

By: Representative Yancey

To: Public Health and Human Services

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 AND PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FROM
4 THE REQUIREMENTS OF THE HEALTH CARE CERTIFICATE OF NEED LAW; TO
5 AMEND SECTIONS 41-77-1, 41-77-5, 41-77-21, 41-77-23 AND 41-77-25,
6 MISSISSIPPI CODE OF 1972, TO DELETE ALL REFERENCES TO THE
7 CERTIFICATE OF NEED LAW IN THE LICENSURE LAWS FOR BIRTHING
8 CENTERS; AND FOR RELATED PURPOSES.

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

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

12 41-7-173. For the purposes of Section 41-7-171 et seq., the
13 following words shall have the meanings ascribed herein, unless
14 the context otherwise requires:

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



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

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

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

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



47 (\$5,000,000.00), adjusted for inflation as published by the State
48 Department of Health or which exceeds, for nonclinical health
49 services, as defined in * * * paragraph (k) below, Ten Million
50 Dollars (\$10,000,000.00), adjusted for inflation as published by
51 the State Department of Health.

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

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



72 be considered regardless of where the capital expenditure was
73 made, in state or out of state, and regardless of the domicile of
74 the party making the capital expenditure, in state or out of
75 state.

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

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

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



96 plans which have been approved by the licensing authority of the
97 State Department of Health;

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

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

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

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

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



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

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



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

148 (iii) * * * [Deleted]

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

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

163 (vi) "Intermediate care facility" means an
164 institution which provides, on a regular basis, health-related
165 care and services to individuals who do not require the degree of
166 care and treatment which a hospital or skilled nursing facility is
167 designed to provide, but who, because of their mental or physical



168 condition, require health-related care and services (above the
169 level of room and board).

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

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

184 (ix) "Home health agency" means a public or
185 privately owned agency or organization, or a subdivision of such
186 an agency or organization, properly authorized to conduct business
187 in Mississippi, which is primarily engaged in providing to
188 individuals at the written direction of a licensed physician, in
189 the individual's place of residence, skilled nursing services
190 provided by or under the supervision of a registered nurse
191 licensed to practice in Mississippi, and one or more of the
192 following services or items:



- 193 1. Physical, occupational or speech therapy;
194 2. Medical social services;
195 3. Part-time or intermittent services of a
196 home health aide;
197 4. Other services as approved by the
198 licensing agency for home health agencies;
199 5. Medical supplies, other than drugs and
200 biologicals, and the use of medical appliances; or
201 6. Medical services provided by an intern or
202 resident-in-training at a hospital under a teaching program of
203 such hospital.

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

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

213 (x) * * * [Deleted]

214 (xi) "Pediatric skilled nursing facility" means an
215 institution or a distinct part of an institution that is primarily
216 engaged in providing to inpatients skilled nursing care and
217 related services for persons under twenty-one (21) years of age



218 who require medical or nursing care or rehabilitation services for
219 the rehabilitation of injured, disabled or sick persons.

220 (xii) "Long-term care hospital" means a
221 freestanding, Medicare-certified hospital that has an average
222 length of inpatient stay greater than twenty-five (25) days, which
223 is primarily engaged in providing chronic or long-term medical
224 care to patients who do not require more than three (3) hours of
225 rehabilitation or comprehensive rehabilitation per day, and has a
226 transfer agreement with an acute care medical center and a
227 comprehensive medical rehabilitation facility. Long-term care
228 hospitals shall not use rehabilitation, comprehensive medical
229 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
230 nursing home, skilled nursing facility or sub-acute care facility
231 in association with its name.

232 (xiii) "Comprehensive medical rehabilitation
233 facility" means a hospital or hospital unit that is licensed
234 and/or certified as a comprehensive medical rehabilitation
235 facility which provides specialized programs that are accredited
236 by the Commission on Accreditation of Rehabilitation Facilities
237 and supervised by a physician board certified or board eligible in
238 physiatry or other doctor of medicine or osteopathy with at least
239 two (2) years of training in the medical direction of a
240 comprehensive rehabilitation program that:

241 1. Includes evaluation and treatment of
242 individuals with physical disabilities;



- 243 2. Emphasizes education and training of
244 individuals with disabilities;
- 245 3. Incorporates at least the following core
246 disciplines:
- 247 * * *a. Physical Therapy;
 - 248 * * *b. Occupational Therapy;
 - 249 * * *c. Speech and Language Therapy;
 - 250 * * *d. Rehabilitation Nursing; and
- 251 4. Incorporates at least three (3) of the
252 following disciplines:
- 253 * * *a. Psychology;
 - 254 * * *b. Audiology;
 - 255 * * *c. Respiratory Therapy;
 - 256 * * *d. Therapeutic Recreation;
 - 257 * * *e. Orthotics;
 - 258 * * *f. Prosthetics;
 - 259 * * *g. Special Education;
 - 260 * * *h. Vocational Rehabilitation;
 - 261 * * *i. Psychotherapy;
 - 262 * * *j. Social Work;
 - 263 * * *k. Rehabilitation Engineering.

264 These specialized programs include, but are not limited to:
265 spinal cord injury programs, head injury programs and infant and
266 early childhood development programs.



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

270 (i) Provides or otherwise makes available to
271 enrolled participants health care services, including
272 substantially the following basic health care services: usual
273 physician services, hospitalization, laboratory, x-ray, emergency
274 and preventive services, and out-of-area coverage;

275 (ii) Is compensated (except for copayments) for
276 the provision of the basic health care services listed in
277 subparagraph (i) of this paragraph to enrolled participants on a
278 predetermined basis; and

279 (iii) Provides physician services primarily:

280 1. Directly through physicians who are either
281 employees or partners of such organization; or

282 2. Through arrangements with individual
283 physicians or one or more groups of physicians (organized on a
284 group practice or individual practice basis).

285 (j) "Health service area" means a geographic area of
286 the state designated in the State Health Plan as the area to be
287 used in planning for specified health facilities and services and
288 to be used when considering certificate of need applications to
289 provide health facilities and services.

290 (k) "Health services" means clinically related (i.e.,
291 diagnostic, treatment or rehabilitative) services and



292 includes * * * mental health and home health care services.
293 "Clinical health services" shall only include those activities
294 which contemplate any change in the existing bed complement of any
295 health care facility through the addition or conversion of any
296 beds, under Section 41-7-191(1)(c) or propose to offer any health
297 services if those services have not been provided on a regular
298 basis by the proposed provider of such services within the period
299 of twelve (12) months prior to the time such services would be
300 offered, under Section 41-7-191(1)(d). "Nonclinical health
301 services" shall be all other services which do not involve any
302 change in the existing bed complement or offering health services
303 as described above. "Health services" does not include medical
304 and related services for the diagnosis and treatment of chemical
305 dependency such as alcohol and drug abuse.

306 (l) "Institutional health services" shall mean health
307 services provided in or through health care facilities and shall
308 include the entities in or through which such services are
309 provided.

310 (m) "Major medical equipment" means medical equipment
311 designed for providing medical or any health-related service which
312 costs in excess of One Million Five Hundred Thousand Dollars
313 (\$1,500,000.00). However, this definition shall not be applicable
314 to clinical laboratories if they are determined by the State
315 Department of Health to be independent of any physician's office,
316 hospital or other health care facility or otherwise not so defined



317 by federal or state law, or rules and regulations promulgated
318 thereunder.

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

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

327 (p) "Person" means an individual, a trust or estate,
328 partnership, corporation (including associations, joint-stock
329 companies and insurance companies), the state or a political
330 subdivision or instrumentality of the state.

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

335 (r) "Radiation therapy services" means the treatment of
336 cancer and other diseases using ionizing radiation of either high
337 energy photons (x-rays or gamma rays) or charged particles
338 (electrons, protons or heavy nuclei). However, for purposes of a
339 certificate of need, radiation therapy services shall not include
340 low energy, superficial, external beam x-ray treatment of
341 superficial skin lesions.



342 (s) "Secretary" means the Secretary of Health and Human
343 Services, and any officer or employee of the Department of Health
344 and Human Services to whom the authority involved has been
345 delegated.

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

351 (u) "State Health Planning and Development Agency"
352 means the agency of state government designated to perform health
353 planning and resource development programs for the State of
354 Mississippi.

