

By: Representatives Foster, Baker

To: Public Health and Human Services

HOUSE BILL NO. 1519

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI ACCESS TO HEALTH CARE
 2 ACT; TO AMEND SECTIONS 41-7-173, 41-7-185, 41-7-187, 41-7-189,
 3 41-7-190, 41-7-191, 41-7-193, 41-7-197, 41-7-201, 41-7-202 AND
 4 41-7-207, MISSISSIPPI CODE OF 1972, TO REVISE THE HEALTH CARE
 5 CERTIFICATE OF NEED LAW TO REMOVE HEALTH CARE SERVICES AND
 6 EQUIPMENT FROM THE REQUIREMENT FOR THE ISSUANCE OF A CERTIFICATE
 7 OF NEED, SO THAT ONLY CERTAIN HEALTH CARE FACILITIES WILL REQUIRE
 8 CERTIFICATE OF NEED REVIEW; TO REMOVE END-STAGE RENAL DISEASE
 9 FACILITIES AND AMBULATORY SURGICAL FACILITIES FROM THE REQUIREMENT
 10 FOR A CERTIFICATE OF NEED; TO AMEND SECTIONS 41-73-5, 41-75-1,
 11 41-75-5, 41-75-9 AND 41-75-25, MISSISSIPPI CODE OF 1972, TO
 12 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** This act shall be known and may be cited as the
 15 Mississippi Access to Health Care Act.

16 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is
 17 amended as follows:

18 41-7-173. For the purposes of Section 41-7-171 et seq., the
 19 following words shall have the meanings ascribed herein, unless
 20 the context otherwise requires:

21 (a) "Affected person" means (i) the applicant; (ii) a
 22 person residing within the geographic area to be served by the
 23 applicant's proposal; (iii) a person who regularly uses health



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

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

41 * * *

42 (* * * c) "Commencement of construction" means that all
43 of the following have been completed with respect to a proposal or
44 project proposing construction, renovating, remodeling or
45 alteration:

46 (i) A legally binding written contract has been
47 consummated by the proponent and a lawfully licensed contractor to
48 construct and/or complete the intent of the proposal within a



49 specified period of time in accordance with final architectural
50 plans which have been approved by the licensing authority of the
51 State Department of Health;

52 (ii) Any and all permits and/or approvals deemed
53 lawfully necessary by all authorities with responsibility for such
54 have been secured; and

55 (iii) Actual bona fide undertaking of the subject
56 proposal has commenced, and a progress payment of at least one
57 percent (1%) of the total cost price of the contract has been paid
58 to the contractor by the proponent, and the requirements of this
59 paragraph (e) have been certified to in writing by the State
60 Department of Health.

61 Force account expenditures, such as deposits, securities,
62 bonds, et cetera, may, in the discretion of the State Department
63 of Health, be excluded from any or all of the provisions of
64 defined commencement of construction.

65 (* * * d) "Consumer" means an individual who is not a
66 provider of health care as defined in paragraph (* * * j) of this
67 section.

68 * * *

69 (* * * e) "Health care facility" includes hospitals,
70 psychiatric hospitals, chemical dependency hospitals, skilled
71 nursing facilities, * * * intermediate care facilities, * * *
72 intermediate care facilities for the * * * intellectually
73 disabled, home health agencies, psychiatric residential treatment



74 facilities, pediatric skilled nursing facilities, long-term care
75 hospitals, comprehensive medical rehabilitation facilities,
76 including facilities owned or operated by the state or a political
77 subdivision or instrumentality of the state, but does not include
78 Christian Science sanatoriums operated or listed and certified by
79 the First Church of Christ, Scientist, Boston, Massachusetts.
80 This definition shall not apply to facilities for the private
81 practice, either independently or by incorporated medical groups,
82 of physicians, dentists or health care professionals except where
83 such facilities are an integral part of an institutional health
84 service. The various health care facilities listed in this
85 paragraph shall be defined as follows:

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

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

97 (iii) "Chemical dependency hospital" means an
98 institution which is primarily engaged in providing to inpatients,



99 by or under the supervision of a physician, medical and related
100 services for the diagnosis and treatment of chemical dependency
101 such as alcohol and drug abuse.

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

108 (v) * * * [Deleted]

109 (vi) "Intermediate care facility" means an
110 institution which provides, on a regular basis, health-related
111 care and services to individuals who do not require the degree of
112 care and treatment which a hospital or skilled nursing facility is
113 designed to provide, but who, because of their mental or physical
114 condition, require health-related care and services (above the
115 level of room and board).

116 (vii) * * * [Deleted]

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



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

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

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



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

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

153 (x) "Psychiatric residential treatment facility"
154 means any nonhospital establishment with permanent licensed
155 facilities which provides a twenty-four-hour program of care by
156 qualified therapists, including, but not limited to, duly licensed
157 mental health professionals, psychiatrists, psychologists,
158 psychotherapists and licensed certified social workers, for
159 emotionally disturbed children and adolescents referred to such
160 facility by a court, local school district or by the Department of
161 Human Services, who are not in an acute phase of illness requiring
162 the services of a psychiatric hospital, and are in need of such
163 restorative treatment services. For purposes of this
164 subparagraph, the term "emotionally disturbed" means a condition
165 exhibiting one or more of the following characteristics over a
166 long period of time and to a marked degree, which adversely
167 affects educational performance:

168 1. An inability to learn which cannot be
169 explained by intellectual, sensory or health factors;

170 2. An inability to build or maintain
171 satisfactory relationships with peers and teachers;



172 3. Inappropriate types of behavior or
173 feelings under normal circumstances;
174 4. A general pervasive mood of unhappiness or
175 depression; or
176 5. A tendency to develop physical symptoms or
177 fears associated with personal or school problems. An
178 establishment furnishing primarily domiciliary care is not within
179 this definition.

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

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



196 nursing home, skilled nursing facility or sub-acute care facility
197 in association with its name.

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

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

209 2. Emphasizes education and training of
210 individuals with disabilities;

211 3. Incorporates at least the following core
212 disciplines:

213 * * *a. Physical Therapy;

214 * * *b. Occupational Therapy;

215 * * *c. Speech and Language Therapy;

216 * * *d. Rehabilitation Nursing; and

217 4. Incorporates at least three (3) of the
218 following disciplines:

219 * * *a. Psychology;

220 * * *b. Audiology;



- 221 * * *c. Respiratory Therapy;
- 222 * * *d. Therapeutic Recreation;
- 223 * * *e. Orthotics;
- 224 * * *f. Prosthetics;
- 225 * * *g. Special Education;
- 226 * * *h. Vocational Rehabilitation;
- 227 * * *i. Psychotherapy;
- 228 * * *j. Social Work;
- 229 * * *k. Rehabilitation Engineering.

230 These specialized programs include, but are not limited to:
231 spinal cord injury programs, head injury programs and infant and
232 early childhood development programs.

233 (* * *f.) "Health maintenance organization" or "HMO"
234 means a public or private organization organized under the laws of
235 this state or the federal government which:

236 (i) Provides or otherwise makes available to
237 enrolled participants health care services, including
238 substantially the following basic health care services: usual
239 physician services, hospitalization, laboratory, x-ray, emergency
240 and preventive services, and out-of-area coverage;

241 (ii) Is compensated (except for copayments) for
242 the provision of the basic health care services listed in
243 subparagraph (i) of this paragraph to enrolled participants on a
244 predetermined basis; and

245 (iii) Provides physician services primarily:



246 1. Directly through physicians who are either
247 employees or partners of such organization; or

248 2. Through arrangements with individual
249 physicians or one or more groups of physicians (organized on a
250 group practice or individual practice basis).

251 (* * *g) "Health service area" means a geographic area
252 of the state designated in the State Health Plan as the area to be
253 used in planning for specified health care facilities * * * and to
254 be used when considering certificate of need applications to
255 provide health care facilities * * *.

256 * * *

257 (* * *h) "State Department of Health" or "department"
258 shall mean the state agency created under Section 41-3-15 * * *.

259 * * *

260 (* * *i) "Person" means an individual, a trust or
261 estate, partnership, corporation (including associations,
262 joint-stock companies and insurance companies), the state or a
263 political subdivision or instrumentality of the state.

264 (* * *j) "Provider" shall mean any person who is a
265 provider or representative of a provider of health care * * *
266 requiring a certificate of need under Section 41-7-171 et seq., or
267 who has any financial or indirect interest in any provider
268 of * * * health care.

269 * * *



270 (* * *k) "Secretary" means the Secretary of Health and
271 Human Services, and any officer or employee of the Department of
272 Health and Human Services to whom the authority involved has been
273 delegated.

274 (* * *l) "State Health Plan" means the sole and
275 official statewide health plan for Mississippi * * * that
276 identifies priority state health needs and establishes standards
277 and criteria for health-related activities * * * that require
278 certificate of need review in compliance with Section 41-7-191.

279 * * *

280 **SECTION 3.** Section 41-7-185, Mississippi Code of 1972, is
281 amended as follows:

282 41-7-185. In carrying out its functions under Section
283 41-7-171 et seq., the State Department of Health is * * *
284 empowered to:

285 (a) Make applications for and accept funds from the
286 secretary and other federal and state agencies and to receive and
287 administer such other funds for the planning or provision of
288 health facilities or health care as are appropriate to the
289 accomplishment of the purposes of Section 41-7-171 et seq. * * *l
290 and to contract with the secretary to accept funds to administer
291 planning activities on the community, regional or state level;

292 (b) With the approval of the secretary, delegate to or
293 contract with any mutually agreeable department, division or
294 agency of the state, the federal government, or any political



295 subdivision of either, or any private corporation, organization or
296 association chartered by the Secretary of State of Mississippi,
297 authority for administering any programs, duties or functions
298 provided for in Section 41-7-171 * * * et seq.;

299 (c) Prescribe and promulgate such reasonable rules and
300 regulations as may be necessary to the implementation of the
301 purposes of Section 41-7-171 * * * et seq., complying with
302 Section * * * 25-43-1.101 et seq.;

303 (d) Require providers of * * * home health care
304 services provided through a home health agency and any other
305 provider of health care requiring a certificate of need to submit
306 or make available statistical information or such other
307 information requested by the State Department of Health, but not
308 information that would constitute an unwarranted invasion of the
309 personal privacy of any individual person or place the provider in
310 jeopardy of legal action by a third party;

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

317 (f) In its discretion, contract with the secretary, or
318 terminate any such contract, for the administration of the
319 provisions, programs, duties and functions of Section 1122 of



320 Public Law 92-603; but the State Department of Health shall not be
321 relieved of matters of accountability, obligation or
322 responsibility that accrued to the department by virtue of prior
323 contracts and/or statutes;

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

328 **SECTION 4.** Section 41-7-187, Mississippi Code of 1972, is
329 amended as follows:

330 41-7-187. The State Department of Health is * * * authorized
331 to develop and implement a statewide health certificate of need
332 program. The State Department of Health is authorized and
333 empowered to adopt by rule and regulation:

334 (a) Criteria, standards and plans to be used in
335 evaluating applications for certificates of need;

336 (b) Effective standards to determine when a person,
337 facility or organization must apply for a certificate of need; and

338 * * *

339 (* * * c) Review procedures for conducting reviews of
340 applications for certificates of need.

341 **SECTION 5.** Section 41-7-189, Mississippi Code of 1972, is
342 amended as follows:

343 41-7-189. (1) * * * Before review of * * * proposals
344 requiring a certificate of need, the State Department of Health



345 shall disseminate to all health care facilities and health
346 maintenance organizations within the state, and shall publish in
347 one or more newspapers of general circulation in the state, a
348 description of the scope of coverage of the * * * certificate of
349 need program. Whenever the scope of such coverage is revised, the
350 State Department of Health shall disseminate and publish a revised
351 description thereof in like manner.

352 (2) Selected statistical data and information obtained by
353 the State Department of Health as the licensing agency for health
354 care facilities requiring licensure by the state and as the agency
355 which provides certification for the Medicaid and/or Medicare
356 program, may be utilized by the department in performing the
357 statutory duties imposed upon it by any law over which it has
358 authority, and regulations necessarily promulgated for such
359 facilities to participate in the Medicaid and/or Medicare
360 program; * * * however, * * * the names of individual patients
361 shall not be revealed except in hearings or judicial proceedings
362 regarding questions of licensure.

363 **SECTION 6.** Section 41-7-190, Mississippi Code of 1972, is
364 amended as follows:

365 41-7-190. No corporation, foreign or domestic, partnership,
366 individual(s) or association of such entities or of persons
367 whatsoever, or any combination thereof, shall own, possess or
368 exercise control over, in any manner, more than twenty percent
369 (20%) of the beds in health care facilities defined in Section



370 41-7-173(* * *e) (iv) and (vi) in the defined health service area
371 of the State of Mississippi.

372 Health care facilities owned, operated or under control of
373 the United States government, the state government or political
374 subdivision of either are excluded from the limitation of this
375 section.

