

By: Representative Zuber

To: Public Health and Human Services; State Affairs

HOUSE BILL NO. 419
(As Passed the House)

1 AN ACT TO BRING FORWARD SECTIONS 41-7-171, 41-7-173,
2 41-7-175, 41-7-183, 41-7-185, 41-7-187, 41-7-188, 41-7-189,
3 41-7-190, 41-7-191, 41-7-193, 41-7-195, 41-7-197, 41-7-201,
4 41-7-202, 41-7-205, 41-7-207, 41-7-209, 23-15-625, 25-41-7,
5 35-1-19, 41-3-15, 41-4-18, 41-9-11, 41-9-23, 41-9-68, 41-9-209,
6 41-9-210, 41-71-7, 41-71-19, 41-73-5, 41-75-1, 41-75-5, 41-75-9,
7 41-75-25, 41-77-1, 41-77-5, 41-77-21, 41-77-23, 41-77-25, 41-95-3,
8 43-11-9, 43-11-19, 57-117-5, 41-9-311, 43-13-117.5, MISSISSIPPI
9 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
10 RELATED PURPOSES.

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

12 **SECTION 1.** Section 41-7-171, Mississippi Code of 1972, is
13 brought forward as follows:

14 41-7-171. Sections 41-7-171 through 41-7-209 shall be known
15 and may be cited as the "Mississippi Health Care Certificate of
16 Need Law of 1979."

17 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is
18 brought forward as follows:

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



22 (a) "Affected person" means (i) the applicant; (ii) a
23 person residing within the geographic area to be served by the
24 applicant's proposal; (iii) a person who regularly uses health
25 care facilities or HMOs located in the geographic area of the
26 proposal which provide similar service to that which is proposed;
27 (iv) health care facilities and HMOs which have, prior to receipt
28 of the application under review, formally indicated an intention
29 to provide service similar to that of the proposal being
30 considered at a future date; (v) third-party payers who reimburse
31 health care facilities located in the geographical area of the
32 proposal; or (vi) any agency that establishes rates for health
33 care services or HMOs located in the geographic area of the
34 proposal.

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

42 (c) (i) "Capital expenditure," when pertaining to
43 defined major medical equipment, shall mean an expenditure which,
44 under generally accepted accounting principles consistently
45 applied, is not properly chargeable as an expense of operation and



46 maintenance and which exceeds One Million Five Hundred Thousand
47 Dollars (\$1,500,000.00).

48 (ii) "Capital expenditure," when pertaining to
49 other than major medical equipment, shall mean any expenditure
50 which under generally accepted accounting principles consistently
51 applied is not properly chargeable as an expense of operation and
52 maintenance and which exceeds, for clinical health services, as
53 defined in subsection (k) below, Five Million Dollars
54 (\$5,000,000.00), adjusted for inflation as published by the State
55 Department of Health or which exceeds, for nonclinical health
56 services, as defined in subsection (k) below, Ten Million Dollars
57 (\$10,000,000.00), adjusted for inflation as published by the State
58 Department of Health.

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

69 (iv) In those instances where a health care
70 facility or other provider of health services proposes to provide



71 a service in which the capital expenditure for major medical
72 equipment or other than major medical equipment or a combination
73 of the two (2) may have been split between separate parties, the
74 total capital expenditure required to provide the proposed service
75 shall be considered in determining the necessity of certificate of
76 need review and in determining the appropriate certificate of need
77 review fee to be paid. The capital expenditure associated with
78 facilities and equipment to provide services in Mississippi shall
79 be considered regardless of where the capital expenditure was
80 made, in state or out of state, and regardless of the domicile of
81 the party making the capital expenditure, in state or out of
82 state.