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

357 41-7-191. (1) No person shall engage in any of the
358 following activities without obtaining the required certificate of
359 need:

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

364 (b) The relocation of a health care facility or portion
365 thereof, or major medical equipment, unless such relocation of a
366 health care facility or portion thereof, or major medical



367 equipment, which does not involve a capital expenditure by or on
368 behalf of a health care facility, is within five thousand two
369 hundred eighty (5,280) feet from the main entrance of the health
370 care facility;

371 (c) Any change in the existing bed complement of any
372 health care facility through the addition or conversion of any
373 beds or the alteration, modernizing or refurbishing of any unit or
374 department in which the beds may be located; however, if a health
375 care facility has voluntarily delicensed some of its existing bed
376 complement, it may later relicense some or all of its delicensed
377 beds without the necessity of having to acquire a certificate of
378 need. The State Department of Health shall maintain a record of
379 the delicensing health care facility and its voluntarily
380 delicensed beds and continue counting those beds as part of the
381 state's total bed count for health care planning purposes. If a
382 health care facility that has voluntarily delicensed some of its
383 beds later desires to relicense some or all of its voluntarily
384 delicensed beds, it shall notify the State Department of Health of
385 its intent to increase the number of its licensed beds. The State
386 Department of Health shall survey the health care facility within
387 thirty (30) days of that notice and, if appropriate, issue the
388 health care facility a new license reflecting the new contingent
389 of beds. However, in no event may a health care facility that has
390 voluntarily delicensed some of its beds be reissued a license to
391 operate beds in excess of its bed count before the voluntary



392 delicensure of some of its beds without seeking certificate of
393 need approval;

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

- 398 (i) Open-heart surgery services;
- 399 (ii) Cardiac catheterization services;
- 400 (iii) Comprehensive inpatient rehabilitation
401 services;
- 402 (iv) Licensed psychiatric services;
- 403 (v) * * * [Deleted]
- 404 (vi) Radiation therapy services;
- 405 (vii) Diagnostic imaging services of an invasive
406 nature, i.e. invasive digital angiography;
- 407 (viii) Nursing home care as defined in
408 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 409 (ix) Home health services;
- 410 (x) Swing-bed services;
- 411 (xi) Ambulatory surgical services;
- 412 (xii) Magnetic resonance imaging services;
- 413 (xiii) [Deleted]
- 414 (xiv) Long-term care hospital services;
- 415 (xv) Positron emission tomography (PET) services;



416 (e) The relocation of one or more health services from
417 one physical facility or site to another physical facility or
418 site, unless such relocation, which does not involve a capital
419 expenditure by or on behalf of a health care facility, (i) is to a
420 physical facility or site within five thousand two hundred eighty
421 (5,280) feet from the main entrance of the health care facility
422 where the health care service is located, or (ii) is the result of
423 an order of a court of appropriate jurisdiction or a result of
424 pending litigation in such court, or by order of the State
425 Department of Health, or by order of any other agency or legal
426 entity of the state, the federal government, or any political
427 subdivision of either, whose order is also approved by the State
428 Department of Health;

429 (f) The acquisition or otherwise control of any major
430 medical equipment for the provision of medical services; however,
431 (i) the acquisition of any major medical equipment used only for
432 research purposes, and (ii) the acquisition of major medical
433 equipment to replace medical equipment for which a facility is
434 already providing medical services and for which the State
435 Department of Health has been notified before the date of such
436 acquisition shall be exempt from this paragraph; an acquisition
437 for less than fair market value must be reviewed, if the
438 acquisition at fair market value would be subject to review;

439 (g) Changes of ownership of existing health care
440 facilities in which a notice of intent is not filed with the State



441 Department of Health at least thirty (30) days prior to the date
442 such change of ownership occurs, or a change in services or bed
443 capacity as prescribed in paragraph (c) or (d) of this subsection
444 as a result of the change of ownership; an acquisition for less
445 than fair market value must be reviewed, if the acquisition at
446 fair market value would be subject to review;

447 (h) The change of ownership of any health care facility
448 defined in subparagraphs (iv), (vi) and (viii) of Section
449 41-7-173(h), in which a notice of intent as described in paragraph
450 (g) has not been filed and if the Executive Director, Division of
451 Medicaid, Office of the Governor, has not certified in writing
452 that there will be no increase in allowable costs to Medicaid from
453 revaluation of the assets or from increased interest and
454 depreciation as a result of the proposed change of ownership;

455 (i) Any activity described in paragraphs (a) through
456 (h) if undertaken by any person if that same activity would
457 require certificate of need approval if undertaken by a health
458 care facility;

459 (j) Any capital expenditure or deferred capital
460 expenditure by or on behalf of a health care facility not covered
461 by paragraphs (a) through (h);

462 (k) The contracting of a health care facility as
463 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
464 to establish a home office, subunit, or branch office in the space
465 operated as a health care facility through a formal arrangement



466 with an existing health care facility as defined in subparagraph
467 (ix) of Section 41-7-173(h);

468 (l) The replacement or relocation of a health care
469 facility designated as a critical access hospital shall be exempt
470 from subsection (1) of this section so long as the critical access
471 hospital complies with all applicable federal law and regulations
472 regarding such replacement or relocation;

473 (m) Reopening a health care facility that has ceased to
474 operate for a period of sixty (60) months or more, which reopening
475 requires a certificate of need for the establishment of a new
476 health care facility.

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

484 (a) The department may issue a certificate of need to
485 any person proposing the new construction of any health care
486 facility defined in subparagraphs (iv) and (vi) of Section
487 41-7-173(h) as part of a life care retirement facility, in any
488 county bordering on the Gulf of Mexico in which is located a
489 National Aeronautics and Space Administration facility, not to
490 exceed forty (40) beds. From and after July 1, 1999, there shall



491 be no prohibition or restrictions on participation in the Medicaid
492 program (Section 43-13-101 et seq.) for the beds in the health
493 care facility that were authorized under this paragraph (a).

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

501 (c) The department may issue a certificate of need for
502 the addition to or expansion of any skilled nursing facility that
503 is part of an existing continuing care retirement community
504 located in Madison County, provided that the recipient of the
505 certificate of need agrees in writing that the skilled nursing
506 facility will not at any time participate in the Medicaid program
507 (Section 43-13-101 et seq.) or admit or keep any patients in the
508 skilled nursing facility who are participating in the Medicaid
509 program. This written agreement by the recipient of the
510 certificate of need shall be fully binding on any subsequent owner
511 of the skilled nursing facility, if the ownership of the facility
512 is transferred at any time after the issuance of the certificate
513 of need. Agreement that the skilled nursing facility will not
514 participate in the Medicaid program shall be a condition of the
515 issuance of a certificate of need to any person under this



516 paragraph (c), and if such skilled nursing facility at any time
517 after the issuance of the certificate of need, regardless of the
518 ownership of the facility, participates in the Medicaid program or
519 admits or keeps any patients in the facility who are participating
520 in the Medicaid program, the State Department of Health shall
521 revoke the certificate of need, if it is still outstanding, and
522 shall deny or revoke the license of the skilled nursing facility,
523 at the time that the department determines, after a hearing
524 complying with due process, that the facility has failed to comply
525 with any of the conditions upon which the certificate of need was
526 issued, as provided in this paragraph and in the written agreement
527 by the recipient of the certificate of need. The total number of
528 beds that may be authorized under the authority of this paragraph
529 (c) shall not exceed sixty (60) beds.

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

538 (e) The State Department of Health may issue a
539 certificate of need for the construction of a nursing facility or
540 the conversion of beds to nursing facility beds at a personal care



541 facility for the elderly in Lowndes County that is owned and
542 operated by a Mississippi nonprofit corporation, not to exceed
543 sixty (60) beds. From and after July 1, 1999, there shall be no
544 prohibition or restrictions on participation in the Medicaid
545 program (Section 43-13-101 et seq.) for the beds in the nursing
546 facility that were authorized under this paragraph (e).

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

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

563 (h) The State Department of Health may issue a
564 certificate of need for the construction or expansion of nursing
565 facility beds or the conversion of other beds to nursing facility



566 beds in either Hancock, Harrison or Jackson County, not to exceed
567 sixty (60) beds. From and after July 1, 1999, there shall be no
568 prohibition or restrictions on participation in the Medicaid
569 program (Section 43-13-101 et seq.) for the beds in the facility
570 that were authorized under this paragraph (h).