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

378 41-7-191. (1) No person shall engage in any of the
379 following activities without obtaining the required certificate of
380 need:

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

385 (b) The relocation of a health care facility or portion
386 thereof, * * * unless * * * the relocation of * * * the health
387 care facility or portion thereof * * * is within five thousand two
388 hundred eighty (5,280) feet from the main entrance of the health
389 care facility;

390 (c) Any change in the existing bed complement of any
391 health care facility through the addition or conversion of any
392 beds * * *; however, if a health care facility has voluntarily
393 delicensed some of its existing bed complement, it may later
394 relicense some or all of its delicensed beds without the necessity



395 of having to acquire a certificate of need. The State Department
396 of Health shall maintain a record of the delicensing health care
397 facility and its voluntarily delicensed beds and continue counting
398 those beds as part of the state's total bed count for health care
399 planning purposes. If a health care facility that has voluntarily
400 delicensed some of its beds later desires to relicense some or all
401 of its voluntarily delicensed beds, it shall notify the State
402 Department of Health of its intent to increase the number of its
403 licensed beds. The State Department of Health shall survey the
404 health care facility within thirty (30) days of that notice and,
405 if appropriate, issue the health care facility a new license
406 reflecting the new contingent of beds. However, in no event may a
407 health care facility that has voluntarily delicensed some of its
408 beds be reissued a license to operate beds in excess of its bed
409 count before the voluntary delicensure of some of its beds without
410 seeking certificate of need approval;

411 * * *

412 (* * *d) The contracting of a health care facility as
413 defined in subparagraphs (i) through (viii) of Section
414 41-7-173(* * *e) to establish a home office, subunit, or branch
415 office in the space operated as a health care facility through a
416 formal arrangement with an existing health care facility as
417 defined in subparagraph (ix) of Section 41-7-173(* * *e);

418 (* * *e) The replacement or relocation of a health
419 care facility designated as a critical access hospital shall be



420 exempt from subsection (1) of this section so long as the critical
421 access hospital complies with all applicable federal law and
422 regulations regarding such replacement or relocation;

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

427 (2) The State Department of Health shall not grant approval
428 for or issue a certificate of need to any person proposing the new
429 construction of, addition to, or expansion of any health care
430 facility defined in subparagraphs (iv) (skilled nursing facility)
431 and (vi) (intermediate care facility) of Section 41-7-173(* * *e)
432 or the conversion of vacant hospital beds to provide skilled or
433 intermediate nursing home care, except as hereinafter authorized:

434 (a) The department may issue a certificate of need to
435 any person proposing the new construction of any health care
436 facility defined in subparagraphs (iv) and (vi) of Section
437 41-7-173(h) as part of a life care retirement facility, in any
438 county bordering on the Gulf of Mexico in which is located a
439 National Aeronautics and Space Administration facility, not to
440 exceed forty (40) beds. From and after July 1, 1999, there shall
441 be no prohibition or restrictions on participation in the Medicaid
442 program (Section 43-13-101 et seq.) for the beds in the health
443 care facility that were authorized under this paragraph (a).



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

451 (c) The department may issue a certificate of need for
452 the addition to or expansion of any skilled nursing facility that
453 is part of an existing continuing care retirement community
454 located in Madison County, provided that the recipient of the
455 certificate of need agrees in writing that the skilled nursing
456 facility will not at any time participate in the Medicaid program
457 (Section 43-13-101 et seq.) or admit or keep any patients in the
458 skilled nursing facility who are participating in the Medicaid
459 program. This written agreement by the recipient of the
460 certificate of need shall be fully binding on any subsequent owner
461 of the skilled nursing facility, if the ownership of the facility
462 is transferred at any time after the issuance of the certificate
463 of need. Agreement that the skilled nursing facility will not
464 participate in the Medicaid program shall be a condition of the
465 issuance of a certificate of need to any person under this
466 paragraph (c), and if such skilled nursing facility at any time
467 after the issuance of the certificate of need, regardless of the
468 ownership of the facility, participates in the Medicaid program or



469 admits or keeps any patients in the facility who are participating
470 in the Medicaid program, the State Department of Health shall
471 revoke the certificate of need, if it is still outstanding, and
472 shall deny or revoke the license of the skilled nursing facility,
473 at the time that the department determines, after a hearing
474 complying with due process, that the facility has failed to comply
475 with any of the conditions upon which the certificate of need was
476 issued, as provided in this paragraph and in the written agreement
477 by the recipient of the certificate of need. The total number of
478 beds that may be authorized under the authority of this paragraph
479 (c) shall not exceed sixty (60) beds.

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

488 (e) The State Department of Health may issue a
489 certificate of need for the construction of a nursing facility or
490 the conversion of beds to nursing facility beds at a personal care
491 facility for the elderly in Lowndes County that is owned and
492 operated by a Mississippi nonprofit corporation, not to exceed
493 sixty (60) beds. From and after July 1, 1999, there shall be no



494 prohibition or restrictions on participation in the Medicaid
495 program (Section 43-13-101 et seq.) for the beds in the nursing
496 facility that were authorized under this paragraph (e).

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

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

513 (h) The State Department of Health may issue a
514 certificate of need for the construction or expansion of nursing
515 facility beds or the conversion of other beds to nursing facility
516 beds in either Hancock, Harrison or Jackson County, not to exceed
517 sixty (60) beds. From and after July 1, 1999, there shall be no
518 prohibition or restrictions on participation in the Medicaid



519 program (Section 43-13-101 et seq.) for the beds in the facility
520 that were authorized under this paragraph (h).

521 (i) The department may issue a certificate of need for
522 the new construction of a skilled nursing facility in Leake
523 County, provided that the recipient of the certificate of need
524 agrees in writing that the skilled nursing facility will not at
525 any time participate in the Medicaid program (Section 43-13-101 et
526 seq.) or admit or keep any patients in the skilled nursing
527 facility who are participating in the Medicaid program. This
528 written agreement by the recipient of the certificate of need
529 shall be fully binding on any subsequent owner of the skilled
530 nursing facility, if the ownership of the facility is transferred
531 at any time after the issuance of the certificate of need.
532 Agreement that the skilled nursing facility will not participate
533 in the Medicaid program shall be a condition of the issuance of a
534 certificate of need to any person under this paragraph (i), and if
535 such skilled nursing facility at any time after the issuance of
536 the certificate of need, regardless of the ownership of the
537 facility, participates in the Medicaid program or admits or keeps
538 any patients in the facility who are participating in the Medicaid
539 program, the State Department of Health shall revoke the
540 certificate of need, if it is still outstanding, and shall deny or
541 revoke the license of the skilled nursing facility, at the time
542 that the department determines, after a hearing complying with due
543 process, that the facility has failed to comply with any of the



544 conditions upon which the certificate of need was issued, as
545 provided in this paragraph and in the written agreement by the
546 recipient of the certificate of need. The provision of Section
547 41-7-193(1) regarding substantial compliance of the projection of
548 need as reported in the current State Health Plan is waived for
549 the purposes of this paragraph. The total number of nursing
550 facility beds that may be authorized by any certificate of need
551 issued under this paragraph (i) shall not exceed sixty (60) beds.
552 If the skilled nursing facility authorized by the certificate of
553 need issued under this paragraph is not constructed and fully
554 operational within eighteen (18) months after July 1, 1994, the
555 State Department of Health, after a hearing complying with due
556 process, shall revoke the certificate of need, if it is still
557 outstanding, and shall not issue a license for the skilled nursing
558 facility at any time after the expiration of the eighteen-month
559 period.

560 (j) The department may issue certificates of need to
561 allow any existing freestanding long-term care facility in
562 Tishomingo County and Hancock County that on July 1, 1995, is
563 licensed with fewer than sixty (60) beds. For the purposes of
564 this paragraph (j), the provisions of Section 41-7-193(1)
565 requiring substantial compliance with the projection of need as
566 reported in the current State Health Plan are waived. From and
567 after July 1, 1999, there shall be no prohibition or restrictions
568 on participation in the Medicaid program (Section 43-13-101 et



569 seq.) for the beds in the long-term care facilities that were
570 authorized under this paragraph (j).

571 (k) The department may issue a certificate of need for
572 the construction of a nursing facility at a continuing care
573 retirement community in Lowndes County. The total number of beds
574 that may be authorized under the authority of this paragraph (k)
575 shall not exceed sixty (60) beds. From and after July 1, 2001,
576 the prohibition on the facility participating in the Medicaid
577 program (Section 43-13-101 et seq.) that was a condition of
578 issuance of the certificate of need under this paragraph (k) shall
579 be revised as follows: The nursing facility may participate in
580 the Medicaid program from and after July 1, 2001, if the owner of
581 the facility on July 1, 2001, agrees in writing that no more than
582 thirty (30) of the beds at the facility will be certified for
583 participation in the Medicaid program, and that no claim will be
584 submitted for Medicaid reimbursement for more than thirty (30)
585 patients in the facility in any month or for any patient in the
586 facility who is in a bed that is not Medicaid-certified. This
587 written agreement by the owner of the facility shall be a
588 condition of licensure of the facility, and the agreement shall be
589 fully binding on any subsequent owner of the facility if the
590 ownership of the facility is transferred at any time after July 1,
591 2001. After this written agreement is executed, the Division of
592 Medicaid and the State Department of Health shall not certify more
593 than thirty (30) of the beds in the facility for participation in



594 the Medicaid program. If the facility violates the terms of the
595 written agreement by admitting or keeping in the facility on a
596 regular or continuing basis more than thirty (30) patients who are
597 participating in the Medicaid program, the State Department of
598 Health shall revoke the license of the facility, at the time that
599 the department determines, after a hearing complying with due
600 process, that the facility has violated the written agreement.

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

611 (m) The State Department of Health may issue a
612 certificate of need to a county-owned hospital in the Second
613 Judicial District of Panola County for the conversion of not more
614 than seventy-two (72) hospital beds to nursing facility beds,
615 provided that the recipient of the certificate of need agrees in
616 writing that none of the beds at the nursing facility will be
617 certified for participation in the Medicaid program (Section
618 43-13-101 et seq.), and that no claim will be submitted for



619 Medicaid reimbursement in the nursing facility in any day or for
620 any patient in the nursing facility. This written agreement by
621 the recipient of the certificate of need shall be a condition of
622 the issuance of the certificate of need under this paragraph, and
623 the agreement shall be fully binding on any subsequent owner of
624 the nursing facility if the ownership of the nursing facility is
625 transferred at any time after the issuance of the certificate of
626 need. After this written agreement is executed, the Division of
627 Medicaid and the State Department of Health shall not certify any
628 of the beds in the nursing facility for participation in the
629 Medicaid program. If the nursing facility violates the terms of
630 the written agreement by admitting or keeping in the nursing
631 facility on a regular or continuing basis any patients who are
632 participating in the Medicaid program, the State Department of
633 Health shall revoke the license of the nursing facility, at the
634 time that the department determines, after a hearing complying
635 with due process, that the nursing facility has violated the
636 condition upon which the certificate of need was issued, as
637 provided in this paragraph and in the written agreement. If the
638 certificate of need authorized under this paragraph is not issued
639 within twelve (12) months after July 1, 2001, the department shall
640 deny the application for the certificate of need and shall not
641 issue the certificate of need at any time after the twelve-month
642 period, unless the issuance is contested. If the certificate of
643 need is issued and substantial construction of the nursing



644 facility beds has not commenced within eighteen (18) months after
645 July 1, 2001, the State Department of Health, after a hearing
646 complying with due process, shall revoke the certificate of need
647 if it is still outstanding, and the department shall not issue a
648 license for the nursing facility at any time after the
649 eighteen-month period. However, if the issuance of the
650 certificate of need is contested, the department shall require
651 substantial construction of the nursing facility beds within six
652 (6) months after final adjudication on the issuance of the
653 certificate of need.

