Adopted COMMITTEE AMENDMENT NO 1 PROPOSED TO

House Bill No. 848

BY: Committee

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

- SECTION 1. Section 41-7-173, Mississippi Code of 1972, is
- 24 amended as follows:
- 41-7-173. For the purposes of Section 41-7-171 et seq., the
- 26 following words shall have the meanings ascribed herein, unless
- 27 the context otherwise requires:
- 28 (a) "Affected person" means (i) the applicant; (ii) a
- 29 person residing within the geographic area to be served by the
- 30 applicant's proposal; (iii) a person who regularly uses health
- 31 care facilities or HMOs located in the geographic area of the
- 32 proposal which provide similar service to that which is proposed;



- 33 (iv) health care facilities and HMOs which have, prior to receipt
- 34 of the application under review, formally indicated an intention
- 35 to provide service similar to that of the proposal being
- 36 considered at a future date; (v) third-party payers who reimburse
- 37 health care facilities located in the geographical area of the
- 38 proposal; or (vi) any agency that establishes rates for health
- 39 care services or HMOs located in the geographic area of the
- 40 proposal.
- 41 (b) "Certificate of need" means a written order of the
- 42 State Department of Health setting forth the affirmative finding
- 43 that a proposal in prescribed application form, sufficiently
- 44 satisfies the plans, standards and criteria prescribed for such
- 45 service or other project by Section 41-7-171 et seq., and by rules
- 46 and regulations promulgated thereunder by the State Department of
- 47 Health.
- 48 (c) (i) "Capital expenditure," when pertaining to
- 49 defined major medical equipment, shall mean an expenditure which,
- 50 under generally accepted accounting principles consistently
- 51 applied, is not properly chargeable as an expense of operation and
- 52 maintenance and which exceeds One Million Five Hundred Thousand
- 53 Dollars (\$1,500,000.00).
- (ii) "Capital expenditure," when pertaining to
- other than major medical equipment, shall mean any expenditure
- 56 which under generally accepted accounting principles consistently
- 57 applied is not properly chargeable as an expense of operation and

- 58 maintenance and which exceeds, for clinical health services, as
- 59 defined in * * * paragraph (k) below, Five Million Dollars
- 60 (\$5,000,000.00), adjusted for inflation as published by the State
- 61 Department of Health or which exceeds, for nonclinical health
- 62 services, as defined in * * * paragraph (k) below, Ten Million
- Oollars (\$10,000,000.00), adjusted for inflation as published by
- 64 the State Department of Health.
- 65 (iii) A "capital expenditure" shall include the
- 66 acquisition, whether by lease, sufferance, gift, devise, legacy,
- 67 settlement of a trust or other means, of any facility or part
- 68 thereof, or equipment for a facility, the expenditure for which
- 69 would have been considered a capital expenditure if acquired by
- 70 purchase. Transactions which are separated in time but are
- 71 planned to be undertaken within twelve (12) months of each other
- 72 and are components of an overall plan for meeting patient care
- 73 objectives shall, for purposes of this definition, be viewed in
- 74 their entirety without regard to their timing.
- 75 (iv) In those instances where a health care
- 76 facility or other provider of health services proposes to provide
- 77 a service in which the capital expenditure for major medical
- 78 equipment or other than major medical equipment or a combination
- 79 of the two (2) may have been split between separate parties, the
- 80 total capital expenditure required to provide the proposed service
- 81 shall be considered in determining the necessity of certificate of
- 82 need review and in determining the appropriate certificate of need

- 83 review fee to be paid. The capital expenditure associated with
- 84 facilities and equipment to provide services in Mississippi shall
- 85 be considered regardless of where the capital expenditure was
- 86 made, in state or out of state, and regardless of the domicile of
- 87 the party making the capital expenditure, in state or out of
- 88 state.
- (d) "Change of ownership" includes, but is not limited
- 90 to, inter vivos gifts, purchases, transfers, lease arrangements,
- 91 cash and/or stock transactions or other comparable arrangements
- 92 whenever any person or entity acquires or controls a majority
- 93 interest of an existing health care facility, and/or the change of
- 94 ownership of major medical equipment, a health service, or an
- 95 institutional health service. Changes of ownership from
- 96 partnerships, single proprietorships or corporations to another
- 97 form of ownership are specifically included. However, "change of
- 98 ownership" shall not include any inherited interest acquired as a
- 99 result of a testamentary instrument or under the laws of descent
- 100 and distribution of the State of Mississippi.
- 101 (e) "Commencement of construction" means that all of
- 102 the following have been completed with respect to a proposal or
- 103 project proposing construction, renovating, remodeling or
- 104 alteration:
- 105 (i) A legally binding written contract has been
- 106 consummated by the proponent and a lawfully licensed contractor to
- 107 construct and/or complete the intent of the proposal within a