571 (i) The department may issue a certificate of need for
572 the new construction of a skilled nursing facility in Leake
573 County, provided that the recipient of the certificate of need
574 agrees in writing that the skilled nursing facility will not at
575 any time participate in the Medicaid program (Section 43-13-101 et
576 seq.) or admit or keep any patients in the skilled nursing
577 facility who are participating in the Medicaid program. This
578 written agreement by the recipient of the certificate of need
579 shall be fully binding on any subsequent owner of the skilled
580 nursing facility, if the ownership of the facility is transferred
581 at any time after the issuance of the certificate of need.
582 Agreement that the skilled nursing facility will not participate
583 in the Medicaid program shall be a condition of the issuance of a
584 certificate of need to any person under this paragraph (i), and if
585 such skilled nursing facility at any time after the issuance of
586 the certificate of need, regardless of the ownership of the
587 facility, participates in the Medicaid program or admits or keeps
588 any patients in the facility who are participating in the Medicaid
589 program, the State Department of Health shall revoke the
590 certificate of need, if it is still outstanding, and shall deny or



591 revoke the license of the skilled nursing facility, at the time
592 that the department determines, after a hearing complying with due
593 process, that the facility has failed to comply with any of the
594 conditions upon which the certificate of need was issued, as
595 provided in this paragraph and in the written agreement by the
596 recipient of the certificate of need. The provision of Section
597 41-7-193(1) regarding substantial compliance of the projection of
598 need as reported in the current State Health Plan is waived for
599 the purposes of this paragraph. The total number of nursing
600 facility beds that may be authorized by any certificate of need
601 issued under this paragraph (i) shall not exceed sixty (60) beds.
602 If the skilled nursing facility authorized by the certificate of
603 need issued under this paragraph is not constructed and fully
604 operational within eighteen (18) months after July 1, 1994, the
605 State Department of Health, after a hearing complying with due
606 process, shall revoke the certificate of need, if it is still
607 outstanding, and shall not issue a license for the skilled nursing
608 facility at any time after the expiration of the eighteen-month
609 period.

610 (j) The department may issue certificates of need to
611 allow any existing freestanding long-term care facility in
612 Tishomingo County and Hancock County that on July 1, 1995, is
613 licensed with fewer than sixty (60) beds. For the purposes of
614 this paragraph (j), the provisions of Section 41-7-193(1)
615 requiring substantial compliance with the projection of need as



616 reported in the current State Health Plan are waived. From and
617 after July 1, 1999, there shall be no prohibition or restrictions
618 on participation in the Medicaid program (Section 43-13-101 et
619 seq.) for the beds in the long-term care facilities that were
620 authorized under this paragraph (j).

621 (k) The department may issue a certificate of need for
622 the construction of a nursing facility at a continuing care
623 retirement community in Lowndes County. The total number of beds
624 that may be authorized under the authority of this paragraph (k)
625 shall not exceed sixty (60) beds. From and after July 1, 2001,
626 the prohibition on the facility participating in the Medicaid
627 program (Section 43-13-101 et seq.) that was a condition of
628 issuance of the certificate of need under this paragraph (k) shall
629 be revised as follows: The nursing facility may participate in
630 the Medicaid program from and after July 1, 2001, if the owner of
631 the facility on July 1, 2001, agrees in writing that no more than
632 thirty (30) of the beds at the facility will be certified for
633 participation in the Medicaid program, and that no claim will be
634 submitted for Medicaid reimbursement for more than thirty (30)
635 patients in the facility in any month or for any patient in the
636 facility who is in a bed that is not Medicaid-certified. This
637 written agreement by the owner of the facility shall be a
638 condition of licensure of the facility, and the agreement shall be
639 fully binding on any subsequent owner of the facility if the
640 ownership of the facility is transferred at any time after July 1,



641 2001. After this written agreement is executed, the Division of
642 Medicaid and the State Department of Health shall not certify more
643 than thirty (30) of the beds in the facility for participation in
644 the Medicaid program. If the facility violates the terms of the
645 written agreement by admitting or keeping in the facility on a
646 regular or continuing basis more than thirty (30) patients who are
647 participating in the Medicaid program, the State Department of
648 Health shall revoke the license of the facility, at the time that
649 the department determines, after a hearing complying with due
650 process, that the facility has violated the written agreement.

651 (1) Provided that funds are specifically appropriated
652 therefor by the Legislature, the department may issue a
653 certificate of need to a rehabilitation hospital in Hinds County
654 for the construction of a sixty-bed long-term care nursing
655 facility dedicated to the care and treatment of persons with
656 severe disabilities including persons with spinal cord and
657 closed-head injuries and ventilator dependent patients. The
658 provisions of Section 41-7-193(1) regarding substantial compliance
659 with projection of need as reported in the current State Health
660 Plan are waived for the purpose of this paragraph.

661 (m) The State Department of Health may issue a
662 certificate of need to a county-owned hospital in the Second
663 Judicial District of Panola County for the conversion of not more
664 than seventy-two (72) hospital beds to nursing facility beds,
665 provided that the recipient of the certificate of need agrees in



666 writing that none of the beds at the nursing facility will be
667 certified for participation in the Medicaid program (Section
668 43-13-101 et seq.), and that no claim will be submitted for
669 Medicaid reimbursement in the nursing facility in any day or for
670 any patient in the nursing facility. This written agreement by
671 the recipient of the certificate of need shall be a condition of
672 the issuance of the certificate of need under this paragraph, and
673 the agreement shall be fully binding on any subsequent owner of
674 the nursing facility if the ownership of the nursing facility is
675 transferred at any time after the issuance of the certificate of
676 need. After this written agreement is executed, the Division of
677 Medicaid and the State Department of Health shall not certify any
678 of the beds in the nursing facility for participation in the
679 Medicaid program. If the nursing facility violates the terms of
680 the written agreement by admitting or keeping in the nursing
681 facility on a regular or continuing basis any patients who are
682 participating in the Medicaid program, the State Department of
683 Health shall revoke the license of the nursing facility, at the
684 time that the department determines, after a hearing complying
685 with due process, that the nursing facility has violated the
686 condition upon which the certificate of need was issued, as
687 provided in this paragraph and in the written agreement. If the
688 certificate of need authorized under this paragraph is not issued
689 within twelve (12) months after July 1, 2001, the department shall
690 deny the application for the certificate of need and shall not



691 issue the certificate of need at any time after the twelve-month
692 period, unless the issuance is contested. If the certificate of
693 need is issued and substantial construction of the nursing
694 facility beds has not commenced within eighteen (18) months after
695 July 1, 2001, the State Department of Health, after a hearing
696 complying with due process, shall revoke the certificate of need
697 if it is still outstanding, and the department shall not issue a
698 license for the nursing facility at any time after the
699 eighteen-month period. However, if the issuance of the
700 certificate of need is contested, the department shall require
701 substantial construction of the nursing facility beds within six
702 (6) months after final adjudication on the issuance of the
703 certificate of need.

704 (n) The department may issue a certificate of need for
705 the new construction, addition or conversion of skilled nursing
706 facility beds in Madison County, provided that the recipient of
707 the certificate of need agrees in writing that the skilled nursing
708 facility will not at any time participate in the Medicaid program
709 (Section 43-13-101 et seq.) or admit or keep any patients in the
710 skilled nursing facility who are participating in the Medicaid
711 program. This written agreement by the recipient of the
712 certificate of need shall be fully binding on any subsequent owner
713 of the skilled nursing facility, if the ownership of the facility
714 is transferred at any time after the issuance of the certificate
715 of need. Agreement that the skilled nursing facility will not



716 participate in the Medicaid program shall be a condition of the
717 issuance of a certificate of need to any person under this
718 paragraph (n), and if such skilled nursing facility at any time
719 after the issuance of the certificate of need, regardless of the
720 ownership of the facility, participates in the Medicaid program or
721 admits or keeps any patients in the facility who are participating
722 in the Medicaid program, the State Department of Health shall
723 revoke the certificate of need, if it is still outstanding, and
724 shall deny or revoke the license of the skilled nursing facility,
725 at the time that the department determines, after a hearing
726 complying with due process, that the facility has failed to comply
727 with any of the conditions upon which the certificate of need was
728 issued, as provided in this paragraph and in the written agreement
729 by the recipient of the certificate of need. The total number of
730 nursing facility beds that may be authorized by any certificate of
731 need issued under this paragraph (n) shall not exceed sixty (60)
732 beds. If the certificate of need authorized under this paragraph
733 is not issued within twelve (12) months after July 1, 1998, the
734 department shall deny the application for the certificate of need
735 and shall not issue the certificate of need at any time after the
736 twelve-month period, unless the issuance is contested. If the
737 certificate of need is issued and substantial construction of the
738 nursing facility beds has not commenced within eighteen (18)
739 months after July 1, 1998, the State Department of Health, after a
740 hearing complying with due process, shall revoke the certificate



741 of need if it is still outstanding, and the department shall not
742 issue a license for the nursing facility at any time after the
743 eighteen-month period. However, if the issuance of the
744 certificate of need is contested, the department shall require
745 substantial construction of the nursing facility beds within six
746 (6) months after final adjudication on the issuance of the
747 certificate of need.