654 (n) The department may issue a certificate of need for
655 the new construction, addition or conversion of skilled nursing
656 facility beds in Madison County, provided that the recipient of
657 the certificate of need agrees in writing that the skilled nursing
658 facility will not at any time participate in the Medicaid program
659 (Section 43-13-101 et seq.) or admit or keep any patients in the
660 skilled nursing facility who are participating in the Medicaid
661 program. This written agreement by the recipient of the
662 certificate of need shall be fully binding on any subsequent owner
663 of the skilled nursing facility, if the ownership of the facility
664 is transferred at any time after the issuance of the certificate
665 of need. Agreement that the skilled nursing facility will not
666 participate in the Medicaid program shall be a condition of the
667 issuance of a certificate of need to any person under this
668 paragraph (n), and if such skilled nursing facility at any time



669 after the issuance of the certificate of need, regardless of the
670 ownership of the facility, participates in the Medicaid program or
671 admits or keeps any patients in the facility who are participating
672 in the Medicaid program, the State Department of Health shall
673 revoke the certificate of need, if it is still outstanding, and
674 shall deny or revoke the license of the skilled nursing facility,
675 at the time that the department determines, after a hearing
676 complying with due process, that the facility has failed to comply
677 with any of the conditions upon which the certificate of need was
678 issued, as provided in this paragraph and in the written agreement
679 by the recipient of the certificate of need. The total number of
680 nursing facility beds that may be authorized by any certificate of
681 need issued under this paragraph (n) shall not exceed sixty (60)
682 beds. If the certificate of need authorized under this paragraph
683 is not issued within twelve (12) months after July 1, 1998, the
684 department shall deny the application for the certificate of need
685 and shall not issue the certificate of need at any time after the
686 twelve-month period, unless the issuance is contested. If the
687 certificate of need is issued and substantial construction of the
688 nursing facility beds has not commenced within eighteen (18)
689 months after July 1, 1998, the State Department of Health, after a
690 hearing complying with due process, shall revoke the certificate
691 of need if it is still outstanding, and the department shall not
692 issue a license for the nursing facility at any time after the
693 eighteen-month period. However, if the issuance of the



694 certificate of need is contested, the department shall require
695 substantial construction of the nursing facility beds within six
696 (6) months after final adjudication on the issuance of the
697 certificate of need.

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



719 at the time that the department determines, after a hearing
720 complying with due process, that the facility has failed to comply
721 with any of the conditions upon which the certificate of need was
722 issued, as provided in this paragraph and in the written agreement
723 by the recipient of the certificate of need. The total number of
724 nursing facility beds that may be authorized by any certificate of
725 need issued under this paragraph (o) shall not exceed sixty (60)
726 beds. If the certificate of need authorized under this paragraph
727 is not issued within twelve (12) months after July 1, 2001, the
728 department shall deny the application for the certificate of need
729 and shall not issue the certificate of need at any time after the
730 twelve-month period, unless the issuance is contested. If the
731 certificate of need is issued and substantial construction of the
732 nursing facility beds has not commenced within eighteen (18)
733 months after July 1, 2001, the State Department of Health, after a
734 hearing complying with due process, shall revoke the certificate
735 of need if it is still outstanding, and the department shall not
736 issue a license for the nursing facility at any time after the
737 eighteen-month period. However, if the issuance of the
738 certificate of need is contested, the department shall require
739 substantial construction of the nursing facility beds within six
740 (6) months after final adjudication on the issuance of the
741 certificate of need.

742 (p) The department may issue a certificate of need for
743 the construction of a municipally owned nursing facility within



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



769 41-7-193(1) regarding substantial compliance of the projection of
770 need as reported in the current State Health Plan is waived for
771 the purposes of this paragraph. If the certificate of need
772 authorized under this paragraph is not issued within twelve (12)
773 months after July 1, 1998, the department shall deny the
774 application for the certificate of need and shall not issue the
775 certificate of need at any time after the twelve-month period,
776 unless the issuance is contested. If the certificate of need is
777 issued and substantial construction of the nursing facility beds
778 has not commenced within eighteen (18) months after July 1, 1998,
779 the State Department of Health, after a hearing complying with due
780 process, shall revoke the certificate of need if it is still
781 outstanding, and the department shall not issue a license for the
782 nursing facility at any time after the eighteen-month period.
783 However, if the issuance of the certificate of need is contested,
784 the department shall require substantial construction of the
785 nursing facility beds within six (6) months after final
786 adjudication on the issuance of the certificate of need.

787 (q) (i) Beginning on July 1, 1999, the State
788 Department of Health shall issue certificates of need during each
789 of the next four (4) fiscal years for the construction or
790 expansion of nursing facility beds or the conversion of other beds
791 to nursing facility beds in each county in the state having a need
792 for fifty (50) or more additional nursing facility beds, as shown
793 in the fiscal year 1999 State Health Plan, in the manner provided



794 in this paragraph (q). The total number of nursing facility beds
795 that may be authorized by any certificate of need authorized under
796 this paragraph (q) shall not exceed sixty (60) beds.

797 (ii) Subject to the provisions of subparagraph
798 (v), during each of the next four (4) fiscal years, the department
799 shall issue six (6) certificates of need for new nursing facility
800 beds, as follows: During fiscal years 2000, 2001 and 2002, one
801 (1) certificate of need shall be issued for new nursing facility
802 beds in the county in each of the four (4) Long-Term Care Planning
803 Districts designated in the fiscal year 1999 State Health Plan
804 that has the highest need in the district for those beds; and two
805 (2) certificates of need shall be issued for new nursing facility
806 beds in the two (2) counties from the state at large that have the
807 highest need in the state for those beds, when considering the
808 need on a statewide basis and without regard to the Long-Term Care
809 Planning Districts in which the counties are located. During
810 fiscal year 2003, one (1) certificate of need shall be issued for
811 new nursing facility beds in any county having a need for fifty
812 (50) or more additional nursing facility beds, as shown in the
813 fiscal year 1999 State Health Plan, that has not received a
814 certificate of need under this paragraph (q) during the three (3)
815 previous fiscal years. During fiscal year 2000, in addition to
816 the six (6) certificates of need authorized in this subparagraph,
817 the department also shall issue a certificate of need for new



818 nursing facility beds in Amite County and a certificate of need
819 for new nursing facility beds in Carroll County.

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

834 (iv) Subject to the provisions of subparagraph
835 (v), the certificate of need issued under subparagraph (ii) for
836 nursing facility beds in the two (2) counties from the state at
837 large during each fiscal year shall first be available for nursing
838 facility beds in the two (2) counties that have the highest need
839 in the state for those beds, as shown in the fiscal year 1999
840 State Health Plan, when considering the need on a statewide basis
841 and without regard to the Long-Term Care Planning Districts in
842 which the counties are located. If there are no applications for



843 a certificate of need for nursing facility beds in either of the
844 two (2) counties having the highest need for those beds on a
845 statewide basis by the date specified by the department, then the
846 certificate of need shall be available for nursing facility beds
847 in other counties from the state at large in descending order of
848 the need for those beds on a statewide basis, from the county with
849 the second highest need to the county with the lowest need, until
850 an application is received for nursing facility beds in an
851 eligible county from the state at large.

852 (v) If a certificate of need is authorized to be
853 issued under this paragraph (q) for nursing facility beds in a
854 county on the basis of the need in the Long-Term Care Planning
855 District during any fiscal year of the four-year period, a
856 certificate of need shall not also be available under this
857 paragraph (q) for additional nursing facility beds in that county
858 on the basis of the need in the state at large, and that county
859 shall be excluded in determining which counties have the highest
860 need for nursing facility beds in the state at large for that
861 fiscal year. After a certificate of need has been issued under
862 this paragraph (q) for nursing facility beds in a county during
863 any fiscal year of the four-year period, a certificate of need
864 shall not be available again under this paragraph (q) for
865 additional nursing facility beds in that county during the
866 four-year period, and that county shall be excluded in determining



867 which counties have the highest need for nursing facility beds in
868 succeeding fiscal years.

869 (vi) If more than one (1) application is made for
870 a certificate of need for nursing home facility beds available
871 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
872 County, and one (1) of the applicants is a county-owned hospital
873 located in the county where the nursing facility beds are
874 available, the department shall give priority to the county-owned
875 hospital in granting the certificate of need if the following
876 conditions are met:

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

880 2. The county-owned hospital's qualifications
881 for the certificate of need, as shown in its application and as
882 determined by the department, are at least equal to the
883 qualifications of the other applicants for the certificate of
884 need.

885 (r) (i) Beginning on July 1, 1999, the State
886 Department of Health shall issue certificates of need during each
887 of the next two (2) fiscal years for the construction or expansion
888 of nursing facility beds or the conversion of other beds to
889 nursing facility beds in each of the four (4) Long-Term Care
890 Planning Districts designated in the fiscal year 1999 State Health



891 Plan, to provide care exclusively to patients with Alzheimer's
892 disease.

893 (ii) Not more than twenty (20) beds may be
894 authorized by any certificate of need issued under this paragraph
895 (r), and not more than a total of sixty (60) beds may be
896 authorized in any Long-Term Care Planning District by all
897 certificates of need issued under this paragraph (r). However,
898 the total number of beds that may be authorized by all
899 certificates of need issued under this paragraph (r) during any
900 fiscal year shall not exceed one hundred twenty (120) beds, and
901 the total number of beds that may be authorized in any Long-Term
902 Care Planning District during any fiscal year shall not exceed
903 forty (40) beds. Of the certificates of need that are issued for
904 each Long-Term Care Planning District during the next two (2)
905 fiscal years, at least one (1) shall be issued for beds in the
906 northern part of the district, at least one (1) shall be issued
907 for beds in the central part of the district, and at least one (1)
908 shall be issued for beds in the southern part of the district.

909 (iii) The State Department of Health, in
910 consultation with the Department of Mental Health and the Division
911 of Medicaid, shall develop and prescribe the staffing levels,
912 space requirements and other standards and requirements that must
913 be met with regard to the nursing facility beds authorized under
914 this paragraph (r) to provide care exclusively to patients with
915 Alzheimer's disease.



916 (s) The State Department of Health may issue a
917 certificate of need to a nonprofit skilled nursing facility using
918 the Green House model of skilled nursing care and located in Yazoo
919 City, Yazoo County, Mississippi, for the construction, expansion
920 or conversion of not more than nineteen (19) nursing facility
921 beds. For purposes of this paragraph (s), the provisions of
922 Section 41-7-193(1) requiring substantial compliance with the
923 projection of need as reported in the current State Health Plan
924 and the provisions of Section 41-7-197 requiring a formal
925 certificate of need hearing process are waived. There shall be no
926 prohibition or restrictions on participation in the Medicaid
927 program for the person receiving the certificate of need
928 authorized under this paragraph (s).

929 (t) The State Department of Health shall issue
930 certificates of need to the owner of a nursing facility in
931 operation at the time of Hurricane Katrina in Hancock County that
932 was not operational on December 31, 2005, because of damage
933 sustained from Hurricane Katrina to authorize the following: (i)
934 the construction of a new nursing facility in Harrison County;
935 (ii) the relocation of forty-nine (49) nursing facility beds from
936 the Hancock County facility to the new Harrison County facility;
937 (iii) the establishment of not more than twenty (20) non-Medicaid
938 nursing facility beds at the Hancock County facility; and (iv) the
939 establishment of not more than twenty (20) non-Medicaid beds at
940 the new Harrison County facility. The certificates of need that



941 authorize the non-Medicaid nursing facility beds under
942 subparagraphs (iii) and (iv) of this paragraph (t) shall be
943 subject to the following conditions: The owner of the Hancock
944 County facility and the new Harrison County facility must agree in
945 writing that no more than fifty (50) of the beds at the Hancock
946 County facility and no more than forty-nine (49) of the beds at
947 the Harrison County facility will be certified for participation
948 in the Medicaid program, and that no claim will be submitted for
949 Medicaid reimbursement for more than fifty (50) patients in the
950 Hancock County facility in any month, or for more than forty-nine
951 (49) patients in the Harrison County facility in any month, or for
952 any patient in either facility who is in a bed that is not
953 Medicaid-certified. This written agreement by the owner of the
954 nursing facilities shall be a condition of the issuance of the
955 certificates of need under this paragraph (t), and the agreement
956 shall be fully binding on any later owner or owners of either
957 facility if the ownership of either facility is transferred at any
958 time after the certificates of need are issued. After this
959 written agreement is executed, the Division of Medicaid and the
960 State Department of Health shall not certify more than fifty (50)
961 of the beds at the Hancock County facility or more than forty-nine
962 (49) of the beds at the Harrison County facility for participation
963 in the Medicaid program. If the Hancock County facility violates
964 the terms of the written agreement by admitting or keeping in the
965 facility on a regular or continuing basis more than fifty (50)



966 patients who are participating in the Medicaid program, or if the
967 Harrison County facility violates the terms of the written
968 agreement by admitting or keeping in the facility on a regular or
969 continuing basis more than forty-nine (49) patients who are
970 participating in the Medicaid program, the State Department of
971 Health shall revoke the license of the facility that is in
972 violation of the agreement, at the time that the department
973 determines, after a hearing complying with due process, that the
974 facility has violated the agreement.

975 (u) The State Department of Health shall issue a
976 certificate of need to a nonprofit venture for the establishment,
977 construction and operation of a skilled nursing facility of not
978 more than sixty (60) beds to provide skilled nursing care for
979 ventilator dependent or otherwise medically dependent pediatric
980 patients who require medical and nursing care or rehabilitation
981 services to be located in a county in which an academic medical
982 center and a children's hospital are located, and for any
983 construction and for the acquisition of equipment related to those
984 beds. The facility shall be authorized to keep such ventilator
985 dependent or otherwise medically dependent pediatric patients
986 beyond age twenty-one (21) in accordance with regulations of the
987 State Board of Health. For purposes of this paragraph (u), the
988 provisions of Section 41-7-193(1) requiring substantial compliance
989 with the projection of need as reported in the current State
990 Health Plan are waived, and the provisions of Section 41-7-197



991 requiring a formal certificate of need hearing process are waived.
992 The beds authorized by this paragraph shall be counted as
993 pediatric skilled nursing facility beds for health planning
994 purposes under Section 41-7-171 et seq. There shall be no
995 prohibition of or restrictions on participation in the Medicaid
996 program for the person receiving the certificate of need
997 authorized by this paragraph.

