

By: Representative Yancey

To: Public Health and Human
Services

HOUSE BILL NO. 254

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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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



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

(iii) * * * {Deleted}

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

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

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



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

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

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

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



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

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

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

(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.

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

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



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

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



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

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

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

280 (iii) Provides physician services primarily:

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

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

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

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



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

(1) "Institutional health services" shall mean health services provided in or through health care facilities and shall include the entities in or through which such services are provided.

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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



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

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

399 (i) Open-heart surgery services;

400 (ii) Cardiac catheterization services;

401 (iii) Comprehensive inpatient rehabilitation
402 services;

403 (iv) Licensed psychiatric services;

404 (v) * * * [Deleted]

405 (vi) Radiation therapy services;

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

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

410 (ix) Home health services;

411 (x) Swing-bed services;

412 (xi) Ambulatory surgical services;

413 (xii) Magnetic resonance imaging services;

414 (xiii) [Deleted]

415 (xiv) Long-term care hospital services;

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



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

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

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



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

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

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

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

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



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

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

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

(2) The State Department of Health shall not grant approval 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 subparagraphs (iv) (skilled nursing facility) and (vi) (intermediate care facility) of Section 41-7-173(h) or the conversion of vacant hospital beds to provide skilled or intermediate nursing home care, except as hereinafter authorized:

(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



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

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

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



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

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

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



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

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

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

564 (h) The State Department of Health may issue a
565 certificate of need for the construction or expansion of nursing
566 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 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 shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (i), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or



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

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



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

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



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

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



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



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

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



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



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

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds 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 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 shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (o), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating



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



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

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



process, that the facility has failed to comply 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 provision of Section 41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

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



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

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



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

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

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



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

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



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

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

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

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

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



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

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

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



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

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

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



990 establishment of not more than twenty (20) non-Medicaid beds at
991 the new Harrison County facility. The certificates of need that
992 authorize the non-Medicaid nursing facility beds under
993 subparagraphs (iii) and (iv) of this paragraph (t) shall be
994 subject to the following conditions: The owner of the Hancock
995 County facility and the new Harrison County facility must agree in
996 writing that no more than fifty (50) of the beds at the Hancock
997 County facility and no more than forty-nine (49) of the beds at
998 the Harrison County facility will be certified for participation
999 in the Medicaid program, and that no claim will be submitted for
1000 Medicaid reimbursement for more than fifty (50) patients in the
1001 Hancock County facility in any month, or for more than forty-nine
1002 (49) patients in the Harrison County facility in any month, or for
1003 any patient in either facility who is in a bed that is not
1004 Medicaid-certified. This written agreement by the owner of the
1005 nursing facilities shall be a condition of the issuance of the
1006 certificates of need under this paragraph (t), and the agreement
1007 shall be fully binding on any later owner or owners of either
1008 facility if the ownership of either facility is transferred at any
1009 time after the certificates of need are issued. After this
1010 written agreement is executed, the Division of Medicaid and the
1011 State Department of Health shall not certify more than fifty (50)
1012 of the beds at the Hancock County facility or more than forty-nine
1013 (49) of the beds at the Harrison County facility for participation
1014 in the Medicaid program. If the Hancock County facility violates



1015 the terms of the written agreement by admitting or keeping in the
1016 facility on a regular or continuing basis more than fifty (50)
1017 patients who are participating in the Medicaid program, or if the
1018 Harrison County facility violates the terms of the written
1019 agreement by admitting or keeping in the facility on a regular or
1020 continuing basis more than forty-nine (49) patients who are
1021 participating in the Medicaid program, the State Department of
1022 Health shall revoke the license of the facility that is in
1023 violation of the agreement, at the time that the department
1024 determines, after a hearing complying with due process, that the
1025 facility has violated the agreement.