748 (o) The department may issue a certificate of need for
749 the new construction, addition or conversion of skilled nursing
750 facility beds in Leake County, provided that the recipient of the
751 certificate of need agrees in writing that the skilled nursing
752 facility will not at any time participate in the Medicaid program
753 (Section 43-13-101 et seq.) or admit or keep any patients in the
754 skilled nursing facility who are participating in the Medicaid
755 program. This written agreement by the recipient of the
756 certificate of need shall be fully binding on any subsequent owner
757 of the skilled nursing facility, if the ownership of the facility
758 is transferred at any time after the issuance of the certificate
759 of need. Agreement that the skilled nursing facility will not
760 participate in the Medicaid program shall be a condition of the
761 issuance of a certificate of need to any person under this
762 paragraph (o), and if such skilled nursing facility at any time
763 after the issuance of the certificate of need, regardless of the
764 ownership of the facility, participates in the Medicaid program or
765 admits or keeps any patients in the facility who are participating



766 in the Medicaid program, the State Department of Health shall
767 revoke the certificate of need, if it is still outstanding, and
768 shall deny or revoke the license of the skilled nursing facility,
769 at the time that the department determines, after a hearing
770 complying with due process, that the facility has failed to comply
771 with any of the conditions upon which the certificate of need was
772 issued, as provided in this paragraph and in the written agreement
773 by the recipient of the certificate of need. The total number of
774 nursing facility beds that may be authorized by any certificate of
775 need issued under this paragraph (o) shall not exceed sixty (60)
776 beds. If the certificate of need authorized under this paragraph
777 is not issued within twelve (12) months after July 1, 2001, the
778 department shall deny the application for the certificate of need
779 and shall not issue the certificate of need at any time after the
780 twelve-month period, unless the issuance is contested. If the
781 certificate of need is issued and substantial construction of the
782 nursing facility beds has not commenced within eighteen (18)
783 months after July 1, 2001, the State Department of Health, after a
784 hearing complying with due process, shall revoke the certificate
785 of need if it is still outstanding, and the department shall not
786 issue a license for the nursing facility at any time after the
787 eighteen-month period. However, if the issuance of the
788 certificate of need is contested, the department shall require
789 substantial construction of the nursing facility beds within six



790 (6) months after final adjudication on the issuance of the
791 certificate of need.

792 (p) The department may issue a certificate of need for
793 the construction of a municipally owned nursing facility within
794 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
795 beds, provided that the recipient of the certificate of need
796 agrees in writing that the skilled nursing facility will not at
797 any time participate in the Medicaid program (Section 43-13-101 et
798 seq.) or admit or keep any patients in the skilled nursing
799 facility who are participating in the Medicaid program. This
800 written agreement by the recipient of the certificate of need
801 shall be fully binding on any subsequent owner of the skilled
802 nursing facility, if the ownership of the facility is transferred
803 at any time after the issuance of the certificate of need.
804 Agreement that the skilled nursing facility will not participate
805 in the Medicaid program shall be a condition of the issuance of a
806 certificate of need to any person under this paragraph (p), and if
807 such skilled nursing facility at any time after the issuance of
808 the certificate of need, regardless of the ownership of the
809 facility, participates in the Medicaid program or admits or keeps
810 any patients in the facility who are participating in the Medicaid
811 program, the State Department of Health shall revoke the
812 certificate of need, if it is still outstanding, and shall deny or
813 revoke the license of the skilled nursing facility, at the time
814 that the department determines, after a hearing complying with due



815 process, that the facility has failed to comply with any of the
816 conditions upon which the certificate of need was issued, as
817 provided in this paragraph and in the written agreement by the
818 recipient of the certificate of need. The provision of Section
819 41-7-193(1) regarding substantial compliance of the projection of
820 need as reported in the current State Health Plan is waived for
821 the purposes of this paragraph. If the certificate of need
822 authorized under this paragraph is not issued within twelve (12)
823 months after July 1, 1998, the department shall deny the
824 application for the certificate of need and shall not issue the
825 certificate of need at any time after the twelve-month period,
826 unless the issuance is contested. If the certificate of need is
827 issued and substantial construction of the nursing facility beds
828 has not commenced within eighteen (18) months after July 1, 1998,
829 the State Department of Health, after a hearing complying with due
830 process, shall revoke the certificate of need if it is still
831 outstanding, and the department shall not issue a license for the
832 nursing facility at any time after the eighteen-month period.
833 However, if the issuance of the certificate of need is contested,
834 the department shall require substantial construction of the
835 nursing facility beds within six (6) months after final
836 adjudication on the issuance of the certificate of need.

837 (q) (i) Beginning on July 1, 1999, the State
838 Department of Health shall issue certificates of need during each
839 of the next four (4) fiscal years for the construction or



840 expansion of nursing facility beds or the conversion of other beds
841 to nursing facility beds in each county in the state having a need
842 for fifty (50) or more additional nursing facility beds, as shown
843 in the fiscal year 1999 State Health Plan, in the manner provided
844 in this paragraph (q). The total number of nursing facility beds
845 that may be authorized by any certificate of need authorized under
846 this paragraph (q) shall not exceed sixty (60) beds.

847 (ii) Subject to the provisions of subparagraph
848 (v), during each of the next four (4) fiscal years, the department
849 shall issue six (6) certificates of need for new nursing facility
850 beds, as follows: During fiscal years 2000, 2001 and 2002, one
851 (1) certificate of need shall be issued for new nursing facility
852 beds in the county in each of the four (4) Long-Term Care Planning
853 Districts designated in the fiscal year 1999 State Health Plan
854 that has the highest need in the district for those beds; and two
855 (2) certificates of need shall be issued for new nursing facility
856 beds in the two (2) counties from the state at large that have the
857 highest need in the state for those beds, when considering the
858 need on a statewide basis and without regard to the Long-Term Care
859 Planning Districts in which the counties are located. During
860 fiscal year 2003, one (1) certificate of need shall be issued for
861 new nursing facility beds in any county having a need for fifty
862 (50) or more additional nursing facility beds, as shown in the
863 fiscal year 1999 State Health Plan, that has not received a
864 certificate of need under this paragraph (q) during the three (3)



865 previous fiscal years. During fiscal year 2000, in addition to
866 the six (6) certificates of need authorized in this subparagraph,
867 the department also shall issue a certificate of need for new
868 nursing facility beds in Amite County and a certificate of need
869 for new nursing facility beds in Carroll County.

870 (iii) Subject to the provisions of subparagraph
871 (v), the certificate of need issued under subparagraph (ii) for
872 nursing facility beds in each Long-Term Care Planning District
873 during each fiscal year shall first be available for nursing
874 facility beds in the county in the district having the highest
875 need for those beds, as shown in the fiscal year 1999 State Health
876 Plan. If there are no applications for a certificate of need for
877 nursing facility beds in the county having the highest need for
878 those beds by the date specified by the department, then the
879 certificate of need shall be available for nursing facility beds
880 in other counties in the district in descending order of the need
881 for those beds, from the county with the second highest need to
882 the county with the lowest need, until an application is received
883 for nursing facility beds in an eligible county in the district.

884 (iv) Subject to the provisions of subparagraph
885 (v), the certificate of need issued under subparagraph (ii) for
886 nursing facility beds in the two (2) counties from the state at
887 large during each fiscal year shall first be available for nursing
888 facility beds in the two (2) counties that have the highest need
889 in the state for those beds, as shown in the fiscal year 1999



890 State Health Plan, when considering the need on a statewide basis
891 and without regard to the Long-Term Care Planning Districts in
892 which the counties are located. If there are no applications for
893 a certificate of need for nursing facility beds in either of the
894 two (2) counties having the highest need for those beds on a
895 statewide basis by the date specified by the department, then the
896 certificate of need shall be available for nursing facility beds
897 in other counties from the state at large in descending order of
898 the need for those beds on a statewide basis, from the county with
899 the second highest need to the county with the lowest need, until
900 an application is received for nursing facility beds in an
901 eligible county from the state at large.

902 (v) If a certificate of need is authorized to be
903 issued under this paragraph (q) for nursing facility beds in a
904 county on the basis of the need in the Long-Term Care Planning
905 District during any fiscal year of the four-year period, a
906 certificate of need shall not also be available under this
907 paragraph (q) for additional nursing facility beds in that county
908 on the basis of the need in the state at large, and that county
909 shall be excluded in determining which counties have the highest
910 need for nursing facility beds in the state at large for that
911 fiscal year. After a certificate of need has been issued under
912 this paragraph (q) for nursing facility beds in a county during
913 any fiscal year of the four-year period, a certificate of need
914 shall not be available again under this paragraph (q) for



915 additional nursing facility beds in that county during the
916 four-year period, and that county shall be excluded in determining
917 which counties have the highest need for nursing facility beds in
918 succeeding fiscal years.