998 (3) The State Department of Health may grant approval for
999 and issue certificates of need to any person proposing the new
1000 construction of, addition to, conversion of beds of or expansion
1001 of any health care facility defined in subparagraph (x)
1002 (psychiatric residential treatment facility) of Section
1003 41-7-173(* * *e). The total number of beds which may be
1004 authorized by such certificates of need shall not exceed three
1005 hundred thirty-four (334) beds for the entire state.

1006 (a) Of the total number of beds authorized under this
1007 subsection, the department shall issue a certificate of need to a
1008 privately owned psychiatric residential treatment facility in
1009 Simpson County for the conversion of sixteen (16) intermediate
1010 care facility for the * * * intellectually disabled (ICF-ID) beds
1011 to psychiatric residential treatment facility beds, provided that
1012 facility agrees in writing that the facility shall give priority
1013 for the use of those sixteen (16) beds to Mississippi residents
1014 who are presently being treated in out-of-state facilities.



1015 (b) Of the total number of beds authorized under this
1016 subsection, the department may issue a certificate or certificates
1017 of need for the construction or expansion of psychiatric
1018 residential treatment facility beds or the conversion of other
1019 beds to psychiatric residential treatment facility beds in Warren
1020 County, not to exceed sixty (60) psychiatric residential treatment
1021 facility beds, provided that the facility agrees in writing that
1022 no more than thirty (30) of the beds at the psychiatric
1023 residential treatment facility will be certified for participation
1024 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1025 any patients other than those who are participating only in the
1026 Medicaid program of another state, and that no claim will be
1027 submitted to the Division of Medicaid for Medicaid reimbursement
1028 for more than thirty (30) patients in the psychiatric residential
1029 treatment facility in any day or for any patient in the
1030 psychiatric residential treatment facility who is in a bed that is
1031 not Medicaid-certified. This written agreement by the recipient
1032 of the certificate of need shall be a condition of the issuance of
1033 the certificate of need under this paragraph, and the agreement
1034 shall be fully binding on any subsequent owner of the psychiatric
1035 residential treatment facility if the ownership of the facility is
1036 transferred at any time after the issuance of the certificate of
1037 need. After this written agreement is executed, the Division of
1038 Medicaid and the State Department of Health shall not certify more
1039 than thirty (30) of the beds in the psychiatric residential



1040 treatment facility for participation in the Medicaid program for
1041 the use of any patients other than those who are participating
1042 only in the Medicaid program of another state. If the psychiatric
1043 residential treatment facility violates the terms of the written
1044 agreement by admitting or keeping in the facility on a regular or
1045 continuing basis more than thirty (30) patients who are
1046 participating in the Mississippi Medicaid program, the State
1047 Department of Health shall revoke the license of the facility, at
1048 the time that the department determines, after a hearing complying
1049 with due process, that the facility has violated the condition
1050 upon which the certificate of need was issued, as provided in this
1051 paragraph and in the written agreement.

1052 The State Department of Health, on or before July 1, 2002,
1053 shall transfer the certificate of need authorized under the
1054 authority of this paragraph (b), or reissue the certificate of
1055 need if it has expired, to River Region Health System.

1056 (c) Of the total number of beds authorized under this
1057 subsection, the department shall issue a certificate of need to a
1058 hospital currently operating Medicaid-certified acute psychiatric
1059 beds for adolescents in DeSoto County, for the establishment of a
1060 forty-bed psychiatric residential treatment facility in DeSoto
1061 County, provided that the hospital agrees in writing (i) that the
1062 hospital shall give priority for the use of those forty (40) beds
1063 to Mississippi residents who are presently being treated in
1064 out-of-state facilities, and (ii) that no more than fifteen (15)



1065 of the beds at the psychiatric residential treatment facility will
1066 be certified for participation in the Medicaid program (Section
1067 43-13-101 et seq.), and that no claim will be submitted for
1068 Medicaid reimbursement for more than fifteen (15) patients in the
1069 psychiatric residential treatment facility in any day or for any
1070 patient in the psychiatric residential treatment facility who is
1071 in a bed that is not Medicaid-certified. This written agreement
1072 by the recipient of the certificate of need shall be a condition
1073 of the issuance of the certificate of need under this paragraph,
1074 and the agreement shall be fully binding on any subsequent owner
1075 of the psychiatric residential treatment facility if the ownership
1076 of the facility is transferred at any time after the issuance of
1077 the certificate of need. After this written agreement is
1078 executed, the Division of Medicaid and the State Department of
1079 Health shall not certify more than fifteen (15) of the beds in the
1080 psychiatric residential treatment facility for participation in
1081 the Medicaid program. If the psychiatric residential treatment
1082 facility violates the terms of the written agreement by admitting
1083 or keeping in the facility on a regular or continuing basis more
1084 than fifteen (15) patients who are participating in the Medicaid
1085 program, the State Department of Health shall revoke the license
1086 of the facility, at the time that the department determines, after
1087 a hearing complying with due process, that the facility has
1088 violated the condition upon which the certificate of need was



1089 issued, as provided in this paragraph and in the written
1090 agreement.

1091 (d) Of the total number of beds authorized under this
1092 subsection, the department may issue a certificate or certificates
1093 of need for the construction or expansion of psychiatric
1094 residential treatment facility beds or the conversion of other
1095 beds to psychiatric treatment facility beds, not to exceed thirty
1096 (30) psychiatric residential treatment facility beds, in either
1097 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1098 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1099 (e) Of the total number of beds authorized under this
1100 subsection (3) the department shall issue a certificate of need to
1101 a privately owned, nonprofit psychiatric residential treatment
1102 facility in Hinds County for an eight-bed expansion of the
1103 facility, provided that the facility agrees in writing that the
1104 facility shall give priority for the use of those eight (8) beds
1105 to Mississippi residents who are presently being treated in
1106 out-of-state facilities.

1107 (f) The department shall issue a certificate of need to
1108 a one-hundred-thirty-four-bed specialty hospital located on
1109 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1110 at 5900 Highway 39 North in Meridian (Lauderdale County),
1111 Mississippi, for the addition, construction or expansion of
1112 child/adolescent psychiatric residential treatment facility beds
1113 in Lauderdale County. As a condition of issuance of the



1114 certificate of need under this paragraph, the facility shall give
1115 priority in admissions to the child/adolescent psychiatric
1116 residential treatment facility beds authorized under this
1117 paragraph to patients who otherwise would require out-of-state
1118 placement. The Division of Medicaid, in conjunction with the
1119 Department of Human Services, shall furnish the facility a list of
1120 all out-of-state patients on a quarterly basis. Furthermore,
1121 notice shall also be provided to the parent, custodial parent or
1122 guardian of each out-of-state patient notifying them of the
1123 priority status granted by this paragraph. For purposes of this
1124 paragraph, the provisions of Section 41-7-193(1) requiring
1125 substantial compliance with the projection of need as reported in
1126 the current State Health Plan are waived. The total number of
1127 child/adolescent psychiatric residential treatment facility beds
1128 that may be authorized under the authority of this paragraph shall
1129 be sixty (60) beds. There shall be no prohibition or restrictions
1130 on participation in the Medicaid program (Section 43-13-101 et
1131 seq.) for the person receiving the certificate of need authorized
1132 under this paragraph or for the beds converted pursuant to the
1133 authority of that certificate of need.

1134 (4) (a) From and after July 1, 1993, the department shall
1135 not issue a certificate of need to any person for the new
1136 construction of any hospital, psychiatric hospital or chemical
1137 dependency hospital that will contain any child/adolescent
1138 psychiatric or child/adolescent chemical dependency beds, or for



1139 the conversion of any other health care facility to a hospital,
1140 psychiatric hospital or chemical dependency hospital that will
1141 contain any child/adolescent psychiatric or child/adolescent
1142 chemical dependency beds, or for the addition of any
1143 child/adolescent psychiatric or child/adolescent chemical
1144 dependency beds in any hospital, psychiatric hospital or chemical
1145 dependency hospital, or for the conversion of any beds of another
1146 category in any hospital, psychiatric hospital or chemical
1147 dependency hospital to child/adolescent psychiatric or
1148 child/adolescent chemical dependency beds, except as hereinafter
1149 authorized:

1150 (i) The department may issue certificates of need
1151 to any person for any purpose described in this subsection,
1152 provided that the hospital, psychiatric hospital or chemical
1153 dependency hospital does not participate in the Medicaid program
1154 (Section 43-13-101 et seq.) at the time of the application for the
1155 certificate of need and the owner of the hospital, psychiatric
1156 hospital or chemical dependency hospital agrees in writing that
1157 the hospital, psychiatric hospital or chemical dependency hospital
1158 will not at any time participate in the Medicaid program or admit
1159 or keep any patients who are participating in the Medicaid program
1160 in the hospital, psychiatric hospital or chemical dependency
1161 hospital. This written agreement by the recipient of the
1162 certificate of need shall be fully binding on any subsequent owner
1163 of the hospital, psychiatric hospital or chemical dependency



1164 hospital, if the ownership of the facility is transferred at any
1165 time after the issuance of the certificate of need. Agreement
1166 that the hospital, psychiatric hospital or chemical dependency
1167 hospital will not participate in the Medicaid program shall be a
1168 condition of the issuance of a certificate of need to any person
1169 under this subparagraph (i), and if such hospital, psychiatric
1170 hospital or chemical dependency hospital at any time after the
1171 issuance of the certificate of need, regardless of the ownership
1172 of the facility, participates in the Medicaid program or admits or
1173 keeps any patients in the hospital, psychiatric hospital or
1174 chemical dependency hospital who are participating in the Medicaid
1175 program, the State Department of Health shall revoke the
1176 certificate of need, if it is still outstanding, and shall deny or
1177 revoke the license of the hospital, psychiatric hospital or
1178 chemical dependency hospital, at the time that the department
1179 determines, after a hearing complying with due process, that the
1180 hospital, psychiatric hospital or chemical dependency hospital has
1181 failed to comply with any of the conditions upon which the
1182 certificate of need was issued, as provided in this subparagraph
1183 (i) and in the written agreement by the recipient of the
1184 certificate of need.

1185 (ii) The department may issue a certificate of
1186 need for the conversion of existing beds in a county hospital in
1187 Choctaw County from acute care beds to child/adolescent chemical
1188 dependency beds. For purposes of this subparagraph (ii), the



1189 provisions of Section 41-7-193(1) requiring substantial compliance
1190 with the projection of need as reported in the current State
1191 Health Plan are waived. The total number of beds that may be
1192 authorized under authority of this subparagraph shall not exceed
1193 twenty (20) beds. There shall be no prohibition or restrictions
1194 on participation in the Medicaid program (Section 43-13-101 et
1195 seq.) for the hospital receiving the certificate of need
1196 authorized under this subparagraph or for the beds converted
1197 pursuant to the authority of that certificate of need.

1198 (iii) The department may issue a certificate or
1199 certificates of need for the construction or expansion of
1200 child/adolescent psychiatric beds or the conversion of other beds
1201 to child/adolescent psychiatric beds in Warren County. For
1202 purposes of this subparagraph (iii), the provisions of Section
1203 41-7-193(1) requiring substantial compliance with the projection
1204 of need as reported in the current State Health Plan are waived.
1205 The total number of beds that may be authorized under the
1206 authority of this subparagraph shall not exceed twenty (20) beds.
1207 There shall be no prohibition or restrictions on participation in
1208 the Medicaid program (Section 43-13-101 et seq.) for the person
1209 receiving the certificate of need authorized under this
1210 subparagraph or for the beds converted pursuant to the authority
1211 of that certificate of need.

1212 If by January 1, 2002, there has been no significant
1213 commencement of construction of the beds authorized under this



1214 subparagraph (iii), or no significant action taken to convert
1215 existing beds to the beds authorized under this subparagraph, then
1216 the certificate of need that was previously issued under this
1217 subparagraph shall expire. If the previously issued certificate
1218 of need expires, the department may accept applications for
1219 issuance of another certificate of need for the beds authorized
1220 under this subparagraph, and may issue a certificate of need to
1221 authorize the construction, expansion or conversion of the beds
1222 authorized under this subparagraph.