1026 (u) The State Department of Health shall issue a
1027 certificate of need to a nonprofit venture for the establishment,
1028 construction and operation of a skilled nursing facility of not
1029 more than sixty (60) beds to provide skilled nursing care for
1030 ventilator dependent or otherwise medically dependent pediatric
1031 patients who require medical and nursing care or rehabilitation
1032 services to be located in a county in which an academic medical
1033 center and a children's hospital are located, and for any
1034 construction and for the acquisition of equipment related to those
1035 beds. The facility shall be authorized to keep such ventilator
1036 dependent or otherwise medically dependent pediatric patients
1037 beyond age twenty-one (21) in accordance with regulations of the
1038 State Board of Health. For purposes of this paragraph (u), the
1039 provisions of Section 41-7-193(1) requiring substantial compliance



1040 with the projection of need as reported in the current State
1041 Health Plan are waived, and the provisions of Section 41-7-197
1042 requiring a formal certificate of need hearing process are waived.
1043 The beds authorized by this paragraph shall be counted as
1044 pediatric skilled nursing facility beds for health planning
1045 purposes under Section 41-7-171 et seq. There shall be no
1046 prohibition of or restrictions on participation in the Medicaid
1047 program for the person receiving the certificate of need
1048 authorized by this paragraph.

1049 (3) * * * [Deleted]

1050 (4) (a) From and after * * * July 1, 2025, the department
1051 may issue a certificate of need to any person for the new
1052 construction of any hospital * * * or psychiatric hospital * * *
1053 that will contain any child/adolescent psychiatric * * * beds, or
1054 for the conversion of any other health care facility to a
1055 hospital * * * or psychiatric hospital * * * that will contain any
1056 child/adolescent psychiatric * * * beds. There shall be no
1057 prohibition or restrictions on participation in the Medicaid
1058 program (Section 43-13-101 et seq.) for the person(s) receiving
1059 the certificate(s) of need authorized under this paragraph (a) or
1060 for the beds converted pursuant to the authority of that
1061 certificate of need. In issuing any new certificate of need for
1062 any child/adolescent psychiatric * * * beds, either by new
1063 construction or conversion of beds of another category, the
1064 department shall give preference to beds which will be located in



1065 an area of the state which does not have such beds located in it,
1066 and to a location more than sixty-five (65) miles from existing
1067 beds. Upon receiving 2020 census data, the department may amend
1068 the State Health Plan regarding child/adolescent psychiatric * * *
1069 beds to reflect the need based on new census data.

1070 (i) [Deleted]

1071 (ii) * * * [Deleted]

1072 (iii) The department may issue a certificate or
1073 certificates of need for the construction or expansion of
1074 child/adolescent psychiatric beds or the conversion of other beds
1075 to child/adolescent psychiatric beds in Warren County. For
1076 purposes of this subparagraph (iii), the provisions of Section
1077 41-7-193(1) requiring substantial compliance with the projection
1078 of need as reported in the current State Health Plan are waived.
1079 The total number of beds that may be authorized under the
1080 authority of this subparagraph shall not exceed twenty (20) beds.
1081 There shall be no prohibition or restrictions on participation in
1082 the Medicaid program (Section 43-13-101 et seq.) for the person
1083 receiving the certificate of need authorized under this
1084 subparagraph or for the beds converted pursuant to the authority
1085 of that certificate of need.

1086 If by January 1, 2002, there has been no significant
1087 commencement of construction of the beds authorized under this
1088 subparagraph (iii), or no significant action taken to convert
1089 existing beds to the beds authorized under this subparagraph, then



1090 the certificate of need that was previously issued under this
1091 subparagraph shall expire. If the previously issued certificate
1092 of need expires, the department may accept applications for
1093 issuance of another certificate of need for the beds authorized
1094 under this subparagraph, and may issue a certificate of need to
1095 authorize the construction, expansion or conversion of the beds
1096 authorized under this subparagraph.

1097 (iv) The department shall issue a certificate of
1098 need to the Region 7 Mental Health/Retardation Commission for the
1099 construction or expansion of child/adolescent psychiatric beds or
1100 the conversion of other beds to child/adolescent psychiatric beds
1101 in any of the counties served by the commission. For purposes of
1102 this subparagraph (iv), the provisions of Section 41-7-193(1)
1103 requiring substantial compliance with the projection of need as
1104 reported in the current State Health Plan are waived. The total
1105 number of beds that may be authorized under the authority of this
1106 subparagraph shall not exceed twenty (20) beds. There shall be no
1107 prohibition or restrictions on participation in the Medicaid
1108 program (Section 43-13-101 et seq.) for the person receiving the
1109 certificate of need authorized under this subparagraph or for the
1110 beds converted pursuant to the authority of that certificate of
1111 need.