- 108 specified period of time in accordance with final architectural
- 109 plans which have been approved by the licensing authority of the
- 110 State Department of Health;
- 111 (ii) Any and all permits and/or approvals deemed
- 112 lawfully necessary by all authorities with responsibility for such
- 113 have been secured; and
- 114 (iii) Actual bona fide undertaking of the subject
- 115 proposal has commenced, and a progress payment of at least one
- 116 percent (1%) of the total cost price of the contract has been paid
- 117 to the contractor by the proponent, and the requirements of this
- 118 paragraph (e) have been certified to in writing by the State
- 119 Department of Health.
- 120 Force account expenditures, such as deposits, securities,
- 121 bonds, et cetera, may, in the discretion of the State Department
- 122 of Health, be excluded from any or all of the provisions of
- 123 defined commencement of construction.
- 124 (f) "Consumer" means an individual who is not a
- 125 provider of health care as defined in paragraph (q) of this
- 126 section.
- 127 (q) "Develop," when used in connection with health
- 128 services, means to undertake those activities which, on their
- 129 completion, will result in the offering of a new institutional
- 130 health service or the incurring of a financial obligation as
- 131 defined under applicable state law in relation to the offering of
- 132 such services.



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                    "Health care facility" includes hospitals,
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     psychiatric hospitals, * * * skilled nursing facilities, end-stage
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     renal disease (ESRD) facilities, including freestanding
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     hemodialysis units, * * * ambulatory surgical facilities, * * *
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     home health agencies, * * * pediatric skilled nursing facilities,
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     long-term care hospitals, comprehensive medical rehabilitation
     facilities, including facilities owned or operated by the state or
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     a political subdivision or instrumentality of the state, but does
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     not include Christian Science sanatoriums operated or listed and
     certified by the First Church of Christ, Scientist, Boston,
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     Massachusetts. This definition shall not apply to facilities for
     the private practice, either independently or by incorporated
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     medical groups, of physicians, dentists or health care
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     professionals except where such facilities are an integral part of
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     an institutional health service. The various health care
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     facilities listed in this paragraph shall be defined as follows:
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                         "Hospital" means an institution which is
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     primarily engaged in providing to inpatients, by or under the
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     supervision of physicians, diagnostic services and therapeutic
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     services for medical diagnosis, treatment and care of injured,
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     disabled or sick persons, or rehabilitation services for the
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     rehabilitation of injured, disabled or sick persons. Such term
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     does not include psychiatric hospitals.
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                     (ii)
                          "Psychiatric hospital" means an institution
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which is primarily engaged in providing to inpatients, by or under

158 the supervision of a physician, psychiatric services for the

159 diagnosis and treatment of persons with mental illness.

160 (iii) * * * [Deleted]

161 (iv) "Skilled nursing facility" means an

162 institution or a distinct part of an institution which is

163 primarily engaged in providing to inpatients skilled nursing care

164 and related services for patients who require medical or nursing

165 care or rehabilitation services for the rehabilitation of injured,

166 disabled or sick persons.

167 (v) "End-stage renal disease (ESRD) facilities"

168 means kidney disease treatment centers, which includes

169 freestanding hemodialysis units and limited care facilities. The

170 term "limited care facility" generally refers to an

171 off-hospital-premises facility, regardless of whether it is

172 provider or nonprovider operated, which is engaged primarily in

173 furnishing maintenance hemodialysis services to stabilized

174 patients.

175 (vi) * * * [Deleted]

176 (vii) "Ambulatory surgical facility" means a

177 facility primarily organized or established for the purpose of

178 performing surgery for outpatients and is a separate identifiable

179 legal entity from any other health care facility. Such term does

180 not include the offices of private physicians or dentists, whether

181 for individual or group practice, and does not include any

182 abortion facility as defined in Section 41-75-1(f).

183	(viii) * * * [Deleted]
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	employ	yee or	by an	arrangement	with	another	individual	not
209	defined	l as a	health	n 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]

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

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

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	* * * <u>a.</u> Physical Therapy;
248	* * * <u>b.</u> Occupational Therapy;
249	* * * <u>c.</u> Speech and Language Therapy;
250	* * \star d. Rehabilitation Nursing; and
251	4. Incorporates at least three (3) of the
252	following disciplines:
253	* * * <u>a.</u> Psychology;
254	* * * <u>b.</u> Audiology;
255	* * * <u>c.</u> Respiratory Therapy;
256	* * * <u>d.</u> Therapeutic Recreation;

(xiii) "Comprehensive medical rehabilitation

257	* * * <u>e.</u> Orthotics;
258	* * * <u>f.</u> Prosthetics;
259	* * *g. Special Education;
260	* * * <u>h.</u> Vocational Rehabilitation;
261	* * * <u>i.</u> Psychotherapy;
262	* * * <u>j.</u> Social Work;
263	* * * <u>k.</u> 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 physicians or one or more groups of physicians (organized on a group practice or individual practice basis).
- (j) "Health service area" means a geographic area of
 the state designated in the State Health Plan as the area to be
 used in planning for specified health facilities and services and
 to be used when considering certificate of need applications to
 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 services" shall be all other services which do not involve any 301 302 change in the existing bed complement or offering health services as described above. "Health services" does <u>not include medical</u> 303 304 and related services for the diagnosis and treatment of chemical 305 dependency such as alcohol and drug abuse.