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



95 (e) "Commencement of construction" means that all of
96 the following have been completed with respect to a proposal or
97 project proposing construction, renovating, remodeling or
98 alteration:

99 (i) A legally binding written contract has been
100 consummated by the proponent and a lawfully licensed contractor to
101 construct and/or complete the intent of the proposal within a
102 specified period of time in accordance with final architectural
103 plans which have been approved by the licensing authority of the
104 State Department of Health;

105 (ii) Any and all permits and/or approvals deemed
106 lawfully necessary by all authorities with responsibility for such
107 have been secured; and

108 (iii) Actual bona fide undertaking of the subject
109 proposal has commenced, and a progress payment of at least one
110 percent (1%) of the total cost price of the contract has been paid
111 to the contractor by the proponent, and the requirements of this
112 paragraph (e) have been certified to in writing by the State
113 Department of Health.

114 Force account expenditures, such as deposits, securities,
115 bonds, et cetera, may, in the discretion of the State Department
116 of Health, be excluded from any or all of the provisions of
117 defined commencement of construction.



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

121 (g) "Develop," when used in connection with health
122 services, means to undertake those activities which, on their
123 completion, will result in the offering of a new institutional
124 health service or the incurring of a financial obligation as
125 defined under applicable state law in relation to the offering of
126 such services.

127 (h) "Health care facility" includes hospitals,
128 psychiatric hospitals, chemical dependency hospitals, skilled
129 nursing facilities, end-stage renal disease (ESRD) facilities,
130 including freestanding hemodialysis units, intermediate care
131 facilities, ambulatory surgical facilities, intermediate care
132 facilities for the mentally retarded, home health agencies,
133 psychiatric residential treatment facilities, pediatric skilled
134 nursing facilities, long-term care hospitals, comprehensive
135 medical rehabilitation facilities, including facilities owned or
136 operated by the state or a political subdivision or
137 instrumentality of the state, but does not include Christian
138 Science sanatoriums operated or listed and certified by the First
139 Church of Christ, Scientist, Boston, Massachusetts. This
140 definition shall not apply to facilities for the private practice,
141 either independently or by incorporated medical groups, of
142 physicians, dentists or health care professionals except where



143 such facilities are an integral part of an institutional health
144 service. The various health care facilities listed in this
145 paragraph shall be defined as follows:

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

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

157 (iii) "Chemical dependency hospital" means an
158 institution which is primarily engaged in providing to inpatients,
159 by or under the supervision of a physician, medical and related
160 services for the diagnosis and treatment of chemical dependency
161 such as alcohol and drug abuse.

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



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

176 (vi) "Intermediate care facility" means an
177 institution which provides, on a regular basis, health-related
178 care and services to individuals who do not require the degree of
179 care and treatment which a hospital or skilled nursing facility is
180 designed to provide, but who, because of their mental or physical
181 condition, require health-related care and services (above the
182 level of room and board).

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

190 (viii) "Intermediate care facility for the
191 mentally retarded" means an intermediate care facility that
192 provides health or rehabilitative services in a planned program of



193 activities to persons with an intellectual disability, also
194 including, but not limited to, cerebral palsy and other conditions
195 covered by the Federal Developmentally Disabled Assistance and
196 Bill of Rights Act, Public Law 94-103.

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

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



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

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

226 (x) "Psychiatric residential treatment facility"
227 means any nonhospital establishment with permanent licensed
228 facilities which provides a twenty-four-hour program of care by
229 qualified therapists, including, but not limited to, duly licensed
230 mental health professionals, psychiatrists, psychologists,
231 psychotherapists and licensed certified social workers, for
232 emotionally disturbed children and adolescents referred to such
233 facility by a court, local school district or by the Department of
234 Human Services, who are not in an acute phase of illness requiring
235 the services of a psychiatric hospital, and are in need of such
236 restorative treatment services. For purposes of this
237 subparagraph, the term "emotionally disturbed" means a condition
238 exhibiting one or more of the following characteristics over a
239 long period of time and to a marked degree, which adversely
240 affects educational performance:



- 241 1. An inability to learn which cannot be
242 explained by intellectual, sensory or health factors;
243 2. An inability to build or maintain
244 satisfactory relationships with peers and teachers;
245 3. Inappropriate types of behavior or
246 feelings under normal circumstances;
247 4. A general pervasive mood of unhappiness or
248 depression; or
249 5. A tendency to develop physical symptoms or
250 fears associated with personal or school problems. An
251 establishment furnishing primarily domiciliary care is not within
252 this definition.