919 (vi) If more than one (1) application is made for
920 a certificate of need for nursing home facility beds available
921 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
922 County, and one (1) of the applicants is a county-owned hospital
923 located in the county where the nursing facility beds are
924 available, the department shall give priority to the county-owned
925 hospital in granting the certificate of need if the following
926 conditions are met:

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

930 2. The county-owned hospital's qualifications
931 for the certificate of need, as shown in its application and as
932 determined by the department, are at least equal to the
933 qualifications of the other applicants for the certificate of
934 need.

935 (r) (i) Beginning on July 1, 1999, the State
936 Department of Health shall issue certificates of need during each
937 of the next two (2) fiscal years for the construction or expansion
938 of nursing facility beds or the conversion of other beds to
939 nursing facility beds in each of the four (4) Long-Term Care



940 Planning Districts designated in the fiscal year 1999 State Health
941 Plan, to provide care exclusively to patients with Alzheimer's
942 disease.

943 (ii) Not more than twenty (20) beds may be
944 authorized by any certificate of need issued under this paragraph
945 (r), and not more than a total of sixty (60) beds may be
946 authorized in any Long-Term Care Planning District by all
947 certificates of need issued under this paragraph (r). However,
948 the total number of beds that may be authorized by all
949 certificates of need issued under this paragraph (r) during any
950 fiscal year shall not exceed one hundred twenty (120) beds, and
951 the total number of beds that may be authorized in any Long-Term
952 Care Planning District during any fiscal year shall not exceed
953 forty (40) beds. Of the certificates of need that are issued for
954 each Long-Term Care Planning District during the next two (2)
955 fiscal years, at least one (1) shall be issued for beds in the
956 northern part of the district, at least one (1) shall be issued
957 for beds in the central part of the district, and at least one (1)
958 shall be issued for beds in the southern part of the district.

959 (iii) The State Department of Health, in
960 consultation with the Department of Mental Health and the Division
961 of Medicaid, shall develop and prescribe the staffing levels,
962 space requirements and other standards and requirements that must
963 be met with regard to the nursing facility beds authorized under



964 this paragraph (r) to provide care exclusively to patients with
965 Alzheimer's disease.

966 (s) The State Department of Health may issue a
967 certificate of need to a nonprofit skilled nursing facility using
968 the Green House model of skilled nursing care and located in Yazoo
969 City, Yazoo County, Mississippi, for the construction, expansion
970 or conversion of not more than nineteen (19) nursing facility
971 beds. For purposes of this paragraph (s), the provisions of
972 Section 41-7-193(1) requiring substantial compliance with the
973 projection of need as reported in the current State Health Plan
974 and the provisions of Section 41-7-197 requiring a formal
975 certificate of need hearing process are waived. There shall be no
976 prohibition or restrictions on participation in the Medicaid
977 program for the person receiving the certificate of need
978 authorized under this paragraph (s).

979 (t) The State Department of Health shall issue
980 certificates of need to the owner of a nursing facility in
981 operation at the time of Hurricane Katrina in Hancock County that
982 was not operational on December 31, 2005, because of damage
983 sustained from Hurricane Katrina to authorize the following: (i)
984 the construction of a new nursing facility in Harrison County;
985 (ii) the relocation of forty-nine (49) nursing facility beds from
986 the Hancock County facility to the new Harrison County facility;
987 (iii) the establishment of not more than twenty (20) non-Medicaid
988 nursing facility beds at the Hancock County facility; and (iv) the



989 establishment of not more than twenty (20) non-Medicaid beds at
990 the new Harrison County facility. The certificates of need that
991 authorize the non-Medicaid nursing facility beds under
992 subparagraphs (iii) and (iv) of this paragraph (t) shall be
993 subject to the following conditions: The owner of the Hancock
994 County facility and the new Harrison County facility must agree in
995 writing that no more than fifty (50) of the beds at the Hancock
996 County facility and no more than forty-nine (49) of the beds at
997 the Harrison County facility will be certified for participation
998 in the Medicaid program, and that no claim will be submitted for
999 Medicaid reimbursement for more than fifty (50) patients in the
1000 Hancock County facility in any month, or for more than forty-nine
1001 (49) patients in the Harrison County facility in any month, or for
1002 any patient in either facility who is in a bed that is not
1003 Medicaid-certified. This written agreement by the owner of the
1004 nursing facilities shall be a condition of the issuance of the
1005 certificates of need under this paragraph (t), and the agreement
1006 shall be fully binding on any later owner or owners of either
1007 facility if the ownership of either facility is transferred at any
1008 time after the certificates of need are issued. After this
1009 written agreement is executed, the Division of Medicaid and the
1010 State Department of Health shall not certify more than fifty (50)
1011 of the beds at the Hancock County facility or more than forty-nine
1012 (49) of the beds at the Harrison County facility for participation
1013 in the Medicaid program. If the Hancock County facility violates



1014 the terms of the written agreement by admitting or keeping in the
1015 facility on a regular or continuing basis more than fifty (50)
1016 patients who are participating in the Medicaid program, or if the
1017 Harrison County facility violates the terms of the written
1018 agreement by admitting or keeping in the facility on a regular or
1019 continuing basis more than forty-nine (49) patients who are
1020 participating in the Medicaid program, the State Department of
1021 Health shall revoke the license of the facility that is in
1022 violation of the agreement, at the time that the department
1023 determines, after a hearing complying with due process, that the
1024 facility has violated the agreement.

1025 (u) The State Department of Health shall issue a
1026 certificate of need to a nonprofit venture for the establishment,
1027 construction and operation of a skilled nursing facility of not
1028 more than sixty (60) beds to provide skilled nursing care for
1029 ventilator dependent or otherwise medically dependent pediatric
1030 patients who require medical and nursing care or rehabilitation
1031 services to be located in a county in which an academic medical
1032 center and a children's hospital are located, and for any
1033 construction and for the acquisition of equipment related to those
1034 beds. The facility shall be authorized to keep such ventilator
1035 dependent or otherwise medically dependent pediatric patients
1036 beyond age twenty-one (21) in accordance with regulations of the
1037 State Board of Health. For purposes of this paragraph (u), the
1038 provisions of Section 41-7-193(1) requiring substantial compliance



1039 with the projection of need as reported in the current State
1040 Health Plan are waived, and the provisions of Section 41-7-197
1041 requiring a formal certificate of need hearing process are waived.
1042 The beds authorized by this paragraph shall be counted as
1043 pediatric skilled nursing facility beds for health planning
1044 purposes under Section 41-7-171 et seq. There shall be no
1045 prohibition of or restrictions on participation in the Medicaid
1046 program for the person receiving the certificate of need
1047 authorized by this paragraph.

1048 (3) * * * [Deleted]

1049 (4) (a) From and after * * * July 1, 2024, the department
1050 may issue a certificate of need to any person for the new
1051 construction of any hospital * * * or psychiatric hospital * * *
1052 that will contain any child/adolescent psychiatric * * * beds, or
1053 for the conversion of any other health care facility to a
1054 hospital * * * or psychiatric hospital * * * that will contain any
1055 child/adolescent psychiatric * * * beds. There shall be no
1056 prohibition or restrictions on participation in the Medicaid
1057 program (Section 43-13-101 et seq.) for the person(s) receiving
1058 the certificate(s) of need authorized under this paragraph (a) or
1059 for the beds converted pursuant to the authority of that
1060 certificate of need. In issuing any new certificate of need for
1061 any child/adolescent psychiatric * * * beds, either by new
1062 construction or conversion of beds of another category, the
1063 department shall give preference to beds which will be located in



1064 an area of the state which does not have such beds located in it,
1065 and to a location more than sixty-five (65) miles from existing
1066 beds. Upon receiving 2020 census data, the department may amend
1067 the State Health Plan regarding child/adolescent psychiatric * * *
1068 beds to reflect the need based on new census data.

1069 (i) [Deleted]

1070 (ii) * * * [Deleted]

1071 (iii) The department may issue a certificate or
1072 certificates of need for the construction or expansion of
1073 child/adolescent psychiatric beds or the conversion of other beds
1074 to child/adolescent psychiatric beds in Warren County. For
1075 purposes of this subparagraph (iii), the provisions of Section
1076 41-7-193(1) requiring substantial compliance with the projection
1077 of need as reported in the current State Health Plan are waived.
1078 The total number of beds that may be authorized under the
1079 authority of this subparagraph shall not exceed twenty (20) beds.
1080 There shall be no prohibition or restrictions on participation in
1081 the Medicaid program (Section 43-13-101 et seq.) for the person
1082 receiving the certificate of need authorized under this
1083 subparagraph or for the beds converted pursuant to the authority
1084 of that certificate of need.

