be renewable annually upon payment of a renewal
1527 fee of Three Hundred Dollars (\$300.00), which shall be paid to the
1528 licensing agency, and upon filing by the licensee and approval by
1529 the licensing agency of an annual report upon such uniform dates
1530 and containing such information in such form as the licensing
1531 agency requires. Any increase in the fee charged by the licensing
1532 agency under this section shall be in accordance with the
1533 provisions of Section 41-3-65. Each license shall be issued only
1534 for the premises and person or persons named in the application



1535 and shall not be transferable or assignable. Licenses shall be
1536 posted in a conspicuous place on the licensed premises.

1537 **SECTION 8.** This act shall take effect and be in force from
1538 and after July 1, 2024.