- 306 (1) "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.
- "Major medical equipment" means medical equipment 310 (m) 311 designed for providing medical or any health-related service which 312 costs in excess of One Million Five Hundred Thousand Dollars (\$1,500,000.00). However, this definition shall not be applicable 313 314 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.
 - (t) "State Health Plan" means the sole and official statewide health plan for Mississippi which identifies priority state health needs and establishes standards and criteria for health-related activities which require certificate of need review 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.



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

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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;



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                     (vii)
                           Diagnostic imaging services of an invasive
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     nature, i.e. invasive digital angiography;
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                           Nursing home care as defined in * * *
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     subparagraph (iv) * * * of Section 41-7-173(h);
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                     (ix) Home health services;
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                     (x)
                         Swing-bed services;
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                     (xi) Ambulatory surgical services;
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                     (xii)
                           Magnetic resonance imaging services;
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                     (xiii) [Deleted]
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                     (xiv)
                           Long-term care hospital services;
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                     (xv) Positron emission tomography (PET) services;
                    The relocation of one or more health services from
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                (e)
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     one physical facility or site to another physical facility or
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     site, unless such relocation, which does not involve a capital
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     expenditure by or on behalf of a health care facility, (i) is to a
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     physical facility or site within five thousand two hundred eighty
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     (5,280) feet from the main entrance of the health care facility
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     where the health care service is located, or (ii) is the result of
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     an order of a court of appropriate jurisdiction or a result of
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     pending litigation in such court, or by order of the State
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     Department of Health, or by order of any other agency or legal
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     entity of the state, the federal government, or any political
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     subdivision of either, whose order is also approved by the State
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     Department of Health;
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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 acquisition at fair market value would be subject to review; 438 439 (q) Changes of ownership of existing health care facilities in which a notice of intent is not filed with the State 440 441 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 capacity as prescribed in paragraph (c) or (d) of this subsection 443 444 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 The change of ownership of any health care facility 448 defined in * * * subparagraph (viii) of Section 41-7-173(h), in 449 which a notice of intent as described in paragraph (q) has not 450 been filed and if the Executive Director, Division of Medicaid, 451 Office of the Governor, has not certified in writing that there 452 will be no increase in allowable costs to Medicaid from

The acquisition or otherwise control of any major

- 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 (1) 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.



- for or issue a certificate of need to any person proposing the new construction of, addition to, or expansion of any health care facility defined in * * * subparagraph (iv) (skilled nursing facility) * * * of Section 41-7-173(h) or the conversion of vacant hospital beds to provide skilled * * * nursing home care, except as hereinafter authorized:

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

- issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be authorized under the authority of this paragraph (c) shall not exceed sixty (60) beds.
- 530 The State Department of Health may issue a (d) 531 certificate of need to any hospital located in DeSoto County for 532 the new construction of a skilled nursing facility, not to exceed one hundred twenty (120) beds, in DeSoto County. From and after 533 534 July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) 535 536 for the beds in the nursing facility that were authorized under 537 this paragraph (d).
 - (e) The State Department of Health may issue a certificate of need for the construction of a nursing facility or the conversion of beds to nursing facility beds at a personal care facility for the elderly in Lowndes County that is owned and operated by a Mississippi nonprofit corporation, not to exceed sixty (60) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the nursing facility that were authorized under this paragraph (e).
- (f) The State Department of Health may issue a certificate of need for conversion of a county hospital facility in Itawamba County to a nursing facility, not to exceed sixty (60) beds, including any necessary construction, renovation or

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- expansion. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the nursing facility that were authorized under this paragraph (f).
- 555 The State Department of Health may issue a (q) 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 prohibition or restrictions on participation in the Medicaid 560 561 program (Section 43-13-101 et seq.) for the beds in the nursing 562 facility that were authorized under this paragraph (g).
 - (h) The State Department of Health may issue a certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hancock, Harrison or Jackson County, not to exceed sixty (60) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the facility that were authorized under this paragraph (h).
- (i) The department may issue a certificate of need for
 the new construction of a skilled nursing facility in Leake
 County, provided that the recipient of the certificate of need
 agrees in writing that the skilled nursing facility will not at
 any time participate in the Medicaid program (Section 43-13-101 et