1223 (iv) The department shall issue a certificate of
1224 need to the Region 7 Mental Health/Retardation Commission for the
1225 construction or expansion of child/adolescent psychiatric beds or
1226 the conversion of other beds to child/adolescent psychiatric beds
1227 in any of the counties served by the commission. For purposes of
1228 this subparagraph (iv), the provisions of Section 41-7-193(1)
1229 requiring substantial compliance with the projection of need as
1230 reported in the current State Health Plan are waived. The total
1231 number of beds that may be authorized under the authority of this
1232 subparagraph shall not exceed twenty (20) beds. There shall be no
1233 prohibition or restrictions on participation in the Medicaid
1234 program (Section 43-13-101 et seq.) for the person receiving the
1235 certificate of need authorized under this subparagraph or for the
1236 beds converted pursuant to the authority of that certificate of
1237 need.



1238 (v) The department may issue a certificate of need
1239 to any county hospital located in Leflore County for the
1240 construction or expansion of adult psychiatric beds or the
1241 conversion of other beds to adult psychiatric beds, not to exceed
1242 twenty (20) beds, provided that the recipient of the certificate
1243 of need agrees in writing that the adult psychiatric beds will not
1244 at any time be certified for participation in the Medicaid program
1245 and that the hospital will not admit or keep any patients who are
1246 participating in the Medicaid program in any of such adult
1247 psychiatric beds. This written agreement by the recipient of the
1248 certificate of need shall be fully binding on any subsequent owner
1249 of the hospital if the ownership of the hospital is transferred at
1250 any time after the issuance of the certificate of need. Agreement
1251 that the adult psychiatric beds will not be certified for
1252 participation in the Medicaid program shall be a condition of the
1253 issuance of a certificate of need to any person under this
1254 subparagraph (v), and if such hospital at any time after the
1255 issuance of the certificate of need, regardless of the ownership
1256 of the hospital, has any of such adult psychiatric beds certified
1257 for participation in the Medicaid program or admits or keeps any
1258 Medicaid patients in such adult psychiatric beds, the State
1259 Department of Health shall revoke the certificate of need, if it
1260 is still outstanding, and shall deny or revoke the license of the
1261 hospital at the time that the department determines, after a
1262 hearing complying with due process, that the hospital has failed



1263 to comply with any of the conditions upon which the certificate of
1264 need was issued, as provided in this subparagraph and in the
1265 written agreement by the recipient of the certificate of need.

1266 (vi) The department may issue a certificate or
1267 certificates of need for the expansion of child psychiatric beds
1268 or the conversion of other beds to child psychiatric beds at the
1269 University of Mississippi Medical Center. For purposes of this
1270 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1271 substantial compliance with the projection of need as reported in
1272 the current State Health Plan are waived. The total number of
1273 beds that may be authorized under the authority of this
1274 subparagraph shall not exceed fifteen (15) beds. There shall be
1275 no prohibition or restrictions on participation in the Medicaid
1276 program (Section 43-13-101 et seq.) for the hospital receiving the
1277 certificate of need authorized under this subparagraph or for the
1278 beds converted pursuant to the authority of that certificate of
1279 need.

1280 (b) From and after July 1, 1990, no hospital,
1281 psychiatric hospital or chemical dependency hospital shall be
1282 authorized to add any child/adolescent psychiatric or
1283 child/adolescent chemical dependency beds or convert any beds of
1284 another category to child/adolescent psychiatric or
1285 child/adolescent chemical dependency beds without a certificate of
1286 need under the authority of subsection (1)(c) of this section.



1287 (5) The department may issue a certificate of need to a
1288 county hospital in Winston County for the conversion of fifteen
1289 (15) acute care beds to geriatric psychiatric care beds.

1290 (6) The State Department of Health shall issue a certificate
1291 of need to a Mississippi corporation qualified to manage a
1292 long-term care hospital as defined in Section
1293 41-7-173(* * *e) (xii) in Harrison County, not to exceed eighty
1294 (80) beds, including any necessary renovation or construction
1295 required for licensure and certification, provided that the
1296 recipient of the certificate of need agrees in writing that the
1297 long-term care hospital will not at any time participate in the
1298 Medicaid program (Section 43-13-101 et seq.) or admit or keep any
1299 patients in the long-term care hospital who are participating in
1300 the Medicaid program. This written agreement by the recipient of
1301 the certificate of need shall be fully binding on any subsequent
1302 owner of the long-term care hospital, if the ownership of the
1303 facility is transferred at any time after the issuance of the
1304 certificate of need. Agreement that the long-term care hospital
1305 will not participate in the Medicaid program shall be a condition
1306 of the issuance of a certificate of need to any person under this
1307 subsection (6), and if such long-term care hospital at any time
1308 after the issuance of the certificate of need, regardless of the
1309 ownership of the facility, participates in the Medicaid program or
1310 admits or keeps any patients in the facility who are participating
1311 in the Medicaid program, the State Department of Health shall



1312 revoke the certificate of need, if it is still outstanding, and
1313 shall deny or revoke the license of the long-term care hospital,
1314 at the time that the department determines, after a hearing
1315 complying with due process, that the facility has failed to comply
1316 with any of the conditions upon which the certificate of need was
1317 issued, as provided in this subsection and in the written
1318 agreement by the recipient of the certificate of need. For
1319 purposes of this subsection, the provisions of Section 41-7-193(1)
1320 requiring substantial compliance with the projection of need as
1321 reported in the current State Health Plan are waived.

1322 (7) The State Department of Health may issue a certificate
1323 of need to any hospital in the state to utilize a portion of its
1324 beds for the "swing-bed" concept. Any such hospital must be in
1325 conformance with the federal regulations regarding such swing-bed
1326 concept at the time it submits its application for a certificate
1327 of need to the State Department of Health, except that such
1328 hospital may have more licensed beds or a higher average daily
1329 census (ADC) than the maximum number specified in federal
1330 regulations for participation in the swing-bed program. Any
1331 hospital meeting all federal requirements for participation in the
1332 swing-bed program which receives such certificate of need shall
1333 render services provided under the swing-bed concept to any
1334 patient eligible for Medicare (Title XVIII of the Social Security
1335 Act) who is certified by a physician to be in need of such
1336 services, and no such hospital shall permit any patient who is



1337 eligible for both Medicaid and Medicare or eligible only for
1338 Medicaid to stay in the swing beds of the hospital for more than
1339 thirty (30) days per admission unless the hospital receives prior
1340 approval for such patient from the Division of Medicaid, Office of
1341 the Governor. Any hospital having more licensed beds or a higher
1342 average daily census (ADC) than the maximum number specified in
1343 federal regulations for participation in the swing-bed program
1344 which receives such certificate of need shall develop a procedure
1345 to insure that before a patient is allowed to stay in the swing
1346 beds of the hospital, there are no vacant nursing home beds
1347 available for that patient located within a fifty-mile radius of
1348 the hospital. When any such hospital has a patient staying in the
1349 swing beds of the hospital and the hospital receives notice from a
1350 nursing home located within such radius that there is a vacant bed
1351 available for that patient, the hospital shall transfer the
1352 patient to the nursing home within a reasonable time after receipt
1353 of the notice. Any hospital which is subject to the requirements
1354 of the two (2) preceding sentences of this subsection may be
1355 suspended from participation in the swing-bed program for a
1356 reasonable period of time by the State Department of Health if the
1357 department, after a hearing complying with due process, determines
1358 that the hospital has failed to comply with any of those
1359 requirements.

1360 (8) The Department of Health shall not grant approval for or
1361 issue a certificate of need to any person proposing the new



1362 construction of, addition to or expansion of a health care
1363 facility as defined in subparagraph (viii) of Section
1364 41-7-173(* * *e), except as hereinafter provided: The department
1365 may issue a certificate of need to a nonprofit corporation located
1366 in Madison County, Mississippi, for the construction, expansion or
1367 conversion of not more than twenty (20) beds in a community living
1368 program for developmentally disabled adults in a facility as
1369 defined in subparagraph (viii) of Section 41-7-173(* * *e). For
1370 purposes of this subsection (8), the provisions of Section
1371 41-7-193(1) requiring substantial compliance with the projection
1372 of need as reported in the current State Health Plan and the
1373 provisions of Section 41-7-197 requiring a formal certificate of
1374 need hearing process are waived. There shall be no prohibition or
1375 restrictions on participation in the Medicaid program for the
1376 person receiving the certificate of need authorized under this
1377 subsection (8).

1378 (9) The Department of Health shall not grant approval for or
1379 issue a certificate of need to any person proposing the
1380 establishment of, or expansion of the currently approved territory
1381 of, or the contracting to establish a home office, subunit or
1382 branch office within the space operated as a health care facility
1383 as defined in Section 41-7-173(* * *e) (i) through (viii) by a
1384 health care facility as defined in subparagraph (ix) of Section
1385 41-7-173(* * *e).



1386 (10) Health care facilities owned and/or operated by the
1387 state or its agencies are exempt from the restraints in this
1388 section against issuance of a certificate of need if such addition
1389 or expansion consists of repairing or renovation necessary to
1390 comply with the state licensure law. This exception shall not
1391 apply to the new construction of any building by such state
1392 facility. This exception shall not apply to any health care
1393 facilities owned and/or operated by counties, municipalities,
1394 districts, unincorporated areas, other defined persons, or any
1395 combination thereof.

1396 (11) The new construction, renovation or expansion of or
1397 addition to any health care facility defined in subparagraph (ii)
1398 (psychiatric hospital), subparagraph (iv) (skilled nursing
1399 facility), subparagraph (vi) (intermediate care facility),
1400 subparagraph (viii) (intermediate care facility for the * * *
1401 intellectually disabled) and subparagraph (x) (psychiatric
1402 residential treatment facility) of Section 41-7-173(* * *e) which
1403 is owned by the State of Mississippi and under the direction and
1404 control of the State Department of Mental Health, and the addition
1405 of new beds or the conversion of beds from one category to another
1406 in any such defined health care facility which is owned by the
1407 State of Mississippi and under the direction and control of the
1408 State Department of Mental Health, shall not require the issuance
1409 of a certificate of need under Section 41-7-171 et seq.,



1410 notwithstanding any provision in Section 41-7-171 et seq. to the
1411 contrary.

1412 (12) The new construction, renovation or expansion of or
1413 addition to any veterans homes or domiciliaries for eligible
1414 veterans of the State of Mississippi as authorized under Section
1415 35-1-19 shall not require the issuance of a certificate of need,
1416 notwithstanding any provision in Section 41-7-171 et seq. to the
1417 contrary.

1418 (13) The repair or the rebuilding of an existing, operating
1419 health care facility that sustained significant damage from a
1420 natural disaster that occurred after April 15, 2014, in an area
1421 that is proclaimed a disaster area or subject to a state of
1422 emergency by the Governor or by the President of the United States
1423 shall be exempt from all of the requirements of the Mississippi
1424 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1425 rules and regulations promulgated under that law, subject to the
1426 following conditions:

1427 (a) The repair or the rebuilding of any such damaged
1428 health care facility must be within one (1) mile of the
1429 pre-disaster location of the campus of the damaged health care
1430 facility, except that any temporary post-disaster health care
1431 facility operating location may be within five (5) miles of the
1432 pre-disaster location of the damaged health care facility;

1433 (b) The repair or the rebuilding of the damaged health
1434 care facility (i) does not increase or change the complement of



1435 its bed capacity that it had before the Governor's or the
1436 President's proclamation, * * * the Governor's or the President's
1437 proclamation, and (* * * ii) does not rebuild in a different
1438 county; however, this paragraph does not restrict or prevent a
1439 health care facility from decreasing its bed capacity that it had
1440 before the Governor's or the President's proclamation, or from
1441 decreasing the levels of or decreasing or eliminating the types of
1442 health care services that it provided before the Governor's or the
1443 President's proclamation, when the damaged health care facility is
1444 repaired or rebuilt;

1445 (c) The exemption from Certificate of Need Law provided
1446 under this subsection (13) is valid for only five (5) years from
1447 the date of the Governor's or the President's proclamation. If
1448 actual construction has not begun within that five-year period,
1449 the exemption provided under this subsection is inapplicable; and

1450 (d) The Division of Health Facilities Licensure and
1451 Certification of the State Department of Health shall provide the
1452 same oversight for the repair or the rebuilding of the damaged
1453 health care facility that it provides to all health care facility
1454 construction projects in the state.

1455 For the purposes of this subsection (13), "significant
1456 damage" to a health care facility means damage to the health care
1457 facility requiring an expenditure of at least One Million Dollars
1458 (\$1,000,000.00).



1459 (14) The State Department of Health shall issue a
1460 certificate of need to any hospital which is currently licensed
1461 for two hundred fifty (250) or more acute care beds and is located
1462 in any general hospital service area not having a comprehensive
1463 cancer center, for the establishment and equipping of such a
1464 center which provides facilities and services for outpatient
1465 radiation oncology therapy, outpatient medical oncology therapy,
1466 and appropriate support services including the provision of
1467 radiation therapy services. The provisions of Section 41-7-193(1)
1468 regarding substantial compliance with the projection of need as
1469 reported in the current State Health Plan are waived for the
1470 purpose of this subsection.