1085 If by January 1, 2002, there has been no significant
1086 commencement of construction of the beds authorized under this
1087 subparagraph (iii), or no significant action taken to convert
1088 existing beds to the beds authorized under this subparagraph, then



1089 the certificate of need that was previously issued under this
1090 subparagraph shall expire. If the previously issued certificate
1091 of need expires, the department may accept applications for
1092 issuance of another certificate of need for the beds authorized
1093 under this subparagraph, and may issue a certificate of need to
1094 authorize the construction, expansion or conversion of the beds
1095 authorized under this subparagraph.

1096 (iv) The department shall issue a certificate of
1097 need to the Region 7 Mental Health/Retardation Commission for the
1098 construction or expansion of child/adolescent psychiatric beds or
1099 the conversion of other beds to child/adolescent psychiatric beds
1100 in any of the counties served by the commission. For purposes of
1101 this subparagraph (iv), the provisions of Section 41-7-193(1)
1102 requiring substantial compliance with the projection of need as
1103 reported in the current State Health Plan are waived. The total
1104 number of beds that may be authorized under the authority of this
1105 subparagraph shall not exceed twenty (20) beds. There shall be no
1106 prohibition or restrictions on participation in the Medicaid
1107 program (Section 43-13-101 et seq.) for the person receiving the
1108 certificate of need authorized under this subparagraph or for the
1109 beds converted pursuant to the authority of that certificate of
1110 need.

1111 (v) The department may issue a certificate of need
1112 to any county hospital located in Leflore County for the
1113 construction or expansion of adult psychiatric beds or the



1114 conversion of other beds to adult psychiatric beds, not to exceed
1115 twenty (20) beds, provided that the recipient of the certificate
1116 of need agrees in writing that the adult psychiatric beds will not
1117 at any time be certified for participation in the Medicaid program
1118 and that the hospital will not admit or keep any patients who are
1119 participating in the Medicaid program in any of such adult
1120 psychiatric beds. This written agreement by the recipient of the
1121 certificate of need shall be fully binding on any subsequent owner
1122 of the hospital if the ownership of the hospital is transferred at
1123 any time after the issuance of the certificate of need. Agreement
1124 that the adult psychiatric beds will not be certified for
1125 participation in the Medicaid program shall be a condition of the
1126 issuance of a certificate of need to any person under this
1127 subparagraph (v), and if such hospital at any time after the
1128 issuance of the certificate of need, regardless of the ownership
1129 of the hospital, has any of such adult psychiatric beds certified
1130 for participation in the Medicaid program or admits or keeps any
1131 Medicaid patients in such adult psychiatric beds, the State
1132 Department of Health shall revoke the certificate of need, if it
1133 is still outstanding, and shall deny or revoke the license of the
1134 hospital at the time that the department determines, after a
1135 hearing complying with due process, that the hospital has failed
1136 to comply with any of the conditions upon which the certificate of
1137 need was issued, as provided in this subparagraph and in the
1138 written agreement by the recipient of the certificate of need.



1139 (vi) The department may issue a certificate or
1140 certificates of need for the expansion of child psychiatric beds
1141 or the conversion of other beds to child psychiatric beds at the
1142 University of Mississippi Medical Center. For purposes of this
1143 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1144 substantial compliance with the projection of need as reported in
1145 the current State Health Plan are waived. The total number of
1146 beds that may be authorized under the authority of this
1147 subparagraph shall not exceed fifteen (15) beds. There shall be
1148 no prohibition or restrictions on participation in the Medicaid
1149 program (Section 43-13-101 et seq.) for the hospital receiving the
1150 certificate of need authorized under this subparagraph or for the
1151 beds converted pursuant to the authority of that certificate of
1152 need.

1153 (b) From and after July 1, * * * 2024, no
1154 hospital * * * or psychiatric hospital * * * shall be authorized
1155 to add any child/adolescent psychiatric * * * beds or convert any
1156 beds of another category to child/adolescent psychiatric * * *
1157 beds without a certificate of need under the authority of
1158 subsection (1) (c) and subsection (4) (a) of this section.

1159 (5) The department may issue a certificate of need to a
1160 county hospital in Winston County for the conversion of fifteen
1161 (15) acute care beds to geriatric psychiatric care beds.

1162 (6) The State Department of Health shall issue a certificate
1163 of need to a Mississippi corporation qualified to manage a



1164 long-term care hospital as defined in Section 41-7-173(h) (xii) in
1165 Harrison County, not to exceed eighty (80) beds, including any
1166 necessary renovation or construction required for licensure and
1167 certification, provided that the recipient of the certificate of
1168 need agrees in writing that the long-term care hospital will not
1169 at any time participate in the Medicaid program (Section 43-13-101
1170 et seq.) or admit or keep any patients in the long-term care
1171 hospital who are participating in the Medicaid program. This
1172 written agreement by the recipient of the certificate of need
1173 shall be fully binding on any subsequent owner of the long-term
1174 care hospital, if the ownership of the facility is transferred at
1175 any time after the issuance of the certificate of need. Agreement
1176 that the long-term care hospital will not participate in the
1177 Medicaid program shall be a condition of the issuance of a
1178 certificate of need to any person under this subsection (6), and
1179 if such long-term care hospital at any time after the issuance of
1180 the certificate of need, regardless of the ownership of the
1181 facility, participates in the Medicaid program or admits or keeps
1182 any patients in the facility who are participating in the Medicaid
1183 program, the State Department of Health shall revoke the
1184 certificate of need, if it is still outstanding, and shall deny or
1185 revoke the license of the long-term care hospital, at the time
1186 that the department determines, after a hearing complying with due
1187 process, that the facility has failed to comply with any of the
1188 conditions upon which the certificate of need was issued, as



1189 provided in this subsection and in the written agreement by the
1190 recipient of the certificate of need. For purposes of this
1191 subsection, the provisions of Section 41-7-193(1) requiring
1192 substantial compliance with the projection of need as reported in
1193 the current State Health Plan are waived.

1194 (7) The State Department of Health may issue a certificate
1195 of need to any hospital in the state to utilize a portion of its
1196 beds for the "swing-bed" concept. Any such hospital must be in
1197 conformance with the federal regulations regarding such swing-bed
1198 concept at the time it submits its application for a certificate
1199 of need to the State Department of Health, except that such
1200 hospital may have more licensed beds or a higher average daily
1201 census (ADC) than the maximum number specified in federal
1202 regulations for participation in the swing-bed program. Any
1203 hospital meeting all federal requirements for participation in the
1204 swing-bed program which receives such certificate of need shall
1205 render services provided under the swing-bed concept to any
1206 patient eligible for Medicare (Title XVIII of the Social Security
1207 Act) who is certified by a physician to be in need of such
1208 services, and no such hospital shall permit any patient who is
1209 eligible for both Medicaid and Medicare or eligible only for
1210 Medicaid to stay in the swing beds of the hospital for more than
1211 thirty (30) days per admission unless the hospital receives prior
1212 approval for such patient from the Division of Medicaid, Office of
1213 the Governor. Any hospital having more licensed beds or a higher



1214 average daily census (ADC) than the maximum number specified in
1215 federal regulations for participation in the swing-bed program
1216 which receives such certificate of need shall develop a procedure
1217 to ensure that before a patient is allowed to stay in the swing
1218 beds of the hospital, there are no vacant nursing home beds
1219 available for that patient located within a fifty-mile radius of
1220 the hospital. When any such hospital has a patient staying in the
1221 swing beds of the hospital and the hospital receives notice from a
1222 nursing home located within such radius that there is a vacant bed
1223 available for that patient, the hospital shall transfer the
1224 patient to the nursing home within a reasonable time after receipt
1225 of the notice. Any hospital which is subject to the requirements
1226 of the two (2) preceding sentences of this subsection may be
1227 suspended from participation in the swing-bed program for a
1228 reasonable period of time by the State Department of Health if the
1229 department, after a hearing complying with due process, determines
1230 that the hospital has failed to comply with any of those
1231 requirements.

1232 (8) The Department of Health shall not grant approval for or
1233 issue a certificate of need to any person proposing the new
1234 construction of, addition to or expansion of a health care
1235 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1236 except as hereinafter provided: The department may issue a
1237 certificate of need to a nonprofit corporation located in Madison
1238 County, Mississippi, for the construction, expansion or conversion



1239 of not more than twenty (20) beds in a community living program
1240 for developmentally disabled adults in a facility as defined in
1241 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1242 subsection (8), the provisions of Section 41-7-193(1) requiring
1243 substantial compliance with the projection of need as reported in
1244 the current State Health Plan and the provisions of Section
1245 41-7-197 requiring a formal certificate of need hearing process
1246 are waived. There shall be no prohibition or restrictions on
1247 participation in the Medicaid program for the person receiving the
1248 certificate of need authorized under this subsection (8).