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576 seq.) or admit or keep any patients in the skilled nursing 577 facility who are participating in the Medicaid program. 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 such skilled nursing facility at any time after the issuance of 585 the certificate of need, regardless of the ownership of the 586 587 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 State Department of Health, after a hearing complying with due 605 606 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 (†) 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 licensed with fewer than sixty (60) beds. For the purposes of 613 614 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).
- (k) The department may issue a certificate of need for the construction of a nursing facility at a continuing care retirement community in Lowndes County. The total number of beds that may be authorized under the authority of this paragraph (k) 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. 637 written agreement by the owner of the facility shall be a condition of licensure of the facility, and the agreement shall be 638 639 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 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.

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



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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

- substantial construction of the nursing facility beds within six not mental adjudication on the issuance of the certificate of need.
- 704 The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing 705 706 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 This written agreement by the recipient of the 712 certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility 713 714 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 paragraph (n), and if such skilled nursing facility at any time 718 719 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. 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 of need if it is still outstanding, and the department shall not 741 742 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.

the new construction, addition or conversion of skilled nursing

facility beds in Leake County, provided that the recipient of the

The department may issue a certificate of need for

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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 This written agreement by the recipient of the program. 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. 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 certificate of need is contested, the department shall require 788 789 substantial construction of the nursing facility beds within six 790 (6) months after final adjudication on the issuance of the 791 certificate of need.

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

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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 any patients in the facility who are participating in the Medicaid 810 811 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 process, shall revoke the certificate of need if it is still 830 831 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 nursing facility beds within six (6) months after final 835 836 adjudication on the issuance of the certificate of need. 837 Beginning on July 1, 1999, the State (i) (a) 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

beds, as follows: During fiscal years 2000, 2001 and 2002, one

(v), during each of the next four (4) fiscal years, the department

shall issue six (6) certificates of need for new nursing facility

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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 fiscal year 1999 State Health Plan, that has not received a 863 864 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 Subject to the provisions of subparagraph (iii) 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 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 in other counties in the district in descending order of the need 880 881 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 Subject to the provisions of subparagraph (iv) (v), the certificate of need issued under subparagraph (ii) for 885 nursing facility beds in the two (2) counties from the state at 886 887 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

Plan. If there are no applications for a certificate of need for



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

902 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 fiscal year. After a certificate of need has been issued under 911 912 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 (g) for additional nursing facility beds in that county during the 915 916 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.

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

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- 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

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 consultation with the Department of Mental Health and the Division 960 961 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.

fiscal year shall not exceed one hundred twenty (120) beds, and

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

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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 The State Department of Health shall issue (t) 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: the construction of a new nursing facility in Harrison County; 984 985 (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 subject to the following conditions: The owner of the Hancock 993 994 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 written agreement is executed, the Division of Medicaid and the 1009 1010 State Department of Health shall not certify more than fifty (50) of the beds at the Hancock County facility or more than forty-nine 1011 1012 (49) of the beds at the Harrison County facility for participation If the Hancock County facility violates 1013 in the Medicaid program. the terms of the written agreement by admitting or keeping in the 1014 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 violation of the agreement, at the time that the department 1022 1023 determines, after a hearing complying with due process, that the facility has violated the agreement. 1024



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.

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(3) * * * [Deleted]

1049	(4) (a) From and after * * * $\underline{\text{July 1, 2024}}$, the department								
1050	may issue a certificate of need to any person for the new								
1051	construction of any hospital * * * $\underline{\text{or}}$ 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]

(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. 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 of that certificate of need. 1084

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

1096 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

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1099 the conversion of other beds to child/adolescent psychiatric beds 1100 in any of the counties served by the commission. For purposes of this subparagraph (iv), the provisions of Section 41-7-193(1) 1101 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.

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

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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 for participation in the Medicaid program or admits or keeps any 1130 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 hearing complying with due process, that the hospital has failed 1135 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 or the conversion of other beds to child psychiatric beds at the 1141 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

- program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph or for the beds converted pursuant to the authority of that certificate of 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.
 - of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h) (xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need 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. that the long-term care hospital will not participate in the 1176 Medicaid program shall be a condition of the issuance of a 1177 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 the certificate of need, regardless of the ownership of the 1180 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 subsection, the provisions of Section 41-7-193(1) requiring 1191 1192 substantial compliance with the projection of need as reported in 1193 the current State Health Plan are waived.

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



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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.