1471 (15) The State Department of Health may authorize the
1472 transfer of hospital beds, not to exceed sixty (60) beds, from the
1473 North Panola Community Hospital to the South Panola Community
1474 Hospital. The authorization for the transfer of those beds shall
1475 be exempt from the certificate of need review process.

1476 (16) The State Department of Health shall issue any
1477 certificates of need necessary for Mississippi State University
1478 and a public or private health care provider to jointly acquire
1479 and operate a linear accelerator and a magnetic resonance imaging
1480 unit. Those certificates of need shall cover all capital
1481 expenditures related to the project between Mississippi State
1482 University and the health care provider, including, but not
1483 limited to, the acquisition of the linear accelerator, the



1484 magnetic resonance imaging unit and other radiological modalities;
1485 the offering of linear accelerator and magnetic resonance imaging
1486 services; and the cost of construction of facilities in which to
1487 locate these services. The linear accelerator and the magnetic
1488 resonance imaging unit shall be (a) located in the City of
1489 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1490 Mississippi State University and the public or private health care
1491 provider selected by Mississippi State University through a
1492 request for proposals (RFP) process in which Mississippi State
1493 University selects, and the Board of Trustees of State
1494 Institutions of Higher Learning approves, the health care provider
1495 that makes the best overall proposal; (c) available to Mississippi
1496 State University for research purposes two-thirds (2/3) of the
1497 time that the linear accelerator and magnetic resonance imaging
1498 unit are operational; and (d) available to the public or private
1499 health care provider selected by Mississippi State University and
1500 approved by the Board of Trustees of State Institutions of Higher
1501 Learning one-third (1/3) of the time for clinical, diagnostic and
1502 treatment purposes. For purposes of this subsection, the
1503 provisions of Section 41-7-193(1) requiring substantial compliance
1504 with the projection of need as reported in the current State
1505 Health Plan are waived.

1506 (17) The State Department of Health shall issue a
1507 certificate of need for the construction of an acute care hospital
1508 in Kemper County, not to exceed twenty-five (25) beds, which shall



1509 be named the "John C. Stennis Memorial Hospital." In issuing the
1510 certificate of need under this subsection, the department shall
1511 give priority to a hospital located in Lauderdale County that has
1512 two hundred fifteen (215) beds. For purposes of this subsection,
1513 the provisions of Section 41-7-193(1) requiring substantial
1514 compliance with the projection of need as reported in the current
1515 State Health Plan and the provisions of Section 41-7-197 requiring
1516 a formal certificate of need hearing process are waived. There
1517 shall be no prohibition or restrictions on participation in the
1518 Medicaid program (Section 43-13-101 et seq.) for the person or
1519 entity receiving the certificate of need authorized under this
1520 subsection or for the beds constructed under the authority of that
1521 certificate of need.

1522 (18) The planning, design, construction, renovation,
1523 addition, furnishing and equipping of a clinical research unit at
1524 any health care facility defined in Section 41-7-173(* * *e) that
1525 is under the direction and control of the University of
1526 Mississippi Medical Center and located in Jackson, Mississippi,
1527 and the addition of new beds or the conversion of beds from one
1528 (1) category to another in any such clinical research unit, shall
1529 not require the issuance of a certificate of need under Section
1530 41-7-171 et seq., notwithstanding any provision in Section
1531 41-7-171 et seq. to the contrary.

1532 * * *



1533 (* * * 19) Nothing in this section or in any other provision
1534 of Section 41-7-171 et seq. shall prevent any nursing facility
1535 from designating an appropriate number of existing beds in the
1536 facility as beds for providing care exclusively to patients with
1537 Alzheimer's disease.

1538 **SECTION 8.** Section 41-7-193, Mississippi Code of 1972, is
1539 amended as follows:

1540 41-7-193. (1) No person may enter into any financing
1541 arrangement or commitment for financing a * * * project requiring
1542 a certificate of need unless such certificate has been granted for
1543 such purpose. A certificate of need shall not be granted or
1544 issued to any person for any proposal, cause or reason, unless the
1545 proposal has been reviewed for consistency with the specifications
1546 and the criteria established by the State Department of Health and
1547 substantially complies with the projection of need as reported in
1548 the state health plan in effect at the time the application for
1549 the proposal was submitted.

1550 (2) An application for a certificate of need for * * * a
1551 proposal requiring a certificate of need shall specify the time,
1552 within that granted, such shall be functional or operational
1553 according to a time schedule submitted with the application. Each
1554 certificate of need shall specify the maximum amount of capital
1555 expenditure that may be obligated. The State Department of Health
1556 shall periodically review the progress and time schedule of any
1557 person issued or granted a certificate of need for any purpose.



1558 (3) An application for a certificate of need may be filed at
1559 any time with the department after the applicant has given the
1560 department fifteen (15) days' written notice of its intent to
1561 apply for a certificate of need. The department shall not delay
1562 review of an application. The department shall make its
1563 recommendation approving or disapproving a complete application
1564 within forty-five (45) days of the date the application was filed
1565 or within fifteen (15) days of receipt of any requested
1566 information, whichever is later, * * * the request to be made by
1567 the department within fifteen (15) days of the filing of the
1568 application.

1569 **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is
1570 amended as follows:

1571 41-7-197. (1) The State Department of Health shall adopt
1572 and * * * use procedures for conducting certificate of need
1573 reviews. Such procedures shall include, inter alia, the
1574 following: (a) written notification to the applicant; (b) written
1575 notification to health care facilities in the same health service
1576 area as the proposed * * * health care facility; (c) written
1577 notification to other persons who * * * before the receipt of the
1578 application have filed a formal notice of intent to * * * operate
1579 a health care facility in the same service area; and (d)
1580 notification to members of the public who reside in the service
1581 area where the * * * facility is proposed, which may be provided
1582 through newspapers or public information channels.



1583 (2) All notices provided shall include, inter alia, the
1584 following: (a) the proposed schedule for the review; (b) written
1585 notification of the period within which a public hearing during
1586 the course of the review may be requested in writing by one or
1587 more affected persons, such request to be made within ten (10)
1588 days of the department's staff recommendation for approval or
1589 disapproval of an application; and (c) the manner in which
1590 notification will be provided of the time and place of any hearing
1591 so requested. Any such hearing shall be * * * begun by an
1592 independent hearing officer designated by the State Department of
1593 Health within sixty (60) days of the filing of the hearing request
1594 unless all parties to the hearing agree to extend the time for
1595 the * * * beginning of the hearing. At such hearing, the hearing
1596 officer and any person affected by the proposal being reviewed may
1597 conduct reasonable questioning of persons who make relevant
1598 factual allegations concerning the proposal. The hearing officer
1599 shall require that all persons be sworn before they may offer any
1600 testimony at the hearing, and the hearing officer is authorized to
1601 administer oaths. Any person so choosing may be represented by
1602 counsel at the hearing. A record of the hearing shall be made,
1603 which shall consist of a transcript of all testimony received, all
1604 documents and other material introduced by any interested person,
1605 the staff report and recommendation and such other material as the
1606 hearing officer considers relevant, including his own
1607 recommendation, which he shall make, after reviewing, studying and



1608 analyzing the evidence presented during the hearing, within a
1609 reasonable period of time after the hearing is closed, which in no
1610 event shall exceed forty-five (45) days. The completed record
1611 shall be certified to the State Health Officer, who shall consider
1612 only the record in making his decision, and shall not consider any
1613 evidence or material * * * that is not included * * * in the
1614 record. All final decisions regarding the issuance of a
1615 certificate of need shall be made by the State Health Officer.
1616 The State Health Officer shall make his or her written findings
1617 and issue his or her order after reviewing * * * the record. The
1618 findings and decision of the State Health Officer shall not be
1619 deferred to any later date.

1620 (3) Unless a hearing is held, if review by the State
1621 Department of Health concerning the issuance of a certificate of
1622 need is not complete with a final decision issued by the State
1623 Health Officer within the time specified by rule or regulation,
1624 which shall not exceed ninety (90) days from the filing of the
1625 application for a certificate of need, the proponent of the
1626 proposal may, within thirty (30) days after the expiration of the
1627 specified time for review, * * * begin such legal action as is
1628 necessary, in the Chancery Court of the First Judicial District of
1629 Hinds County or in the chancery court of the county in which
1630 the * * * facility is proposed to be * * * operated, to compel the
1631 State Health Officer to issue written findings and written order
1632 approving or disapproving the proposal in question.



1633 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is
1634 amended as follows:

1635 41-7-201. (1) The provisions of this subsection (1) shall
1636 apply to any party appealing any final order of the State
1637 Department of Health pertaining to a certificate of need for a
1638 home health agency, as defined in Section 41-7-173(* * *e)(ix):

1639 (a) In addition to other remedies now available at law
1640 or in equity, any party aggrieved by any such final order of the
1641 State Department of Health shall have the right of appeal to the
1642 Chancery Court of the First Judicial District of Hinds County,
1643 Mississippi, which appeal must be filed within thirty (30) days
1644 after the date of the final order. * * * However, * * * any
1645 appeal of an order disapproving an application for such a
1646 certificate of need may be made to the chancery court of the
1647 county where the proposed construction, expansion or alteration
1648 was to be located * * *. Such appeal must be filed in accordance
1649 with the thirty (30) days for filing as * * * provided in this
1650 paragraph. Any appeal shall state briefly the nature of the
1651 proceedings before the State Department of Health and shall
1652 specify the order complained of. Any appeal shall state briefly
1653 the nature of the proceedings before the State Department of
1654 Health and shall specify the order complained of. Any person
1655 whose rights may be materially affected by the action of the State
1656 Department of Health may appear and become a party or the court



1657 may, upon motion, order that any such person, organization or
1658 entity be joined as a necessary party.

1659 (b) Upon the filing of such an appeal, the clerk of the
1660 chancery court shall serve notice thereof upon the State
1661 Department of Health, whereupon the State Department of Health
1662 shall, within thirty (30) days or within such additional time as
1663 the court may by order for cause allow from the service of such
1664 notice, certify to the chancery court the record in the case,
1665 which records shall include a transcript of all testimony,
1666 together with all exhibits or copies thereof, all pleadings,
1667 proceedings, orders, findings and opinions entered in the
1668 case; * * * however, * * * the parties and the State Department of
1669 Health may stipulate that a specified portion only of the record
1670 shall be certified to the court as the record on appeal.

1671 (c) The court may dispose of the appeal in termtime or
1672 vacation and may sustain or dismiss the appeal, modify or vacate
1673 the order complained of, in whole or in part, as the case may be;
1674 but in case the order is wholly or partly vacated, the court may
1675 also, in its discretion, remand the matter to the State Department
1676 of Health for such further proceedings, not inconsistent with the
1677 court's order, as, in the opinion of the court, justice may
1678 require. The order shall not be vacated or set aside, either in
1679 whole or in part, except for errors of law, unless the court finds
1680 that the order of the State Department of Health is not supported
1681 by substantial evidence, is contrary to the manifest weight of the



1682 evidence, is in excess of the statutory authority or jurisdiction
1683 of the State Department of Health, or violates any vested
1684 constitutional rights of any party involved in the appeal. * * *
1685 However, an order of the chancery court reversing the denial of a
1686 certificate of need by the State Department of Health shall not
1687 entitle the applicant to effectuate the certificate of need until
1688 either:

1689 (i) Such order of the chancery court has become
1690 final and has not been appealed to the Supreme Court; or

1691 (ii) The Supreme Court has entered a final order
1692 affirming the chancery court.

1693 (d) Appeals in accordance with law may be had to the
1694 Supreme Court of the State of Mississippi from any final judgment
1695 of the chancery court.

1696 (2) The provisions of this subsection (2) shall apply to any
1697 party appealing any final order of the State Department of Health
1698 pertaining to a certificate of need for any health care facility
1699 as defined in Section 41-7-173(* * *e), with the exception of any
1700 home health agency as defined in Section 41-7-173(* * *e)(ix):

1701 (a) There shall be a "stay of proceedings" of any final
1702 order issued by the State Department of Health pertaining to the
1703 issuance of a certificate of need for the establishment,
1704 construction, expansion or replacement of a health care facility
1705 for a period of thirty (30) days from the date of the order, if an
1706 existing provider located in the same service area where the



1707 health care facility is or will be located has requested a hearing
1708 during the course of review in opposition to the issuance of the
1709 certificate of need. The stay of proceedings shall expire at the
1710 termination of thirty (30) days; however, no construction,
1711 renovation or other capital expenditure that is the subject of the
1712 order shall be undertaken, no license to operate any facility that
1713 is the subject of the order shall be issued by the licensing
1714 agency, and no certification to participate in the Title XVII or
1715 Title XIX programs of the Social Security Act shall be granted,
1716 until all statutory appeals have been exhausted or the time for
1717 such appeals has expired. * * *

1718 (b) In addition to other remedies now available at law
1719 or in equity, any party aggrieved by such final order of the State
1720 Department of Health shall have the right of appeal to the
1721 Chancery Court of the First Judicial District of Hinds County,
1722 Mississippi, which appeal must be filed within twenty (20) days
1723 after the date of the final order. * * * However, * * * any
1724 appeal of an order disapproving an application for such a
1725 certificate of need may be made to the chancery court of the
1726 county where the proposed construction, expansion or alteration
1727 was to be located * * *. Such appeal must be filed in accordance
1728 with the twenty (20) days for filing as * * * provided in this
1729 paragraph. Any appeal shall state briefly the nature of the
1730 proceedings before the State Department of Health and shall
1731 specify the order complained of.