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

259 (xii) "Long-term care hospital" means a
260 freestanding, Medicare-certified hospital that has an average
261 length of inpatient stay greater than twenty-five (25) days, which
262 is primarily engaged in providing chronic or long-term medical
263 care to patients who do not require more than three (3) hours of
264 rehabilitation or comprehensive rehabilitation per day, and has a
265 transfer agreement with an acute care medical center and a



266 comprehensive medical rehabilitation facility. Long-term care
267 hospitals shall not use rehabilitation, comprehensive medical
268 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
269 nursing home, skilled nursing facility or sub-acute care facility
270 in association with its name.

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

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

282 2. Emphasizes education and training of
283 individuals with disabilities;

284 3. Incorporates at least the following core
285 disciplines:

286 (i) Physical Therapy;

287 (ii) Occupational Therapy;

288 (iii) Speech and Language Therapy;

289 (iv) Rehabilitation Nursing; and



290 4. Incorporates at least three (3) of the
291 following disciplines:

- 292 (i) Psychology;
- 293 (ii) Audiology;
- 294 (iii) Respiratory Therapy;
- 295 (iv) Therapeutic Recreation;
- 296 (v) Orthotics;
- 297 (vi) Prosthetics;
- 298 (vii) Special Education;
- 299 (viii) Vocational Rehabilitation;
- 300 (ix) Psychotherapy;
- 301 (x) Social Work;
- 302 (xi) Rehabilitation Engineering.

303 These specialized programs include, but are not limited to:
304 spinal cord injury programs, head injury programs and infant and
305 early childhood development programs.

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

309 (i) Provides or otherwise makes available to
310 enrolled participants health care services, including
311 substantially the following basic health care services: usual
312 physician services, hospitalization, laboratory, x-ray, emergency
313 and preventive services, and out-of-area coverage;



314 (ii) Is compensated (except for copayments) for
315 the provision of the basic health care services listed in
316 subparagraph (i) of this paragraph to enrolled participants on a
317 predetermined basis; and

318 (iii) Provides physician services primarily:

319 1. Directly through physicians who are either
320 employees or partners of such organization; or

321 2. Through arrangements with individual
322 physicians or one or more groups of physicians (organized on a
323 group practice or individual practice basis).

324 (j) "Health service area" means a geographic area of
325 the state designated in the State Health Plan as the area to be
326 used in planning for specified health facilities and services and
327 to be used when considering certificate of need applications to
328 provide health facilities and services.

329 (k) "Health services" means clinically related (i.e.,
330 diagnostic, treatment or rehabilitative) services and includes
331 alcohol, drug abuse, mental health and home health care services.
332 "Clinical health services" shall only include those activities
333 which contemplate any change in the existing bed complement of any
334 health care facility through the addition or conversion of any
335 beds, under Section 41-7-191(1)(c) or propose to offer any health
336 services if those services have not been provided on a regular
337 basis by the proposed provider of such services within the period
338 of twelve (12) months prior to the time such services would be



339 offered, under Section 41-7-191(1)(d). "Nonclinical health
340 services" shall be all other services which do not involve any
341 change in the existing bed complement or offering health services
342 as described above.

343 (l) "Institutional health services" shall mean health
344 services provided in or through health care facilities and shall
345 include the entities in or through which such services are
346 provided.

347 (m) "Major medical equipment" means medical equipment
348 designed for providing medical or any health-related service which
349 costs in excess of One Million Five Hundred Thousand Dollars
350 (\$1,500,000.00). However, this definition shall not be applicable
351 to clinical laboratories if they are determined by the State
352 Department of Health to be independent of any physician's office,
353 hospital or other health care facility or otherwise not so defined
354 by federal or state law, or rules and regulations promulgated
355 thereunder.

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

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



364 (p) "Person" means an individual, a trust or estate,
365 partnership, corporation (including associations, joint-stock
366 companies and insurance companies), the state or a political
367 subdivision or instrumentality of the state.