1249 (9) The Department of Health shall not grant approval for or
1250 issue a certificate of need to any person proposing the
1251 establishment of, or expansion of the currently approved territory
1252 of, or the contracting to establish a home office, subunit or
1253 branch office within the space operated as a health care facility
1254 as defined in Section 41-7-173(h) (i) through (viii) by a health
1255 care facility as defined in subparagraph (ix) of Section
1256 41-7-173(h).

1257 (10) Health care facilities owned and/or operated by the
1258 state or its agencies are exempt from the restraints in this
1259 section against issuance of a certificate of need if such addition
1260 or expansion consists of repairing or renovation necessary to
1261 comply with the state licensure law. This exception shall not
1262 apply to the new construction of any building by such state
1263 facility. This exception shall not apply to any health care



1264 facilities owned and/or operated by counties, municipalities,
1265 districts, unincorporated areas, other defined persons, or any
1266 combination thereof.

1267 (11) The new construction, renovation or expansion of or
1268 addition to any health care facility defined in subparagraph (ii)
1269 (psychiatric hospital), subparagraph (iv) (skilled nursing
1270 facility), subparagraph (vi) (intermediate care facility),
1271 subparagraph (viii) (intermediate care facility for the mentally
1272 retarded) and subparagraph (x) (psychiatric residential treatment
1273 facility) of Section 41-7-173(h) which is owned by the State of
1274 Mississippi and under the direction and control of the State
1275 Department of Mental Health, and the addition of new beds or the
1276 conversion of beds from one category to another in any such
1277 defined health care facility which is owned by the State of
1278 Mississippi and under the direction and control of the State
1279 Department of Mental Health, shall not require the issuance of a
1280 certificate of need under Section 41-7-171 et seq.,
1281 notwithstanding any provision in Section 41-7-171 et seq. to the
1282 contrary.

1283 (12) The new construction, renovation or expansion of or
1284 addition to any veterans homes or domiciliaries for eligible
1285 veterans of the State of Mississippi as authorized under Section
1286 35-1-19 shall not require the issuance of a certificate of need,
1287 notwithstanding any provision in Section 41-7-171 et seq. to the
1288 contrary.



1289 (13) The repair or the rebuilding of an existing, operating
1290 health care facility that sustained significant damage from a
1291 natural disaster that occurred after April 15, 2014, in an area
1292 that is proclaimed a disaster area or subject to a state of
1293 emergency by the Governor or by the President of the United States
1294 shall be exempt from all of the requirements of the Mississippi
1295 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1296 rules and regulations promulgated under that law, subject to the
1297 following conditions:

1298 (a) The repair or the rebuilding of any such damaged
1299 health care facility must be within one (1) mile of the
1300 pre-disaster location of the campus of the damaged health care
1301 facility, except that any temporary post-disaster health care
1302 facility operating location may be within five (5) miles of the
1303 pre-disaster location of the damaged health care facility;

1304 (b) The repair or the rebuilding of the damaged health
1305 care facility (i) does not increase or change the complement of
1306 its bed capacity that it had before the Governor's or the
1307 President's proclamation, (ii) does not increase or change its
1308 levels and types of health care services that it provided before
1309 the Governor's or the President's proclamation, and (iii) does not
1310 rebuild in a different county; however, this paragraph does not
1311 restrict or prevent a health care facility from decreasing its bed
1312 capacity that it had before the Governor's or the President's
1313 proclamation, or from decreasing the levels of or decreasing or



1314 eliminating the types of health care services that it provided
1315 before the Governor's or the President's proclamation, when the
1316 damaged health care facility is repaired or rebuilt;

1317 (c) The exemption from Certificate of Need Law provided
1318 under this subsection (13) is valid for only five (5) years from
1319 the date of the Governor's or the President's proclamation. If
1320 actual construction has not begun within that five-year period,
1321 the exemption provided under this subsection is inapplicable; and

1322 (d) The Division of Health Facilities Licensure and
1323 Certification of the State Department of Health shall provide the
1324 same oversight for the repair or the rebuilding of the damaged
1325 health care facility that it provides to all health care facility
1326 construction projects in the state.

1327 For the purposes of this subsection (13), "significant
1328 damage" to a health care facility means damage to the health care
1329 facility requiring an expenditure of at least One Million Dollars
1330 (\$1,000,000.00).

1331 (14) The State Department of Health shall issue a
1332 certificate of need to any hospital which is currently licensed
1333 for two hundred fifty (250) or more acute care beds and is located
1334 in any general hospital service area not having a comprehensive
1335 cancer center, for the establishment and equipping of such a
1336 center which provides facilities and services for outpatient
1337 radiation oncology therapy, outpatient medical oncology therapy,
1338 and appropriate support services including the provision of



1339 radiation therapy services. The provisions of Section 41-7-193(1)
1340 regarding substantial compliance with the projection of need as
1341 reported in the current State Health Plan are waived for the
1342 purpose of this subsection.

1343 (15) The State Department of Health may authorize the
1344 transfer of hospital beds, not to exceed sixty (60) beds, from the
1345 North Panola Community Hospital to the South Panola Community
1346 Hospital. The authorization for the transfer of those beds shall
1347 be exempt from the certificate of need review process.

1348 (16) The State Department of Health shall issue any
1349 certificates of need necessary for Mississippi State University
1350 and a public or private health care provider to jointly acquire
1351 and operate a linear accelerator and a magnetic resonance imaging
1352 unit. Those certificates of need shall cover all capital
1353 expenditures related to the project between Mississippi State
1354 University and the health care provider, including, but not
1355 limited to, the acquisition of the linear accelerator, the
1356 magnetic resonance imaging unit and other radiological modalities;
1357 the offering of linear accelerator and magnetic resonance imaging
1358 services; and the cost of construction of facilities in which to
1359 locate these services. The linear accelerator and the magnetic
1360 resonance imaging unit shall be (a) located in the City of
1361 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1362 Mississippi State University and the public or private health care
1363 provider selected by Mississippi State University through a



1364 request for proposals (RFP) process in which Mississippi State
1365 University selects, and the Board of Trustees of State
1366 Institutions of Higher Learning approves, the health care provider
1367 that makes the best overall proposal; (c) available to Mississippi
1368 State University for research purposes two-thirds (2/3) of the
1369 time that the linear accelerator and magnetic resonance imaging
1370 unit are operational; and (d) available to the public or private
1371 health care provider selected by Mississippi State University and
1372 approved by the Board of Trustees of State Institutions of Higher
1373 Learning one-third (1/3) of the time for clinical, diagnostic and
1374 treatment purposes. For purposes of this subsection, the
1375 provisions of Section 41-7-193(1) requiring substantial compliance
1376 with the projection of need as reported in the current State
1377 Health Plan are waived.

1378 (17) The State Department of Health shall issue a
1379 certificate of need for the construction of an acute care hospital
1380 in Kemper County, not to exceed twenty-five (25) beds, which shall
1381 be named the "John C. Stennis Memorial Hospital." In issuing the
1382 certificate of need under this subsection, the department shall
1383 give priority to a hospital located in Lauderdale County that has
1384 two hundred fifteen (215) beds. For purposes of this subsection,
1385 the provisions of Section 41-7-193(1) requiring substantial
1386 compliance with the projection of need as reported in the current
1387 State Health Plan and the provisions of Section 41-7-197 requiring
1388 a formal certificate of need hearing process are waived. There



1389 shall be no prohibition or restrictions on participation in the
1390 Medicaid program (Section 43-13-101 et seq.) for the person or
1391 entity receiving the certificate of need authorized under this
1392 subsection or for the beds constructed under the authority of that
1393 certificate of need.

1394 (18) The planning, design, construction, renovation,
1395 addition, furnishing and equipping of a clinical research unit at
1396 any health care facility defined in Section 41-7-173(h) that is
1397 under the direction and control of the University of Mississippi
1398 Medical Center and located in Jackson, Mississippi, and the
1399 addition of new beds or the conversion of beds from one (1)
1400 category to another in any such clinical research unit, shall not
1401 require the issuance of a certificate of need under Section
1402 41-7-171 et seq., notwithstanding any provision in Section
1403 41-7-171 et seq. to the contrary.

1404 (19) [Repealed]

1405 (20) Nothing in this section or in any other provision of
1406 Section 41-7-171 et seq. shall prevent any nursing facility from
1407 designating an appropriate number of existing beds in the facility
1408 as beds for providing care exclusively to patients with
1409 Alzheimer's disease.

