

By: Representative Foster

To: Public Health and Human Services

HOUSE BILL NO. 520

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, 2019.