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

372 (r) "Radiation therapy services" means the treatment of
373 cancer and other diseases using ionizing radiation of either high
374 energy photons (x-rays or gamma rays) or charged particles
375 (electrons, protons or heavy nuclei). However, for purposes of a
376 certificate of need, radiation therapy services shall not include
377 low energy, superficial, external beam x-ray treatment of
378 superficial skin lesions.

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

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



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

392 **SECTION 3.** Section 41-7-175, Mississippi Code of 1972, is
393 brought forward as follows:

394 41-7-175. The State Department of Health shall be the sole
395 and official agency of the State of Mississippi to administer and
396 supervise, as prescribed by the Legislature, all responsibilities
397 of the state health planning and development agency.

398 **SECTION 4.** Section 41-7-183, Mississippi Code of 1972, is
399 brought forward as follows:

400 41-7-183. The State Department of Health shall have the duty
401 of administering all functions and responsibilities of the
402 designated state health planning and development agency as
403 prescribed by the Legislature, and shall serve as the designated
404 planning agency of the state for purposes of Section 1122 of
405 Public Law 92-603 for the period of time that a contract is in
406 effect between the Secretary and the State Department of Health
407 for such purposes.

408 **SECTION 5.** Section 41-7-185, Mississippi Code of 1972, is
409 brought forward as follows:

410 41-7-185. In carrying out its functions under Section
411 41-7-171 et seq., the State Department of Health is hereby
412 empowered to:



413 (a) Make applications for and accept funds from the
414 secretary and other federal and state agencies and to receive and
415 administer such other funds for the planning or provision of
416 health facilities or health care as are appropriate to the
417 accomplishment of the purposes of Section 41-7-171 et seq.; and to
418 contract with the secretary to accept funds to administer planning
419 activities on the community, regional or state level;

420 (b) With the approval of the secretary, delegate to or
421 contract with any mutually agreeable department, division or
422 agency of the state, the federal government, or any political
423 subdivision of either, or any private corporation, organization or
424 association chartered by the Secretary of State of Mississippi,
425 authority for administering any programs, duties or functions
426 provided for in Section 41-7-171, et seq.;

427 (c) Prescribe and promulgate such reasonable rules and
428 regulations as may be necessary to the implementation of the
429 purposes of Section 41-7-171, et seq., complying with Section
430 25-43-1, et seq.;

431 (d) Require providers of institutional health services
432 and home health care services provided through a home health
433 agency and any other provider of health care requiring a
434 certificate of need to submit or make available statistical
435 information or such other information requested by the State
436 Department of Health, but not information that would constitute an
437 unwarranted invasion of the personal privacy of any individual



438 person or place the provider in jeopardy of legal action by a
439 third party;

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

446 (f) In its discretion, contract with the secretary, or
447 terminate any such contract, for the administration of the
448 provisions, programs, duties and functions of Section 1122 of
449 Public Law 92-603; but the State Department of Health shall not be
450 relieved of matters of accountability, obligation or
451 responsibility that accrued to the department by virtue of prior
452 contracts and/or statutes;

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

457 **SECTION 6.** Section 41-7-187, Mississippi Code of 1972, is
458 brought forward as follows:

459 41-7-187. The State Department of Health is hereby
460 authorized to develop and implement a statewide health certificate
461 of need program. The State Department of Health is authorized and
462 empowered to adopt by rule and regulation:



- 463 (a) Criteria, standards and plans to be used in
464 evaluating applications for certificates of need;
- 465 (b) Effective standards to determine when a person,
466 facility or organization must apply for a certificate of need;
- 467 (c) Standards to determine when a change of ownership
468 has occurred or will occur; and
- 469 (d) Review procedures for conducting reviews of
470 applications for certificates of need.