(8) * * * [Deleted]

- 1233 The Department of Health shall not grant approval for or 1234 issue a certificate of need to any person proposing the 1235 establishment of, or expansion of the currently approved territory 1236 of, or the contracting to establish a home office, subunit or 1237 branch office within the space operated as a health care facility 1238 as defined in Section 41-7-173(h)(i) through (viii) by a health 1239 care facility as defined in subparagraph (ix) of Section 1240 41-7-173(h).
- 1241 (10) Health care facilities owned and/or operated by the 1242 state or its agencies are exempt from the restraints in this 1243 section against issuance of a certificate of need if such addition 1244 or expansion consists of repairing or renovation necessary to 1245 comply with the state licensure law. This exception shall not 1246 apply to the new construction of any building by such state 1247 facility. This exception shall not apply to any health care facilities owned and/or operated by counties, municipalities, 1248

- 1249 districts, unincorporated areas, other defined persons, or any 1250 combination thereof.
- 1251 (11) The new construction, renovation or expansion of or
- 1252 addition to any health care facility defined in subparagraph (ii)
- 1253 (psychiatric hospital) * * * and subparagraph (iv) (skilled
- 1254 nursing facility) * * * of Section 41-7-173(h) which is owned by
- 1255 the State of Mississippi and under the direction and control of
- 1256 the State Department of Mental Health, and the addition of new
- 1257 beds or the conversion of beds from one category to another in any
- 1258 such defined health care facility which is owned by the State of
- 1259 Mississippi and under the direction and control of the State
- 1260 Department of Mental Health, shall not require the issuance of a
- 1261 certificate of need under Section 41-7-171 et seq.,
- 1262 notwithstanding any provision in Section 41-7-171 et seq. to the
- 1263 contrary.
- 1264 (12) The new construction, renovation or expansion of or
- 1265 addition to any veterans homes or domiciliaries for eligible
- 1266 veterans of the State of Mississippi as authorized under Section
- 1267 35-1-19 shall not require the issuance of a certificate of need,
- 1268 notwithstanding any provision in Section 41-7-171 et seq. to the
- 1269 contrary.
- 1270 (13) The repair or the rebuilding of an existing, operating
- 1271 health care facility that sustained significant damage from a
- 1272 natural disaster that occurred after April 15, 2014, in an area
- 1273 that is proclaimed a disaster area or subject to a state of



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

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

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

1298	(c) The exemption from Certificate of Need Law provided
1299	under this subsection (13) is valid for only five (5) years from
1300	the date of the Governor's or the President's proclamation. If
1301	actual construction has not begun within that five-year period,
1302	the exemption provided under this subsection is inapplicable; and
1303	(d) The Division of Health Facilities Licensure and
1304	Certification of the State Department of Health shall provide the
1305	same oversight for the repair or the rebuilding of the damaged
1306	health care facility that it provides to all health care facility

1308 For the purposes of this subsection (13), "significant 1309 damage" to a health care facility means damage to the health care 1310 facility requiring an expenditure of at least One Million Dollars (\$1,000,000.00).

construction projects in the state.

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



1322 reported in the current State Health Plan are waived for the 1323 purpose of this subsection.

be exempt from the certificate of need review process.

- 1324 The State Department of Health may authorize the 1325 transfer of hospital beds, not to exceed sixty (60) beds, from the 1326 North Panola Community Hospital to the South Panola Community 1327 Hospital. The authorization for the transfer of those beds shall
- 1329 The State Department of Health shall issue any 1330 certificates of need necessary for Mississippi State University 1331 and a public or private health care provider to jointly acquire 1332 and operate a linear accelerator and a magnetic resonance imaging 1333 Those certificates of need shall cover all capital unit. 1334 expenditures related to the project between Mississippi State 1335 University and the health care provider, including, but not 1336 limited to, the acquisition of the linear accelerator, the 1337 magnetic resonance imaging unit and other radiological modalities; 1338 the offering of linear accelerator and magnetic resonance imaging 1339 services; and the cost of construction of facilities in which to 1340 locate these services. The linear accelerator and the magnetic 1341 resonance imaging unit shall be (a) located in the City of 1342 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by 1343 Mississippi State University and the public or private health care provider selected by Mississippi State University through a 1344 1345 request for proposals (RFP) process in which Mississippi State University selects, and the Board of Trustees of State 1346