1112 (v) The department may issue a certificate of need
1113 to any county hospital located in Leflore County for the
1114 construction or expansion of adult psychiatric beds or the



1115 conversion of other beds to adult psychiatric beds, not to exceed
1116 twenty (20) beds, provided that the recipient of the certificate
1117 of need agrees in writing that the adult psychiatric beds will not
1118 at any time be certified for participation in the Medicaid program
1119 and that the hospital will not admit or keep any patients who are
1120 participating in the Medicaid program in any of such adult
1121 psychiatric beds. This written agreement by the recipient of the
1122 certificate of need shall be fully binding on any subsequent owner
1123 of the hospital if the ownership of the hospital is transferred at
1124 any time after the issuance of the certificate of need. Agreement
1125 that the adult psychiatric beds will not be certified for
1126 participation in the Medicaid program shall be a condition of the
1127 issuance of a certificate of need to any person under this
1128 subparagraph (v), and if such hospital at any time after the
1129 issuance of the certificate of need, regardless of the ownership
1130 of the hospital, has any of such adult psychiatric beds certified
1131 for participation in the Medicaid program or admits or keeps any
1132 Medicaid patients in such adult psychiatric beds, the State
1133 Department of Health shall revoke the certificate of need, if it
1134 is still outstanding, and shall deny or revoke the license of the
1135 hospital at the time that the department determines, after a
1136 hearing complying with due process, that the hospital has failed
1137 to comply with any of the conditions upon which the certificate of
1138 need was issued, as provided in this subparagraph and in the
1139 written agreement by the recipient of the certificate of need.



1140 (vi) The department may issue a certificate or
1141 certificates of need for the expansion of child psychiatric beds
1142 or the conversion of other beds to child psychiatric beds at the
1143 University of Mississippi Medical Center. For purposes of this
1144 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1145 substantial compliance with the projection of need as reported in
1146 the current State Health Plan are waived. The total number of
1147 beds that may be authorized under the authority of this
1148 subparagraph shall not exceed fifteen (15) beds. There shall be
1149 no prohibition or restrictions on participation in the Medicaid
1150 program (Section 43-13-101 et seq.) for the hospital receiving the
1151 certificate of need authorized under this subparagraph or for the
1152 beds converted pursuant to the authority of that certificate of
1153 need.

1154 (b) From and after July 1, * * * 2025, no
1155 hospital * * * or psychiatric hospital * * * shall be authorized
1156 to add any child/adolescent psychiatric * * * beds or convert any
1157 beds of another category to child/adolescent psychiatric * * *
1158 beds without a certificate of need under the authority of
1159 subsection (1)(c) and subsection (4)(a) of this section.

1160 (5) The department may issue a certificate of need to a
1161 county hospital in Winston County for the conversion of fifteen
1162 (15) acute care beds to geriatric psychiatric care beds.

1163 (6) The State Department of Health shall issue a certificate
1164 of need to a Mississippi corporation qualified to manage a



1165 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1166 Harrison County, not to exceed eighty (80) beds, including any
1167 necessary renovation or construction required for licensure and
1168 certification, provided that the recipient of the certificate of
1169 need agrees in writing that the long-term care hospital will not
1170 at any time participate in the Medicaid program (Section 43-13-101
1171 et seq.) or admit or keep any patients in the long-term care
1172 hospital who are participating in the Medicaid program. This
1173 written agreement by the recipient of the certificate of need
1174 shall be fully binding on any subsequent owner of the long-term
1175 care hospital, if the ownership of the facility is transferred at
1176 any time after the issuance of the certificate of need. Agreement
1177 that the long-term care hospital will not participate in the
1178 Medicaid program shall be a condition of the issuance of a
1179 certificate of need to any person under this subsection (6), and
1180 if such long-term care hospital at any time after the issuance of
1181 the certificate of need, regardless of the ownership of the
1182 facility, participates in the Medicaid program or admits or keeps
1183 any patients in the facility who are participating in the Medicaid
1184 program, the State Department of Health shall revoke the
1185 certificate of need, if it is still outstanding, and shall deny or
1186 revoke the license of the long-term care hospital, at the time
1187 that the department determines, after a hearing complying with due
1188 process, that the facility has failed to comply with any of the
1189 conditions upon which the certificate of need was issued, as



1190 provided in this subsection and in the written agreement by the
1191 recipient of the certificate of need. For purposes of this
1192 subsection, the provisions of Section 41-7-193(1) requiring
1193 substantial compliance with the projection of need as reported in
1194 the current State Health Plan are waived.