1410 (21) Nothing in this section or any other provision of
1411 Section 41-7-171 et seq. shall prevent any health care facility
1412 from the new construction, renovation, conversion or expansion of
1413 new beds in the facility designated as intensive care units,



1414 negative pressure rooms, or isolation rooms pursuant to the
1415 provisions of Sections 41-14-1 through 41-14-11, or Section
1416 41-14-31. For purposes of this subsection, the provisions of
1417 Section 41-7-193(1) requiring substantial compliance with the
1418 projection of need as reported in the current State Health Plan
1419 and the provisions of Section 41-7-197 requiring a formal
1420 certificate of need hearing process are waived.

1421 **SECTION 3.** Section 41-77-1, Mississippi Code of 1972, is
1422 amended as follows:

1423 41-77-1. For purposes of this chapter:

1424 (a) "Birthing center" * * * means a publicly or
1425 privately owned facility, place or institution constructed,
1426 renovated, leased or otherwise established where nonemergency
1427 births are planned to occur away from the mother's usual residence
1428 following a documented period of prenatal care for a normal
1429 uncomplicated pregnancy which has been determined to be low risk
1430 through a formal risk scoring examination. Care provided in a
1431 birthing center shall be provided by a licensed physician, or
1432 certified nurse midwife, and a registered nurse. Services
1433 provided in a birthing center shall be limited in the following
1434 manner: (i) surgical services shall be limited to those normally
1435 performed during uncomplicated childbirth, such as episiotomy and
1436 repair, and shall not include operative obstetrics or caesarean
1437 sections; (ii) labor shall not be inhibited, stimulated or
1438 augmented with chemical agents during the first or second stage of



1439 labor; (iii) systemic analgesia may be administered and local
1440 anesthesia for pudental block and episiotomy repair may be
1441 performed. General and conductive anesthesia shall not be
1442 administered at birthing centers; (iv) patients shall not remain
1443 in the facility in excess of twenty-four (24) hours.

1444 Hospitals are excluded from the definition of a "birthing
1445 center" unless they choose to and are qualified to designate a
1446 portion or part of the hospital as a birthing center, and nothing
1447 herein shall be construed as referring to the usual service
1448 provided the pregnant female in the obstetric-gynecology service
1449 of an acute care hospital. Such facility or center, as heretofore
1450 stated, shall include the offices of physicians in private
1451 practice alone or in groups of two (2) or more; and such facility
1452 or center rendering service to pregnant female persons, as stated
1453 heretofore and by the rules and regulations promulgated by the
1454 licensing agency in furtherance thereof, shall be deemed to be a
1455 "birthing center" whether using a similar or different name. Such
1456 center or facility if in any manner is deemed to be or considered
1457 to be operated or owned by a hospital or a hospital holding
1458 leasing or management company, for profit or not for profit, is
1459 required to comply with all birthing center standards governing a
1460 "hospital affiliated" birthing center as adopted by the licensing
1461 authority.

1462 (b) "Hospital affiliated" birthing center * * * means a
1463 separate and distinct unit of a hospital or a building owned,



1464 leased, rented or utilized by a hospital and located in the same
1465 county as the hospital for the purpose of providing the service of
1466 a "birthing center." Such center or facility is not required to
1467 be licensed separately, and may operate under the license issued
1468 to the hospital if it is in compliance with Section 41-9-1 et
1469 seq., where applicable, and the rules and regulations promulgated
1470 by the licensing agency in furtherance thereof.

1471 (c) "Freestanding" birthing center * * * means a
1472 separate and distinct facility or center or a separate and
1473 distinct organized unit of a hospital or other * * * entity for
1474 the purpose of performing the service of a "birthing center."
1475 Such facility or center must be separately licensed and must
1476 comply with all licensing standards promulgated by the licensing
1477 agency by virtue of this chapter. Further, such facility or
1478 center must be a separate, identifiable entity and must be
1479 physically, administratively and financially independent from
1480 other operations of any hospital or other health care facility or
1481 service and shall maintain a separate and required staff,
1482 including administrative staff. * * *

1483 (d) "Licensing agency" * * * means the State Department
1484 of Health.

1485 **SECTION 4.** Section 41-77-5, Mississippi Code of 1972, is
1486 amended as follows:

1487 41-77-5. No person * * * or other entity, acting severally
1488 or jointly with any other person or entity, shall establish,



1489 conduct or maintain a "birthing center" in this state without a
1490 license under this chapter.

1491 **SECTION 5.** Section 41-77-21, Mississippi Code of 1972, is
1492 amended as follows:

1493 41-77-21. Any applicant or licensee aggrieved by the
1494 decision of the licensing agency after a hearing may, within
1495 thirty (30) days after the mailing or serving of notice of the
1496 decision as provided in Section 43-11-11, * * * file a notice of
1497 appeal to the Chancery Court of the First Judicial District of
1498 Hinds County or in the chancery court of the county in which the
1499 institution is located or proposed to be located. * * *
1500 Thereupon, the licensing agency shall * * * certify and file with
1501 the court a copy of the record and decision, including the
1502 transcript of the hearings in which the decision is based. No new
1503 or additional evidence shall be introduced in court; the case
1504 shall be determined upon the record certified to the court. The
1505 court may sustain or dismiss the appeal, modify or vacate the
1506 order complained of in whole or in part, as the case may be; but
1507 in case the order is wholly or partly vacated, the court may also,
1508 in its discretion, remand the matter to the licensing agency for
1509 such further proceedings, not inconsistent with the court's order,
1510 as, in the opinion of the court, justice may require. The order
1511 may not be vacated or set aside, either in whole or in part,
1512 except for errors of law, unless the court finds that the order of
1513 the licensing agency is not supported by substantial evidence, is



1514 contrary to the manifest weight of the evidence, is in excess of
1515 the statutory authority or jurisdiction of the licensing agency,
1516 or violates any vested constitutional rights of any party involved
1517 in the appeal. Pending final disposition of the matter, the
1518 status quo of the applicant or licensee shall be preserved, except
1519 as the court otherwise orders in the public interest. Rules with
1520 respect to court costs in other cases in chancery shall apply
1521 equally to cases hereunder. Appeals in accordance with law may be
1522 had to the Supreme Court of the State of Mississippi from any
1523 final judgment of the chancery court.

1524 **SECTION 6.** Section 41-77-23, Mississippi Code of 1972, is
1525 amended as follows:

1526 41-77-23. Any person or persons or other entity or entities
1527 establishing, managing or operating a "birthing center" or
1528 conducting the business of a "birthing center" without the
1529 required license, or which otherwise violate any of the provisions
1530 of this chapter * * * or the rules, regulations or standards
1531 promulgated in furtherance of any law in which the * * * licensing
1532 agency has authority therefor, shall be subject to the following
1533 penalties and sanctions of Section 41-7-209 * * *:

1534 (a) Revocation of the license of the birthing center or
1535 a designated section, component or service thereof; or

1536 (b) Nonlicensure of a specific or designated service
1537 offered by the birthing center.



1538 In addition, any violation of any provision of this chapter
1539 or any rules or regulations promulgated in furtherance thereof by
1540 intent, fraud, deceit, unlawful design, willful and/or deliberate
1541 misrepresentation, or by careless, negligent or incautious
1542 disregard for such statutes or rules and regulations, either by
1543 persons acting individually or in concert with others, shall
1544 constitute a misdemeanor and shall be punishable by a fine not to
1545 exceed One Thousand Dollars (\$1,000.00) for each such offense.
1546 Each day of continuing violation shall be considered a separate
1547 offense. The venue for prosecution of any such violation shall be
1548 in any county of the state in which any such violation, or portion
1549 thereof, occurred.

1550 **SECTION 7.** Section 41-77-25, Mississippi Code of 1972, is
1551 amended as follows:

1552 41-77-25. Upon receipt of an application for license and the
1553 license fee, the licensing agency shall issue a license if the
1554 applicant and the institutional facilities meet the requirements
1555 established under this chapter * * *. A license, unless suspended
1556 or revoked, shall be renewable annually upon payment of a renewal
1557 fee of Three Hundred Dollars (\$300.00), which shall be paid to the
1558 licensing agency, and upon filing by the licensee and approval by
1559 the licensing agency of an annual report upon such uniform dates
1560 and containing such information in such form as the licensing
1561 agency requires. Any increase in the fee charged by the licensing
1562 agency under this section shall be in accordance with the



1563 provisions of Section 41-3-65. Each license shall be issued only
1564 for the premises and person or persons named in the application
1565 and shall not be transferable or assignable. Licenses shall be
1566 posted in a conspicuous place on the licensed premises.

1567 **SECTION 8.** This act shall take effect and be in force from
1568 and after July 1, 2024.