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

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



- entity receiving the certificate of need authorized under this subsection or for the beds constructed under the authority of that certificate of need.
- 1375 The planning, design, construction, renovation, (18)1376 addition, furnishing and equipping of a clinical research unit at 1377 any health care facility defined in Section 41-7-173(h) that is under the direction and control of the University of Mississippi 1378 1379 Medical Center and located in Jackson, Mississippi, and the 1380 addition of new beds or the conversion of beds from one (1) category to another in any such clinical research unit, shall not 1381 1382 require the issuance of a certificate of need under Section 1383 41-7-171 et seq., notwithstanding any provision in Section 1384 41-7-171 et seq. to the contrary.
- 1385 (19) [Repealed]
- 1386 (20) Nothing in this section or in any other provision of
 1387 Section 41-7-171 et seq. shall prevent any nursing facility from
 1388 designating an appropriate number of existing beds in the facility
 1389 as beds for providing care exclusively to patients with
 1390 Alzheimer's disease.
- 1391 (21) Nothing in this section or any other provision of
 1392 Section 41-7-171 et seq. shall prevent any health care facility
 1393 from the new construction, renovation, conversion or expansion of
 1394 new beds in the facility designated as intensive care units,
 1395 negative pressure rooms, or isolation rooms pursuant to the
 1396 provisions of Sections 41-14-1 through 41-14-11, or Section



1397	41-14-31. For purposes of this subsection, the provisions of
1398	Section 41-7-193(1) requiring substantial compliance with the
1399	projection of need as reported in the current State Health Plan
1400	and the provisions of Section 41-7-197 requiring a formal
1401	certificate of need hearing process are waived.

- SECTION 3. Section 41-7-193, Mississippi Code of 1972, is amended as follows:
- 1404 41-7-193. (1) No person may enter into any financing 1405 arrangement or commitment for financing a new institutional health 1406 service or any other project requiring a certificate of need 1407 unless such certificate has been granted for such purpose. A 1408 certificate of need shall not be granted or issued to any person 1409 for any proposal, cause or reason, unless the proposal has been reviewed for consistency with the specifications and the criteria 1410 1411 established by the State Department of Health and substantially 1412 complies with the * * * projected need and with the applicable 1413 criteria and standards presented in the state health plan in 1414 effect at the time the application for the proposal was submitted.
- 1415 (2) The department shall disapprove any application for a 1416 certificate of need:
- 1417 (a) That does not substantially comply with the

 1418 projected need or with applicable criteria and standards presented

 1419 in the state health plan;
- 1420 (b) That fails to confirm that the applicant will provide a reasonable amount of indigent care, or if the



1422	applicant's admission policies deny or discourage access to care
1423	by indigent patients; or
1424	(c) If such approval would have a significant adverse
1425	effect on the ability of an existing facility or service to
1426	provide indigent care.
1427	(3) (a) The department may use a variety of statistical
1428	methodologies, including, but not limited to, market share
1429	analysis or patient origin data to determine substantial
1430	compliance with projected need and with applicable criteria and
1431	standards in the state health plan.
1432	(b) For the purpose of subsection (2) of this section,
1433	a reasonable amount of indigent care is an amount that is
1434	comparable to the amount of such care offered by other providers
1435	of the requested service within the same, or proximate, geographic
1436	area. The State Health Officer shall determine whether the amount
1437	of indigent care provided or proposed to be offered by an
1438	applicant is reasonable.
1439	(* * $\frac{4}{4}$) An application for a certificate of need for an
1440	institutional health service, medical equipment or any proposal
1441	requiring a certificate of need shall specify the time, within
1442	that granted, such shall be functional or operational according to
1443	a time schedule submitted with the application. Each certificate

of need shall specify the maximum amount of capital expenditure

that may be obligated. The State Department of Health shall

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- 1446 periodically review the progress and time schedule of any person 1447 issued or granted a certificate of need for any purpose.
- 1448 (* * $\underline{5}$) An application for a certificate of need may be
- 1449 filed at any time with the department after the applicant has
- 1450 given the department fifteen (15) days' written notice of its
- 1451 intent to apply for a certificate of need. The department shall
- 1452 not delay review of an application. The department shall make its
- 1453 recommendation approving or disapproving a complete application
- 1454 within forty-five (45) days of the date the application was filed
- 1455 or within fifteen (15) days of receipt of any requested
- 1456 information, whichever is later, * * * the request to be made by
- 1457 the department within fifteen (15) days of the filing of the
- 1458 application.
- 1459 **SECTION 4.** Section 41-77-1, Mississippi Code of 1972, is
- 1460 amended as follows:
- 1461 41-77-1. For purposes of this chapter:
- 1462 (a) "Birthing center" * * * means a publicly or
- 1463 privately owned facility, place or institution constructed,
- 1464 renovated, leased or otherwise established where nonemergency
- 1465 births are planned to occur away from the mother's usual residence
- 1466 following a documented period of prenatal care for a normal
- 1467 uncomplicated pregnancy which has been determined to be low risk
- 1468 through a formal risk scoring examination. Care provided in a
- 1469 birthing center shall be provided by a licensed physician, or
- 1470 certified nurse midwife, and a registered nurse. Services