1195 (7) The State Department of Health may issue a certificate
1196 of need to any hospital in the state to utilize a portion of its
1197 beds for the "swing-bed" concept. Any such hospital must be in
1198 conformance with the federal regulations regarding such swing-bed
1199 concept at the time it submits its application for a certificate
1200 of need to the State Department of Health, except that such
1201 hospital may have more licensed beds or a higher average daily
1202 census (ADC) than the maximum number specified in federal
1203 regulations for participation in the swing-bed program. Any
1204 hospital meeting all federal requirements for participation in the
1205 swing-bed program which receives such certificate of need shall
1206 render services provided under the swing-bed concept to any
1207 patient eligible for Medicare (Title XVIII of the Social Security
1208 Act) who is certified by a physician to be in need of such
1209 services, and no such hospital shall permit any patient who is
1210 eligible for both Medicaid and Medicare or eligible only for
1211 Medicaid to stay in the swing beds of the hospital for more than
1212 thirty (30) days per admission unless the hospital receives prior
1213 approval for such patient from the Division of Medicaid, Office of
1214 the Governor. Any hospital having more licensed beds or a higher



1215 average daily census (ADC) than the maximum number specified in
1216 federal regulations for participation in the swing-bed program
1217 which receives such certificate of need shall develop a procedure
1218 to ensure that before a patient is allowed to stay in the swing
1219 beds of the hospital, there are no vacant nursing home beds
1220 available for that patient located within a fifty-mile radius of
1221 the hospital. When any such hospital has a patient staying in the
1222 swing beds of the hospital and the hospital receives notice from a
1223 nursing home located within such radius that there is a vacant bed
1224 available for that patient, the hospital shall transfer the
1225 patient to the nursing home within a reasonable time after receipt
1226 of the notice. Any hospital which is subject to the requirements
1227 of the two (2) preceding sentences of this subsection may be
1228 suspended from participation in the swing-bed program for a
1229 reasonable period of time by the State Department of Health if the
1230 department, after a hearing complying with due process, determines
1231 that the hospital has failed to comply with any of those
1232 requirements.

1233 (8) The Department of Health shall not grant approval for or
1234 issue a certificate of need to any person proposing the new
1235 construction of, addition to or expansion of a health care
1236 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1237 except as hereinafter provided: The department may issue a
1238 certificate of need to a nonprofit corporation located in Madison
1239 County, Mississippi, for the construction, expansion or conversion



1240 of not more than twenty (20) beds in a community living program
1241 for developmentally disabled adults in a facility as defined in
1242 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1243 subsection (8), the provisions of Section 41-7-193(1) requiring
1244 substantial compliance with the projection of need as reported in
1245 the current State Health Plan and the provisions of Section
1246 41-7-197 requiring a formal certificate of need hearing process
1247 are waived. There shall be no prohibition or restrictions on
1248 participation in the Medicaid program for the person receiving the
1249 certificate of need authorized under this subsection (8).

1250 (9) The Department of Health shall not grant approval for or
1251 issue a certificate of need to any person proposing the
1252 establishment of, or expansion of the currently approved territory
1253 of, or the contracting to establish a home office, subunit or
1254 branch office within the space operated as a health care facility
1255 as defined in Section 41-7-173(h)(i) through (viii) by a health
1256 care facility as defined in subparagraph (ix) of Section
1257 41-7-173(h).

1258 (10) Health care facilities owned and/or operated by the
1259 state or its agencies are exempt from the restraints in this
1260 section against issuance of a certificate of need if such addition
1261 or expansion consists of repairing or renovation necessary to
1262 comply with the state licensure law. This exception shall not
1263 apply to the new construction of any building by such state
1264 facility. This exception shall not apply to any health care



1265 facilities owned and/or operated by counties, municipalities,
1266 districts, unincorporated areas, other defined persons, or any
1267 combination thereof.

1268 (11) The new construction, renovation or expansion of or
1269 addition to any health care facility defined in subparagraph (ii)
1270 (psychiatric hospital), subparagraph (iv) (skilled nursing
1271 facility), subparagraph (vi) (intermediate care facility),
1272 subparagraph (viii) (intermediate care facility for individuals
1273 with intellectual disabilities) and subparagraph (x) (psychiatric
1274 residential treatment facility) of Section 41-7-173(h) which is
1275 owned by the State of Mississippi and under the direction and
1276 control of the State Department of Mental Health, and the addition
1277 of new beds or the conversion of beds from one category to another
1278 in any such defined health care facility which is owned by the
1279 State of Mississippi and under the direction and control of the
1280 State Department of Mental Health, shall not require the issuance
1281 of a certificate of need under Section 41-7-171 et seq.,
1282 notwithstanding any provision in Section 41-7-171 et seq. to the
1283 contrary.