1732 (c) Upon the filing of such an appeal, the clerk of the
1733 chancery court shall serve notice thereof upon the State
1734 Department of Health, whereupon the State Department of Health
1735 shall, within thirty (30) days of the date of the filing of the
1736 appeal, certify to the chancery court the record in the case,
1737 which records shall include a transcript of all testimony,
1738 together with all exhibits or copies thereof, all proceedings,
1739 orders, findings and opinions entered in the case; * * *
1740 however, * * * the parties and the State Department of Health may
1741 stipulate that a specified portion only of the record shall be
1742 certified to the court as the record on appeal. The chancery
1743 court shall give preference to any such appeal from a final order
1744 by the State Department of Health in a certificate of need
1745 proceeding, and shall render a final order regarding such appeal
1746 no later than one hundred twenty (120) days from the date of the
1747 final order by the State Department of Health. If the chancery
1748 court has not rendered a final order within this
1749 one-hundred-twenty-day period, then the final order of the State
1750 Department of Health shall be deemed to have been affirmed by the
1751 chancery court, and any party to the appeal shall have the right
1752 to appeal from the chancery court to the Supreme Court on the
1753 record certified by the State Department of Health as otherwise
1754 provided in paragraph (g) of this subsection. * * * If the
1755 chancery court has not rendered a final order within the
1756 one-hundred-twenty-day period and an appeal is made to the Supreme



1757 Court as provided * * * in this paragraph, the Supreme Court shall
1758 remand the case to the chancery court to make an award of costs,
1759 fees, reasonable expenses and attorney's fees incurred in favor of
1760 appellee payable by the appellant(s) * * * if the Supreme Court
1761 affirms the order of the State Department of Health.

1762 (d) Any appeal of a final order by the State Department
1763 of Health in a certificate of need proceeding shall require the
1764 giving of a bond by the appellant(s) sufficient to secure the
1765 appellee against the loss of costs, fees, expenses and attorney's
1766 fees incurred in defense of the appeal, approved by the chancery
1767 court within five (5) days of the date of filing the appeal.

1768 (e) No new or additional evidence shall be introduced
1769 in the chancery court but the case shall be determined upon the
1770 record certified to the court.

1771 (f) The court may dispose of the appeal in termtime or
1772 vacation and may sustain or dismiss the appeal, modify or vacate
1773 the order complained of in whole or in part and may make an award
1774 of costs, fees, expenses and attorney's fees, as the case may be;
1775 but in case the order is wholly or partly vacated, the court may
1776 also, in its discretion, remand the matter to the State Department
1777 of Health for such further proceedings, not inconsistent with the
1778 court's order, as, in the opinion of the court, justice may
1779 require. The court, as part of the final order, shall make an
1780 award of costs, fees, reasonable expenses and attorney's fees
1781 incurred in favor of appellee payable by the appellant(s) * * * if



1782 the court affirms the order of the State Department of Health.
1783 The order shall not be vacated or set aside, either in whole or in
1784 part, except for errors of law, unless the court finds that the
1785 order of the State Department of Health is not supported by
1786 substantial evidence, is contrary to the manifest weight of the
1787 evidence, is in excess of the statutory authority or jurisdiction
1788 of the State Department of Health, or violates any vested
1789 constitutional rights of any party involved in the appeal. * * *
1790 However, an order of the chancery court reversing the denial of a
1791 certificate of need by the State Department of Health shall not
1792 entitle the applicant to effectuate the certificate of need until
1793 either:

1794 (i) Such order of the chancery court has become
1795 final and has not been appealed to the Supreme Court; or

1796 (ii) The Supreme Court has entered a final order
1797 affirming the chancery court.

1798 (g) Appeals in accordance with law may be had to the
1799 Supreme Court of the State of Mississippi from any final judgment
1800 of the chancery court.

1801 (h) Within thirty (30) days from the date of a final
1802 order by the Supreme Court or a final order of the chancery court
1803 not appealed to the Supreme Court that modifies or wholly or
1804 partly vacates the final order of the State Department of Health
1805 granting a certificate of need, the State Department of Health
1806 shall issue another order in conformity with the final order of



1807 the Supreme Court, or the final order of the chancery court not
1808 appealed to the Supreme Court.

1809 **SECTION 11.** Section 41-7-202, Mississippi Code of 1972, is
1810 amended as follows:

1811 41-7-202. There shall be a "stay of proceedings" of any
1812 written decision of the State Department of Health pertaining to a
1813 certificate of need for a home health agency, as defined in
1814 Section 41-7-173(* * *e)(ix), for a period of thirty (30) days
1815 from the date of that decision. The stay of proceedings shall
1816 expire at the termination of thirty (30) days; however, no license
1817 to operate any such home health agency that is the subject of the
1818 decision shall be issued by the licensing agency, and no
1819 certification for such home health agency to participate in the
1820 Title XVIII or Title XIX programs of the Social Security Act shall
1821 be granted until all statutory appeals have been exhausted or the
1822 time for such appeals has expired. The stay of proceedings
1823 provided for in this section shall not apply to any party
1824 appealing any final order of the State Department of Health
1825 pertaining to a certificate of need for any health care facility
1826 as defined in Section 41-7-173(* * *e), with the exception of any
1827 home health agency as defined in Section 41-7-173(* * *e)(ix).

1828 **SECTION 12.** Section 41-7-207, Mississippi Code of 1972, is
1829 amended as follows:

1830 41-7-207. Notwithstanding any other provisions of Sections
1831 41-7-171 through 41-7-209, except when the owner of a damaged



1832 health care facility applies to repair or rebuild the facility in
1833 accordance with the provisions of Section 41-7-191(13), when the
1834 need for any emergency replacement occurs, the certificate of need
1835 review process shall be expedited by promulgation of
1836 administrative procedures for expenditures necessary to alleviate
1837 an emergency condition and restore health care access. Emergency
1838 replacement means the replacement, and/or a necessary relocation,
1839 of all or the damaged part of the facilities * * * without which
1840 the operation of the facility and the health and safety of
1841 patients would be immediately jeopardized and health care access
1842 would be denied to such patients. Expenditures under this section
1843 shall be limited to the replacement of those necessary
1844 facilities * * * the loss of which constitutes an emergency;
1845 however, in the case of the destruction or major damage to a
1846 health care facility, the department shall be authorized to issue
1847 a certificate of need to address the current and future health
1848 care needs of the community, including, but not limited to, the
1849 expansion of the health care facility and/or the relocation of the
1850 health care facility. In exercising the authority granted in this
1851 section, the department may waive all or part of the required
1852 certificate of need application fee for any application filed
1853 under this section if the expenditure would create a further
1854 hardship or undue burden on the health care facility.

1855 **SECTION 13.** Section 41-73-5, Mississippi Code of 1972, is
1856 amended as follows:



1857 41-73-5. When used in this act, unless the context requires
1858 a different definition, the following terms shall have the
1859 following meanings:

1860 (a) "Act" means the Mississippi Hospital Equipment and
1861 Facilities Authority Act.

1862 (b) "Authority" means the Mississippi Hospital
1863 Equipment and Facilities Authority created by this act and any
1864 successor to its functions.

1865 (c) "Bonds" means bonds, notes or other evidences of
1866 indebtedness of the authority issued pursuant to this act,
1867 including refunding bonds.

1868 (d) "Cost" as applied to hospital equipment means any
1869 and all costs of such hospital equipment and, without limiting the
1870 generality of the foregoing, shall include the following:

1871 (i) All costs of the acquisition, repair,
1872 restoration, reconditioning, refinancing or installation of any
1873 such hospital equipment and all costs incident or related thereto;

1874 (ii) The cost of any property interest in such
1875 hospital equipment including an option to purchase or leasehold
1876 interest;

1877 (iii) The cost of architectural, engineering,
1878 legal and related services; the cost of the preparation of plans,
1879 specifications, studies, surveys and estimates of cost and of
1880 revenue; and all other expenses necessary or incident to planning,
1881 providing or determining the need for or the feasibility and



1882 practicability of such hospital equipment; and the cost of
1883 providing or establishing a reasonable reserve fund for the
1884 payment of principal and interest on bonds;

1885 (iv) The cost of financing charges, including
1886 premiums or prepayment penalties, if any, and interest accrued
1887 prior to the acquisition and installation or refinancing of such
1888 hospital equipment and after such acquisition and installation or
1889 refinancing and start-up costs related to hospital equipment;

1890 (v) Any and all costs paid or incurred in
1891 connection with the financing of such hospital equipment,
1892 including out-of-pocket expenses, the cost of financing, legal,
1893 accounting, financial advisory and consulting fees, expenses and
1894 disbursements; the cost of any policy of insurance; the cost of
1895 printing, engraving and reproduction services; and the cost of the
1896 initial or acceptance fee of any trustee or paying agent;

1897 (vi) All direct or indirect costs of the authority
1898 incurred in connection with providing such hospital equipment,
1899 including, without limitation, reasonable sums to reimburse the
1900 authority for time spent by its agents or employees with respect
1901 to providing such hospital equipment and the financing thereof;
1902 and

1903 (vii) Any and all costs paid or incurred for the
1904 administration of any program for the purchase or lease of or the
1905 making of loans for hospital equipment, by the authority and any



1906 program for the sale or lease of or the making of loans for such
1907 hospital equipment to any participating hospital institution.

1908 (e) "Cost," as applied to hospital facilities, means
1909 any and all costs of such hospital facilities and, without
1910 limiting the generality of the foregoing, shall include the
1911 following:

1912 (i) All costs of the establishment, demolition,
1913 site development of new and rehabilitated buildings,
1914 rehabilitation, reconstruction repair, erection, building,
1915 construction, remodeling, adding to and furnishing of any such
1916 hospital facilities and all costs incident or related thereto;

1917 (ii) The cost of acquiring any property interest
1918 in such hospital facilities including the purchase thereof, the
1919 cost of an option to purchase or the cost of any leasehold
1920 interest;

1921 (iii) The cost of architectural, engineering,
1922 legal and related services; the cost of the preparation of plans,
1923 specifications, studies, surveys and estimates of cost and of
1924 revenue; all other expenses necessary or incident to planning,
1925 providing or determining the need for or the feasibility and
1926 practicability of such hospital facilities or the acquisition
1927 thereof; and the cost of providing or establishing a reasonable
1928 reserve fund for the payment of principal of and interest on
1929 bonds;



1930 (iv) The cost of financing charges, including
1931 premiums or prepayment penalties, if any, and interest accrued
1932 prior to the acquisition and completion or refinancing of such
1933 hospital facilities and after such acquisition and completion or
1934 refinancing and start-up costs related to hospital facilities;

1935 (v) Any and all costs paid or incurred in
1936 connection with the financing of such hospital facilities,
1937 including out-of-pocket expenses, the cost of financing, legal,
1938 accounting, financial advisory and consulting fees, expenses and
1939 disbursement; the cost of any policy of insurance; the cost of
1940 printing, engraving and reproduction services; and the cost of the
1941 initial or acceptance fee of any trustee or paying agent;

1942 (vi) All direct or indirect costs of the authority
1943 incurred in connection with providing such hospital facilities,
1944 including, without limitation, reasonable sums to reimburse the
1945 authority for time spent by its agents or employees with respect
1946 to providing such hospital facilities and the financing thereof;

1947 (vii) Any and all costs paid or incurred for the
1948 administration of any program for the purchase or lease of or the
1949 making of loans for hospital facilities, by the authority and any
1950 program for the sale or lease of or the making of loans for such
1951 hospital facilities to any participating hospital institution; and

1952 (viii) The cost of providing for the payment or
1953 the making provision for the payment of, by the appropriate
1954 escrowing of monies or securities, the principal of and interest



1955 on which when due will be adequate to make such payment, any
1956 indebtedness encumbering the revenues or property of a
1957 participating hospital institution, whether such payment is to be
1958 effected by redemption of such indebtedness prior to maturity or
1959 not.