1471 provided in a birthing center shall be limited in the following 1472 (i) surgical services shall be limited to those normally performed during uncomplicated childbirth, such as episiotomy and 1473 repair, and shall not include operative obstetrics or caesarean 1474 1475 sections; (ii) labor shall not be inhibited, stimulated or 1476 augmented with chemical agents during the first or second stage of 1477 labor; (iii) systemic analgesia may be administered and local 1478 anesthesia for pudental block and episiotomy repair may be 1479 performed. General and conductive anesthesia shall not be 1480 administered at birthing centers; (iv) patients shall not remain 1481 in the facility in excess of twenty-four (24) hours. 1482 Hospitals are excluded from the definition of a "birthing 1483 center" unless they choose to and are qualified to designate a 1484 portion or part of the hospital as a birthing center, and nothing 1485 herein shall be construed as referring to the usual service 1486 provided the pregnant female in the obstetric-gynecology service 1487 of an acute care hospital. Such facility or center, as heretofore stated, shall include the offices of physicians in private 1488 1489 practice alone or in groups of two (2) or more; and such facility 1490 or center rendering service to pregnant female persons, as stated 1491 heretofore and by the rules and regulations promulgated by the 1492 licensing agency in furtherance thereof, shall be deemed to be a 1493 "birthing center" whether using a similar or different name. 1494 center or facility if in any manner is deemed to be or considered 1495 to be operated or owned by a hospital or a hospital holding

- 1496 leasing or management company, for profit or not for profit, is 1497 required to comply with all birthing center standards governing a "hospital affiliated" birthing center as adopted by the licensing 1498 1499 authority.
- 1500 (b) "Hospital affiliated" birthing center * * * means a 1501 separate and distinct unit of a hospital or a building owned, 1502 leased, rented or utilized by a hospital and located in the same 1503 county as the hospital for the purpose of providing the service of 1504 a "birthing center." Such center or facility is not required to 1505 be licensed separately, and may operate under the license issued 1506 to the hospital if it is in compliance with Section 41-9-1 et 1507 seq., where applicable, and the rules and regulations promulgated 1508 by the licensing agency in furtherance thereof.
- 1509 "Freestanding" birthing center * * * means a 1510 separate and distinct facility or center or a separate and 1511 distinct organized unit of a hospital or other * * * entity for 1512 the purpose of performing the service of a "birthing center." Such facility or center must be separately licensed and must 1513 1514 comply with all licensing standards promulgated by the licensing 1515 agency by virtue of this chapter. Further, such facility or 1516 center must be a separate, identifiable entity and must be 1517 physically, administratively and financially independent from other operations of any hospital or other health care facility or 1518 1519 service and shall maintain a separate and required staff, including administrative staff. * * * 1520

- 1521 (d) "Licensing agency" * * * mean \underline{s} the State Department
- 1522 of Health.
- 1523 **SECTION 5.** Section 41-77-5, Mississippi Code of 1972, is
- 1524 amended as follows:
- 1525 41-77-5. No person * * * or other entity, acting severally
- 1526 or jointly with any other person or entity, shall establish,
- 1527 conduct or maintain a "birthing center" in this state without a
- 1528 license under this chapter.
- 1529 **SECTION 6.** Section 41-77-21, Mississippi Code of 1972, is
- 1530 amended as follows:
- 1531 41-77-21. Any applicant or licensee aggrieved by the
- 1532 decision of the licensing agency after a hearing may, within
- 1533 thirty (30) days after the mailing or serving of notice of the
- 1534 decision as provided in Section 43-11-11, * * * file a notice of
- 1535 appeal to the Chancery Court of the First Judicial District of
- 1536 Hinds County or in the chancery court of the county in which the
- 1537 institution is located or proposed to be located. * * *
- 1538 Thereupon, the licensing agency shall * * * certify and file with
- 1539 the court a copy of the record and decision, including the
- 1540 transcript of the hearings in which the decision is based. No new
- 1541 or additional evidence shall be introduced in court; the case
- 1542 shall be determined upon the record certified to the court. The
- 1543 court may sustain or dismiss the appeal, modify or vacate the
- 1544 order complained of in whole or in part, as the case may be; but
- 1545 in case the order is wholly or partly vacated, the court may also,

in its discretion, remand the matter to the licensing agency for 1546 1547 such further proceedings, not inconsistent with the court's order, as, in the opinion of the court, justice may require. The order 1548 may not be vacated or set aside, either in whole or in part, 1549 1550 except for errors of law, unless the court finds that the order of 1551 the licensing agency is not supported by substantial evidence, is 1552 contrary to the manifest weight of the evidence, is in excess of 1553 the statutory authority or jurisdiction of the licensing agency, 1554 or violates any vested constitutional rights of any party involved 1555 in the appeal. Pending final disposition of the matter, the 1556 status quo of the applicant or licensee shall be preserved, except 1557 as the court otherwise orders in the public interest. Rules with 1558 respect to court costs in other cases in chancery shall apply 1559 equally to cases hereunder. Appeals in accordance with law may be 1560 had to the Supreme Court of the State of Mississippi from any 1561 final judgment of the chancery court. 1562 **SECTION 7.** Section 41-77-23, Mississippi Code of 1972, is