1284 (12) The new construction, renovation or expansion of or
1285 addition to any veterans homes or domiciliaries for eligible
1286 veterans of the State of Mississippi as authorized under Section
1287 35-1-19 shall not require the issuance of a certificate of need,
1288 notwithstanding any provision in Section 41-7-171 et seq. to the
1289 contrary.



1290 (13) The repair or the rebuilding of an existing, operating
1291 health care facility that sustained significant damage from a
1292 natural disaster that occurred after April 15, 2014, in an area
1293 that is proclaimed a disaster area or subject to a state of
1294 emergency by the Governor or by the President of the United States
1295 shall be exempt from all of the requirements of the Mississippi
1296 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1297 rules and regulations promulgated under that law, subject to the
1298 following conditions:

1299 (a) The repair or the rebuilding of any such damaged
1300 health care facility must be within one (1) mile of the
1301 pre-disaster location of the campus of the damaged health care
1302 facility, except that any temporary post-disaster health care
1303 facility operating location may be within five (5) miles of the
1304 pre-disaster location of the damaged health care facility;

1305 (b) The repair or the rebuilding of the damaged health
1306 care facility (i) does not increase or change the complement of
1307 its bed capacity that it had before the Governor's or the
1308 President's proclamation, (ii) does not increase or change its
1309 levels and types of health care services that it provided before
1310 the Governor's or the President's proclamation, and (iii) does not
1311 rebuild in a different county; however, this paragraph does not
1312 restrict or prevent a health care facility from decreasing its bed
1313 capacity that it had before the Governor's or the President's
1314 proclamation, or from decreasing the levels of or decreasing or



1315 eliminating the types of health care services that it provided
1316 before the Governor's or the President's proclamation, when the
1317 damaged health care facility is repaired or rebuilt;

1318 (c) The exemption from Certificate of Need Law provided
1319 under this subsection (13) is valid for only five (5) years from
1320 the date of the Governor's or the President's proclamation. If
1321 actual construction has not begun within that five-year period,
1322 the exemption provided under this subsection is inapplicable; and

1323 (d) The Division of Health Facilities Licensure and
1324 Certification of the State Department of Health shall provide the
1325 same oversight for the repair or the rebuilding of the damaged
1326 health care facility that it provides to all health care facility
1327 construction projects in the state.

1328 For the purposes of this subsection (13), "significant
1329 damage" to a health care facility means damage to the health care
1330 facility requiring an expenditure of at least One Million Dollars
1331 (\$1,000,000.00).

1332 (14) The State Department of Health shall issue a
1333 certificate of need to any hospital which is currently licensed
1334 for two hundred fifty (250) or more acute care beds and is located
1335 in any general hospital service area not having a comprehensive
1336 cancer center, for the establishment and equipping of such a
1337 center which provides facilities and services for outpatient
1338 radiation oncology therapy, outpatient medical oncology therapy,
1339 and appropriate support services including the provision of



1340 radiation therapy services. The provisions of Section 41-7-193(1)
1341 regarding substantial compliance with the projection of need as
1342 reported in the current State Health Plan are waived for the
1343 purpose of this subsection.

1344 (15) The State Department of Health may authorize the
1345 transfer of hospital beds, not to exceed sixty (60) beds, from the
1346 North Panola Community Hospital to the South Panola Community
1347 Hospital. The authorization for the transfer of those beds shall
1348 be exempt from the certificate of need review process.

1349 (16) The State Department of Health shall issue any
1350 certificates of need necessary for Mississippi State University
1351 and a public or private health care provider to jointly acquire
1352 and operate a linear accelerator and a magnetic resonance imaging
1353 unit. Those certificates of need shall cover all capital
1354 expenditures related to the project between Mississippi State
1355 University and the health care provider, including, but not
1356 limited to, the acquisition of the linear accelerator, the
1357 magnetic resonance imaging unit and other radiological modalities;
1358 the offering of linear accelerator and magnetic resonance imaging
1359 services; and the cost of construction of facilities in which to
1360 locate these services. The linear accelerator and the magnetic
1361 resonance imaging unit shall be (a) located in the City of
1362 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1363 Mississippi State University and the public or private health care
1364 provider selected by Mississippi State University through a