471 **SECTION 7.** Section 41-7-188, Mississippi Code of 1972, is
472 brought forward as follows:

473 41-7-188. (1) The State Department of Health is hereby
474 authorized and empowered to assess fees for reviewing applications
475 for certificates of need. The State Department of Health shall
476 promulgate such rules and regulations as are necessary to
477 effectuate the intent of this section in keeping with the
478 standards hereinbelow:

- 479 (a) The fees assessed shall be uniform to all
480 applicants.
- 481 (b) The fees assessed shall be nonrefundable.
- 482 (c) The fee shall be .5 of 1% of the amount of a
483 proposed capital expenditure.
- 484 (d) The minimum fee shall not be less than Five Hundred
485 Dollars (\$500.00) regardless of the amount of the proposed capital
486 expenditure, and the maximum fee permitted shall not exceed
487 Twenty-five Thousand Dollars (\$25,000.00), regardless of category.



488 (e) No application shall be deemed complete for the
489 review process until such required fee is received by the State
490 Department of Health.

491 (f) The required fee shall be paid to the State
492 Department of Health and may be paid by check, draft or money
493 order.

494 (g) There shall be no filing fee requirement for any
495 application submitted by an agency, department, institution or
496 facility which is operated, owned by and/or controlled by the
497 State of Mississippi and which received operating and/or capital
498 expenditure funds solely by appropriations from the Legislature of
499 the state.

500 (h) There shall be no filing fee requirement for any
501 health-care facility submitting an application for repairs or
502 renovations determined by the State Department of Health in
503 writing, to be necessary in order to avoid revocation of license
504 and/or loss of certification for participation in the Medicaid
505 and/or Medicare programs. Any proposed expenditure in excess of
506 the amount determined by the State Department of Health to be
507 necessary to accomplish the stated purposes shall be subject to
508 the fee requirements of this section.

509 (2) The revenue derived from the fees imposed in subsection
510 (1) of this section shall be deposited by the State Department of
511 Health in a special fund, hereby created in the State Treasury,
512 which is earmarked for use by the State Department of Health in



513 conducting its health planning and certificate of need review
514 activities. It is the intent of the Legislature that the health
515 planning and certificate of need programs be continued for the
516 protection of the individuals within the state requiring health
517 care.

518 (3) The State Department of Health is authorized and
519 empowered to assess fees for reviewing applications for
520 certificates of authority for health maintenance organizations and
521 for the issuance and renewal of such certificates of authority.
522 The fees assessed shall be uniform to all applicants and to all
523 holders of certificates of authority, and shall be nonrefundable.
524 The fees for applications, original certificates of authority and
525 renewals of certificates of authority shall not exceed Five
526 Thousand Dollars (\$5,000.00) each. The revenues derived from the
527 fees assessed under this subsection shall be deposited by the
528 department in a special fund hereby created in the State Treasury,
529 which is earmarked for the use of the department in its regulation
530 of the operation of health maintenance organizations.

531 **SECTION 8.** Section 41-7-189, Mississippi Code of 1972, is
532 brought forward as follows:

533 41-7-189. (1) Prior to review of new institutional health
534 services or other proposals requiring a certificate of need, the
535 State Department of Health shall disseminate to all health care
536 facilities and health maintenance organizations within the state,
537 and shall publish in one or more newspapers of general circulation



538 in the state, a description of the scope of coverage of the
539 commission's certificate of need program. Whenever the scope of
540 such coverage is revised, the State Department of Health shall
541 disseminate and publish a revised description thereof in like
542 manner.

543 (2) Selected statistical data and information obtained by
544 the State Department of Health as the licensing agency for health
545 care facilities requiring licensure by the state and as the agency
546 which provides certification for the Medicaid and/or Medicare
547 program, may be utilized by the department in performing the
548 statutory duties imposed upon it by any law over which it has
549 authority, and regulations necessarily promulgated for such
550 facilities to participate in the Medicaid and/or Medicare program;
551 provided, however, that the names of individual patients shall not
552 be revealed except in hearings or judicial proceedings regarding
553 questions of licensure.

554 **SECTION 9.** Section 41-7-190, Mississippi Code of 1972, is
555 brought forward as follows:

556 41-7-190. No corporation, foreign or domestic, partnership,
557 individual(s) or association of such entities or of persons
558 whatsoever, or any combination thereof, shall own, possess or
559 exercise control over, in any manner, more than twenty percent
560 (20%) of the beds in health care facilities defined in Section
561 41-7-173(h) (iv) and (vi) in the defined health service area of the
562 State of Mississippi.