1960 (f) "Hospital equipment" means any personal property
1961 which is found and determined by the authority to be required or
1962 necessary or helpful for medical care, research, training or
1963 teaching, any one (1) or all, in hospital facilities located in
1964 the state, irrespective of whether such property is in existence
1965 at the time of, or is to be provided after the making of, such
1966 finding. * * *

1967 (g) "Hospital facility" or "hospital facilities" means
1968 buildings and structures of any and all types used or useful, in
1969 the discretion of the authority, for providing any types of care
1970 to the sick, wounded, infirmed, needy, mentally incompetent or
1971 elderly and shall include, without limiting the generality of the
1972 foregoing, out-patient clinics, laboratories, laundries, nurses',
1973 doctors' or interns' residences, administration buildings, office
1974 buildings, facilities for research directly involved with hospital
1975 care, maintenance, storage or utility facilities, parking lots,
1976 and garages and all necessary, useful, or related furnishings, and
1977 appurtenances and all lands necessary or convenient as a site for
1978 the foregoing.



1979 (h) "Participating hospital institution" or "hospital
1980 institution" means a public or private corporation, association,
1981 foundation, trust, cooperative, agency, body politic, or other
1982 person or organization which provides or operates or proposes to
1983 provide or operate hospital facilities not for profit, and which,
1984 pursuant to the provisions of this act, contracts with the
1985 authority for the financing or refinancing of the lease or other
1986 acquisition of hospital equipment or hospital facilities, or both.

1987 (i) "State" means the State of Mississippi.

1988 The use of singular terms herein shall also include the
1989 plural of such term and the use of a plural term herein shall also
1990 include the singular of such term unless the context clearly
1991 requires a different connotation.

1992 **SECTION 14.** Section 41-75-1, Mississippi Code of 1972, is
1993 amended as follows:

1994 41-75-1. For the purpose of this chapter:

1995 (a) "Ambulatory surgical facility" means a publicly or
1996 privately owned institution that is primarily organized,
1997 constructed, renovated or otherwise established for the purpose of
1998 providing elective surgical treatment of "outpatients" whose
1999 recovery, under normal and routine circumstances, will not require
2000 "inpatient" care. The facility defined in this paragraph does not
2001 include the offices of private physicians or dentists, whether
2002 practicing individually or in groups, but does include
2003 organizations or facilities primarily engaged in that outpatient



2004 surgery, whether using the name "ambulatory surgical facility" or
2005 a similar or different name. That organization or facility, if in
2006 any manner considered to be operated or owned by a hospital or a
2007 hospital holding, leasing or management company, either for profit
2008 or not for profit, is required to comply with all licensing agency
2009 ambulatory surgical licensure standards governing a "hospital
2010 affiliated" facility as adopted under Section 41-9-1 et seq.,
2011 provided that the organization or facility does not intend to seek
2012 federal certification as an ambulatory surgical facility as
2013 provided for at 42 CFR, Parts 405 and 416. If the organization or
2014 facility is to be operated or owned by a hospital or a hospital
2015 holding, leasing or management company and intends to seek federal
2016 certification as an ambulatory facility, then the facility is
2017 considered to be "freestanding" and must comply with all licensing
2018 agency ambulatory surgical licensure standards governing a
2019 "freestanding" facility.

2020 If the organization or facility is to be owned or operated by
2021 an entity or person other than a hospital or hospital holding,
2022 leasing or management company, then the organization or facility
2023 must comply with all licensing agency ambulatory surgical facility
2024 standards governing a "freestanding" facility.

2025 (b) "Hospital affiliated" ambulatory surgical facility
2026 means a separate and distinct organized unit of a hospital or a
2027 building owned, leased, rented or utilized by a hospital and
2028 located in the same county in which the hospital is located, for



2029 the primary purpose of performing ambulatory surgery procedures.
2030 The facility is not required to be separately licensed under this
2031 chapter and may operate under the hospital's license in compliance
2032 with all applicable requirements of Section 41-9-1 et seq.

2033 (c) "Freestanding" ambulatory surgical facility means a
2034 separate and distinct facility or a separate and distinct
2035 organized unit of a hospital owned, leased, rented or utilized by
2036 a hospital or other persons for the primary purpose of performing
2037 ambulatory surgery procedures. The facility must be separately
2038 licensed as defined in this section and must comply with all
2039 licensing standards promulgated by the licensing agency under this
2040 chapter regarding a "freestanding" ambulatory surgical facility.
2041 Further, the facility must be a separate, identifiable entity and
2042 must be physically, administratively and financially independent
2043 and distinct from other operations of any other health facility,
2044 and shall maintain a separate organized medical and administrative
2045 staff. * * *

2046 (d) "Ambulatory surgery" means surgical procedures that
2047 are more complex than office procedures performed under local
2048 anesthesia, but less complex than major procedures requiring
2049 prolonged postoperative monitoring and hospital care to ensure
2050 safe recovery and desirable results. General anesthesia is used
2051 in most cases. The patient must arrive at the facility and expect
2052 to be discharged on the same day. Ambulatory surgery shall only



2053 be performed by physicians or dentists licensed to practice in the
2054 State of Mississippi.

2055 (e) "Abortion" means the use or prescription of any
2056 instrument, medicine, drug or any other substances or device to
2057 terminate the pregnancy of a woman known to be pregnant with an
2058 intention other than to increase the probability of a live birth,
2059 to preserve the life or health of the child after live birth or to
2060 remove a dead fetus. Abortion procedures after the first
2061 trimester shall only be performed at a Level I abortion facility
2062 or an ambulatory surgical facility or hospital licensed to perform
2063 that service.

2064 (f) "Abortion facility" means a facility operating
2065 substantially for the purpose of performing abortions and is a
2066 separate identifiable legal entity from any other health care
2067 facility. Abortions shall only be performed by physicians
2068 licensed to practice in the State of Mississippi. All physicians
2069 associated with the abortion facility must have admitting
2070 privileges at a local hospital and staff privileges to replace
2071 local hospital on-staff physicians. All physicians associated
2072 with an abortion facility must be board certified or eligible in
2073 obstetrics and gynecology, and a staff member trained in CPR shall
2074 always be present at the abortion facility when it is open. The
2075 term "abortion facility" includes physicians' offices that are
2076 used substantially for the purpose of performing abortions. An



2077 abortion facility operates substantially for the purpose of
2078 performing abortions if any of the following conditions are met:

2079 (i) The abortion facility is a provider for
2080 performing ten (10) or more abortion procedures per calendar month
2081 during any month of a calendar year, or one hundred (100) or more
2082 in a calendar year.

2083 (ii) The abortion facility, if operating less than
2084 twenty (20) days per calendar month, is a provider for performing
2085 ten (10) or more abortion procedures, or performing a number of
2086 abortion procedures that would be equivalent to ten (10)
2087 procedures per month, if the facility were operating twenty (20)
2088 or more days per calendar month, in any month of a calendar year.

2089 (iii) The abortion facility holds itself out to
2090 the public as an abortion provider by advertising by any public
2091 means, such as newspaper, telephone directory, magazine or
2092 electronic media, that it performs abortions.

2093 (iv) The facility applies to the licensing agency
2094 for licensure as an abortion facility.

2095 (g) "Licensing agency" means the State Department of
2096 Health.

2097 (h) "Operating" an abortion facility means that the
2098 facility is open for any period of time during a day and has on
2099 site at the facility or on call a physician licensed to practice
2100 in the State of Mississippi available to provide abortions.



2101 An abortion facility may apply to be licensed as a Level I
2102 facility or a Level II facility by the licensing agency. Level II
2103 abortion facilities shall be required to meet minimum standards
2104 for abortion facilities as established by the licensing agency.
2105 Level I abortion facilities shall be required to meet minimum
2106 standards for abortion facilities and minimum standards for
2107 ambulatory surgical facilities as established by the licensing
2108 agency.

2109 Any abortion facility that begins operation after June 30,
2110 1996, shall not be located within one thousand five hundred
2111 (1,500) feet from the property on which any church, school or
2112 kindergarten is located. An abortion facility shall not be in
2113 violation of this paragraph if it is in compliance with this
2114 paragraph on the date it begins operation and the property on
2115 which a church, school or kindergarten is located within one
2116 thousand five hundred (1,500) feet from the facility.

2117 (i) "Freestanding emergency room" is a facility open
2118 twenty-four (24) hours a day for the treatment of urgent and
2119 emergent medical conditions which is not located on a hospital
2120 campus. In order to be eligible for licensure under this chapter,
2121 the freestanding emergency room shall be located at least fifteen
2122 (15) miles from the nearest hospital-based emergency room in any
2123 rural community where the federal CMMS had previously designated a
2124 rural hospital as a critical access hospital and that designation
2125 has been revoked.



2126 (j) "Post-acute residential brain injury rehabilitation
2127 facility" is a facility containing no more than twelve (12) beds
2128 providing medically directed long-term but nonacute rehabilitation
2129 to patients who have acquired brain injury. In order to be
2130 eligible for licensure under this chapter, the post-acute
2131 residential brain injury rehabilitation facility shall be located
2132 at least twenty-five (25) miles from the nearest acute care
2133 rehabilitation hospital and at least five (5) miles from the
2134 boundaries of any municipality having a population of ten thousand
2135 (10,000) or more, according to the most recent federal decennial
2136 census, at the time that facility is established.

2137 **SECTION 15.** Section 41-75-5, Mississippi Code of 1972, is
2138 amended as follows:

2139 41-75-5. No person * * * or other entity, acting severally
2140 or jointly with any other person or entity, shall establish,
2141 conduct, operate or maintain an ambulatory surgical facility or an
2142 abortion facility or a freestanding emergency room or a post-acute
2143 residential brain injury rehabilitation facility in this state
2144 without a license under this chapter.

2145 In order to receive a license for a post-acute residential
2146 brain injury rehabilitation facility under this chapter, the
2147 recipient of the license must agree in writing that the facility
2148 will not at any time participate in the Medicaid program (Section
2149 43-13-101 et seq.) or admit or keep any patients in the facility
2150 who are participating in the Medicaid program. This written



2151 agreement by the recipient of the license shall be fully binding
2152 on any later owner of the facility, if the ownership of the
2153 facility is transferred at any time after the issuance of the
2154 license. Agreement that the facility will not participate in the
2155 Medicaid program shall be a condition of the issuance of a license
2156 for a post-acute residential brain injury rehabilitation facility
2157 to any person under this chapter, and if such facility at any time
2158 after the issuance of the license, regardless of the ownership of
2159 the facility, participates in the Medicaid program or admits or
2160 keeps any patients in the facility who are participating in the
2161 Medicaid program, the licensing agency shall revoke the license of
2162 the facility, at the time that the department determines, after a
2163 hearing complying with due process, that the facility has failed
2164 to comply with any of the conditions upon which the license was
2165 issued, as provided in this section and in the written agreement
2166 by the recipient of the license.

2167 **SECTION 16.** Section 41-75-9, Mississippi Code of 1972, is
2168 amended as follows:

2169 41-75-9. Upon receipt of an application for license and the
2170 license fee, the licensing agency shall issue a license if the
2171 applicant and the institutional facilities meet the requirements
2172 established under this chapter * * *. A license, unless suspended
2173 or revoked, shall be renewable annually upon payment of a renewal
2174 fee of Three Thousand Dollars (\$3,000.00), which shall be paid to
2175 the licensing agency, and upon filing by the licensee and approval



2176 by the licensing agency of an annual report upon such uniform
2177 dates and containing such information in such form as the
2178 licensing agency requires. Each license shall be issued only for
2179 the premises and person or persons named in the application and
2180 shall not be transferable or assignable. Licenses shall be posted
2181 in a conspicuous place on the licensed premises.

2182 **SECTION 17.** Section 41-75-25, Mississippi Code of 1972, is
2183 amended as follows:

2184 41-75-25. Any person or persons or other entity or entities
2185 establishing, managing or operating an ambulatory surgical
2186 facility or conducting the business of an ambulatory surgical
2187 facility without the required license, or which otherwise violate
2188 any of the provisions of this chapter * * * or the rules,
2189 regulations or standards promulgated in furtherance of any law in
2190 which the * * * licensing agency has authority therefor shall be
2191 subject to the following penalties and sanctions * * *:

2192 (a) Revocation of the license of the ambulatory
2193 surgical facility or a designated section, component or service
2194 thereof; or

2195 (b) Nonlicensure of a specific or designated service
2196 offered by the ambulatory surgical facility.

2197 In addition, any violation of any provision of this chapter
2198 or any rules or regulations promulgated in furtherance of this
2199 chapter by intent, fraud, deceit, unlawful design, willful and/or
2200 deliberate misrepresentation, or by careless, negligent or



2201 incautious disregard for those statutes or rules and regulations,
2202 either by persons acting individually or in concert with others,
2203 is a misdemeanor and shall be punishable by a fine not to exceed
2204 One Thousand Dollars (\$1,000.00) for each such offense. Each day
2205 of continuing violation shall be considered a separate offense.
2206 The venue for prosecution of any such violation shall be in any
2207 county of the state in which any such violation, or portion
2208 thereof, occurred.

2209 **SECTION 18.** This act shall take effect and be in force from
2210 and after July 1, 2018.