1365 request for proposals (RFP) process in which Mississippi State
1366 University selects, and the Board of Trustees of State
1367 Institutions of Higher Learning approves, the health care provider
1368 that makes the best overall proposal; (c) available to Mississippi
1369 State University for research purposes two-thirds (2/3) of the
1370 time that the linear accelerator and magnetic resonance imaging
1371 unit are operational; and (d) available to the public or private
1372 health care provider selected by Mississippi State University and
1373 approved by the Board of Trustees of State Institutions of Higher
1374 Learning one-third (1/3) of the time for clinical, diagnostic and
1375 treatment purposes. For purposes of this subsection, the
1376 provisions of Section 41-7-193(1) requiring substantial compliance
1377 with the projection of need as reported in the current State
1378 Health Plan are waived.

1379 (17) The State Department of Health shall issue a
1380 certificate of need for the construction of an acute care hospital
1381 in Kemper County, not to exceed twenty-five (25) beds, which shall
1382 be named the "John C. Stennis Memorial Hospital." In issuing the
1383 certificate of need under this subsection, the department shall
1384 give priority to a hospital located in Lauderdale County that has
1385 two hundred fifteen (215) beds. For purposes of this subsection,
1386 the provisions of Section 41-7-193(1) requiring substantial
1387 compliance with the projection of need as reported in the current
1388 State Health Plan and the provisions of Section 41-7-197 requiring
1389 a formal certificate of need hearing process are waived. There



1390 shall be no prohibition or restrictions on participation in the
1391 Medicaid program (Section 43-13-101 et seq.) for the person or
1392 entity receiving the certificate of need authorized under this
1393 subsection or for the beds constructed under the authority of that
1394 certificate of need.

1395 (18) The planning, design, construction, renovation,
1396 addition, furnishing and equipping of a clinical research unit at
1397 any health care facility defined in Section 41-7-173(h) that is
1398 under the direction and control of the University of Mississippi
1399 Medical Center and located in Jackson, Mississippi, and the
1400 addition of new beds or the conversion of beds from one (1)
1401 category to another in any such clinical research unit, shall not
1402 require the issuance of a certificate of need under Section
1403 41-7-171 et seq., notwithstanding any provision in Section
1404 41-7-171 et seq. to the contrary.

1405 (19) [Repealed]

1406 (20) Nothing in this section or in any other provision of
1407 Section 41-7-171 et seq. shall prevent any nursing facility from
1408 designating an appropriate number of existing beds in the facility
1409 as beds for providing care exclusively to patients with
1410 Alzheimer's disease.

1411 (21) Nothing in this section or any other provision of
1412 Section 41-7-171 et seq. shall prevent any health care facility
1413 from the new construction, renovation, conversion or expansion of
1414 new beds in the facility designated as intensive care units,



1415 negative pressure rooms, or isolation rooms pursuant to the
1416 provisions of Sections 41-14-1 through 41-14-11, or Section
1417 41-14-31. For purposes of this subsection, the provisions of
1418 Section 41-7-193(1) requiring substantial compliance with the
1419 projection of need as reported in the current State Health Plan
1420 and the provisions of Section 41-7-197 requiring a formal
1421 certificate of need hearing process are waived.

1422 **SECTION 3.** Section 41-77-1, Mississippi Code of 1972, is
1423 amended as follows:

1424 41-77-1. For purposes of this chapter:

1425 (a) "Birthing center" * * * means a publicly or
1426 privately owned facility, place or institution constructed,
1427 renovated, leased or otherwise established where nonemergency
1428 births are planned to occur away from the mother's usual residence
1429 following a documented period of prenatal care for a normal
1430 uncomplicated pregnancy which has been determined to be low risk
1431 through a formal risk scoring examination. Care provided in a
1432 birthing center shall be provided by a licensed physician, or
1433 certified nurse midwife, and a registered nurse. Services
1434 provided in a birthing center shall be limited in the following
1435 manner: (i) surgical services shall be limited to those normally
1436 performed during uncomplicated childbirth, such as episiotomy and
1437 repair, and shall not include operative obstetrics or caesarean
1438 sections; (ii) labor shall not be inhibited, stimulated or
1439 augmented with chemical agents during the first or second stage of



1440 labor; (iii) systemic analgesia may be administered and local
1441 anesthesia for pudental block and episiotomy repair may be
1442 performed. General and conductive anesthesia shall not be
1443 administered at birthing centers; (iv) patients shall not remain
1444 in the facility in excess of twenty-four (24) hours.