563 Health care facilities owned, operated or under control of
564 the United States government, the state government or political
565 subdivision of either are excluded from the limitation of this
566 section.

567 **SECTION 10.** Section 41-7-191, Mississippi Code of 1972, is
568 brought forward as follows:

569 41-7-191. (1) No person shall engage in any of the
570 following activities without obtaining the required certificate of
571 need:

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

576 (b) The relocation of a health care facility or portion
577 thereof, or major medical equipment, unless such relocation of a
578 health care facility or portion thereof, or major medical
579 equipment, which does not involve a capital expenditure by or on
580 behalf of a health care facility, is within five thousand two
581 hundred eighty (5,280) feet from the main entrance of the health
582 care facility;

583 (c) Any change in the existing bed complement of any
584 health care facility through the addition or conversion of any
585 beds or the alteration, modernizing or refurbishing of any unit or
586 department in which the beds may be located; however, if a health
587 care facility has voluntarily delicensed some of its existing bed



588 complement, it may later relicense some or all of its delicensed
589 beds without the necessity of having to acquire a certificate of
590 need. The State Department of Health shall maintain a record of
591 the delicensing health care facility and its voluntarily
592 delicensed beds and continue counting those beds as part of the
593 state's total bed count for health care planning purposes. If a
594 health care facility that has voluntarily delicensed some of its
595 beds later desires to relicense some or all of its voluntarily
596 delicensed beds, it shall notify the State Department of Health of
597 its intent to increase the number of its licensed beds. The State
598 Department of Health shall survey the health care facility within
599 thirty (30) days of that notice and, if appropriate, issue the
600 health care facility a new license reflecting the new contingent
601 of beds. However, in no event may a health care facility that has
602 voluntarily delicensed some of its beds be reissued a license to
603 operate beds in excess of its bed count before the voluntary
604 delicensure of some of its beds without seeking certificate of
605 need approval;

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

- 610 (i) Open-heart surgery services;
- 611 (ii) Cardiac catheterization services;



612 (iii) Comprehensive inpatient rehabilitation
613 services;

614 (iv) Licensed psychiatric services;

615 (v) Licensed chemical dependency services;

616 (vi) Radiation therapy services;

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

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

621 (ix) Home health services;

622 (x) Swing-bed services;

623 (xi) Ambulatory surgical services;

624 (xii) Magnetic resonance imaging services;

625 (xiii) [Deleted]

626 (xiv) Long-term care hospital services;

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

628 (e) The relocation of one or more health services from
629 one physical facility or site to another physical facility or
630 site, unless such relocation, which does not involve a capital
631 expenditure by or on behalf of a health care facility, (i) is to a
632 physical facility or site within five thousand two hundred eighty
633 (5,280) feet from the main entrance of the health care facility
634 where the health care service is located, or (ii) is the result of
635 an order of a court of appropriate jurisdiction or a result of
636 pending litigation in such court, or by order of the State



637 Department of Health, or by order of any other agency or legal
638 entity of the state, the federal government, or any political
639 subdivision of either, whose order is also approved by the State
640 Department of Health;

641 (f) The acquisition or otherwise control of any major
642 medical equipment for the provision of medical services; however,
643 (i) the acquisition of any major medical equipment used only for
644 research purposes, and (ii) the acquisition of major medical
645 equipment to replace medical equipment for which a facility is
646 already providing medical services and for which the State
647 Department of Health has been notified before the date of such
648 acquisition shall be exempt from this paragraph; an acquisition
649 for less than fair market value must be reviewed, if the
650 acquisition at fair market value would be subject to review;

651 (g) Changes of ownership of existing health care
652 facilities in which a notice of intent is not filed with the State
653 Department of Health at least thirty (30) days prior to the date
654 such change of ownership occurs, or a change in services or bed
655 capacity as prescribed in paragraph (c) or (d) of this subsection
656 as a result of the change of ownership; an acquisition for less
657 than fair market value must be reviewed, if the acquisition at
658 fair market value would be subject to review;