SECTION 7. Section 41-77-23, Mississippi Code of 1972, is amended as follows:

41-77-23. Any person or persons or other entity or entities establishing, managing or operating a "birthing center" or conducting the business of a "birthing center" without the required license, or which otherwise violate any of the provisions of this chapter * * * or the rules, regulations or standards promulgated in furtherance of any law in which the * * * licensing



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- 1571 penalties and sanctions of Section 41-7-209 * * *:
- 1572 (a) Revocation of the license of the birthing center or
- 1573 <u>a designated section, component or service thereof; or</u>
- 1574 (b) Nonlicensure of a specific or designated service
- 1575 offered by the birthing center.
- 1576 In addition, any violation of any provision of this chapter
- 1577 or any rules or regulations promulgated in furtherance thereof by
- 1578 intent, fraud, deceit, unlawful design, willful and/or deliberate
- 1579 misrepresentation, or by careless, negligent or incautious
- 1580 disregard for such statutes or rules and regulations, either by
- 1581 persons acting individually or in concert with others, shall
- 1582 constitute a misdemeanor and shall be punishable by a fine not to
- 1583 exceed One Thousand Dollars (\$1,000.00) for each such offense.
- 1584 Each day of continuing violation shall be considered a separate
- 1585 offense. The venue for prosecution of any such violation shall be
- 1586 in any county of the state in which any such violation, or portion
- 1587 thereof, occurred.
- 1588 **SECTION 8.** Section 41-77-25, Mississippi Code of 1972, is
- 1589 amended as follows:
- 41-77-25. Upon receipt of an application for license and the
- 1591 license fee, the licensing agency shall issue a license if the
- 1592 applicant and the institutional facilities meet the requirements
- 1593 established under this chapter * * *. A license, unless suspended
- or revoked, shall be renewable annually upon payment of a renewal



1595 fee of Three Hundred Dollars (\$300.00), which shall be paid to the licensing agency, and upon filing by the licensee and approval by 1596 1597 the licensing agency of an annual report upon such uniform dates 1598 and containing such information in such form as the licensing 1599 agency requires. Any increase in the fee charged by the licensing 1600 agency under this section shall be in accordance with the 1601 provisions of Section 41-3-65. Each license shall be issued only 1602 for the premises and person or persons named in the application and shall not be transferable or assignable. Licenses shall be 1603 1604 posted in a conspicuous place on the licensed premises.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

SECTION 9. This act shall take effect and be in force from

and after July 1, 2024, and shall stand repealed on June 30, 2024.

AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI 1 2 CODE OF 1972, TO REMOVE CHEMICAL DEPENDENCY SERVICES AND 3 FACILITIES, INTERMEDIATE CARE FACILITIES, INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, AND 5 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FROM THE REQUIREMENTS 6 OF THE HEALTH CARE CERTIFICATE OF NEED LAW; TO AMEND SECTION 7 41-7-193, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE 8 DEPARTMENT OF HEALTH SHALL DISAPPROVE ANY APPLICATION FOR A 9 CERTIFICATE OF NEED THAT FAILS TO CONFIRM THAT THE APPLICANT WILL 10 PROVIDE A REASONABLE AMOUNT OF INDIGENT CARE, OR IF THE 11 APPLICANT'S ADMISSION POLICIES DENY OR DISCOURAGE ACCESS TO CARE 12 BY INDIGENT PATIENTS, OR IF SUCH APPROVAL WOULD HAVE A SIGNIFICANT 13 ADVERSE EFFECT ON THE ABILITY OF AN EXISTING FACILITY OR SERVICE 14 TO PROVIDE INDIGENT CARE; TO PROVIDE THAT A REASONABLE AMOUNT OF 15 INDIGENT CARE IS AN AMOUNT THAT IS COMPARABLE TO THE AMOUNT OF 16 SUCH CARE OFFERED BY OTHER PROVIDERS OF THE REQUESTED SERVICE 17 WITHIN THE SAME, OR PROXIMATE, GEOGRAPHIC AREA; TO AMEND SECTIONS 41-77-1, 41-77-5, 41-77-21, 41-77-23 AND 41-77-25, MISSISSIPPI 18 19 CODE OF 1972, TO DELETE ALL REFERENCES TO THE CERTIFICATE OF NEED



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- 20 LAW IN THE LICENSURE LAWS FOR BIRTHING CENTERS; AND FOR RELATED
- 21 PURPOSES.