1445 Hospitals are excluded from the definition of a "birthing
1446 center" unless they choose to and are qualified to designate a
1447 portion or part of the hospital as a birthing center, and nothing
1448 herein shall be construed as referring to the usual service
1449 provided the pregnant female in the obstetric-gynecology service
1450 of an acute care hospital. Such facility or center, as heretofore
1451 stated, shall include the offices of physicians in private
1452 practice alone or in groups of two (2) or more; and such facility
1453 or center rendering service to pregnant female persons, as stated
1454 heretofore and by the rules and regulations promulgated by the
1455 licensing agency in furtherance thereof, shall be deemed to be a
1456 "birthing center" whether using a similar or different name. Such
1457 center or facility if in any manner is deemed to be or considered
1458 to be operated or owned by a hospital or a hospital holding
1459 leasing or management company, for profit or not for profit, is
1460 required to comply with all birthing center standards governing a
1461 "hospital affiliated" birthing center as adopted by the licensing
1462 authority.

1463 (b) "Hospital affiliated" birthing center * * * means a
1464 separate and distinct unit of a hospital or a building owned,



1465 leased, rented or utilized by a hospital and located in the same
1466 county as the hospital for the purpose of providing the service of
1467 a "birthing center." Such center or facility is not required to
1468 be licensed separately, and may operate under the license issued
1469 to the hospital if it is in compliance with Section 41-9-1 et
1470 seq., where applicable, and the rules and regulations promulgated
1471 by the licensing agency in furtherance thereof.

1472 (c) "Freestanding" birthing center * * * means a
1473 separate and distinct facility or center or a separate and
1474 distinct organized unit of a hospital or other * * * entity for
1475 the purpose of performing the service of a "birthing center."
1476 Such facility or center must be separately licensed and must
1477 comply with all licensing standards promulgated by the licensing
1478 agency by virtue of this chapter. Further, such facility or
1479 center must be a separate, identifiable entity and must be
1480 physically, administratively and financially independent from
1481 other operations of any hospital or other health care facility or
1482 service and shall maintain a separate and required staff,
1483 including administrative staff. * * *

1484 (d) "Licensing agency" * * * means the State Department
1485 of Health.

1486 **SECTION 4.** Section 41-77-5, Mississippi Code of 1972, is
1487 amended as follows:

1488 41-77-5. No person * * * or other entity, acting severally
1489 or jointly with any other person or entity, shall establish,



1490 conduct or maintain a "birthing center" in this state without a
1491 license under this chapter.

1492 **SECTION 5.** Section 41-77-21, Mississippi Code of 1972, is
1493 amended as follows:

1494 41-77-21. Any applicant or licensee aggrieved by the
1495 decision of the licensing agency after a hearing may, within
1496 thirty (30) days after the mailing or serving of notice of the
1497 decision as provided in Section 43-11-11, * * * file a notice of
1498 appeal to the Chancery Court of the First Judicial District of
1499 Hinds County or in the chancery court of the county in which the
1500 institution is located or proposed to be located. * * *
1501 Thereupon, the licensing agency shall * * * certify and file with
1502 the court a copy of the record and decision, including the
1503 transcript of the hearings in which the decision is based. No new
1504 or additional evidence shall be introduced in court; the case
1505 shall be determined upon the record certified to the court. The
1506 court may sustain or dismiss the appeal, modify or vacate the
1507 order complained of in whole or in part, as the case may be; but
1508 in case the order is wholly or partly vacated, the court may also,
1509 in its discretion, remand the matter to the licensing agency for
1510 such further proceedings, not inconsistent with the court's order,
1511 as, in the opinion of the court, justice may require. The order
1512 may not be vacated or set aside, either in whole or in part,
1513 except for errors of law, unless the court finds that the order of
1514 the licensing agency is not supported by substantial evidence, is



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

SECTION 6. 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 agency has authority therefor, shall be subject to the following penalties and sanctions of Section 41-7-209 * * *:

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

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



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

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

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



1564 provisions of Section 41-3-65. Each license shall be issued only
1565 for the premises and person or persons named in the application
1566 and shall not be transferable or assignable. Licenses shall be
1567 posted in a conspicuous place on the licensed premises.

1568 **SECTION 8.** This act shall take effect and be in force from
1569 and after July 1, 2025.