659 (h) The change of ownership of any health care facility
660 defined in subparagraphs (iv), (vi) and (viii) of Section
661 41-7-173(h), in which a notice of intent as described in paragraph



662 (g) has not been filed and if the Executive Director, Division of
663 Medicaid, Office of the Governor, has not certified in writing
664 that there will be no increase in allowable costs to Medicaid from
665 revaluation of the assets or from increased interest and
666 depreciation as a result of the proposed change of ownership;

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

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

674 (k) The contracting of a health care facility as
675 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
676 to establish a home office, subunit, or branch office in the space
677 operated as a health care facility through a formal arrangement
678 with an existing health care facility as defined in subparagraph
679 (ix) of Section 41-7-173(h);

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

685 (m) Reopening a health care facility that has ceased to
686 operate for a period of sixty (60) months or more, which reopening



687 requires a certificate of need for the establishment of a new
688 health care facility.

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

696 (a) The department may issue a certificate of need to
697 any person proposing the new construction of any health care
698 facility defined in subparagraphs (iv) and (vi) of Section
699 41-7-173(h) as part of a life care retirement facility, in any
700 county bordering on the Gulf of Mexico in which is located a
701 National Aeronautics and Space Administration facility, not to
702 exceed forty (40) beds. From and after July 1, 1999, there shall
703 be no prohibition or restrictions on participation in the Medicaid
704 program (Section 43-13-101 et seq.) for the beds in the health
705 care facility that were authorized under this paragraph (a).

706 (b) The department may issue certificates of need in
707 Harrison County to provide skilled nursing home care for
708 Alzheimer's disease patients and other patients, not to exceed one
709 hundred fifty (150) beds. From and after July 1, 1999, there
710 shall be no prohibition or restrictions on participation in the



711 Medicaid program (Section 43-13-101 et seq.) for the beds in the
712 nursing facilities that were authorized under this paragraph (b).

713 (c) The department may issue a certificate of need for
714 the addition to or expansion of any skilled nursing facility that
715 is part of an existing continuing care retirement community
716 located in Madison County, provided that the recipient of the
717 certificate of need agrees in writing that the skilled nursing
718 facility will not at any time participate in the Medicaid program
719 (Section 43-13-101 et seq.) or admit or keep any patients in the
720 skilled nursing facility who are participating in the Medicaid
721 program. This written agreement by the recipient of the
722 certificate of need shall be fully binding on any subsequent owner
723 of the skilled nursing facility, if the ownership of the facility
724 is transferred at any time after the issuance of the certificate
725 of need. Agreement that the skilled nursing facility will not
726 participate in the Medicaid program shall be a condition of the
727 issuance of a certificate of need to any person under this
728 paragraph (c), and if such skilled nursing facility at any time
729 after the issuance of the certificate of need, regardless of the
730 ownership of the facility, participates in the Medicaid program or
731 admits or keeps any patients in the facility who are participating
732 in the Medicaid program, the State Department of Health shall
733 revoke the certificate of need, if it is still outstanding, and
734 shall deny or revoke the license of the skilled nursing facility,
735 at the time that the department determines, after a hearing



736 complying with due process, that the facility has failed to comply
737 with any of the conditions upon which the certificate of need was
738 issued, as provided in this paragraph and in the written agreement
739 by the recipient of the certificate of need. The total number of
740 beds that may be authorized under the authority of this paragraph
741 (c) shall not exceed sixty (60) beds.

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

750 (e) The State Department of Health may issue a
751 certificate of need for the construction of a nursing facility or
752 the conversion of beds to nursing facility beds at a personal care
753 facility for the elderly in Lowndes County that is owned and
754 operated by a Mississippi nonprofit corporation, not to exceed
755 sixty (60) beds. From and after July 1, 1999, there shall be no
756 prohibition or restrictions on participation in the Medicaid
757 program (Section 43-13-101 et seq.) for the beds in the nursing
758 facility that were authorized under this paragraph (e).

759 (f) The State Department of Health may issue a
760 certificate of need for conversion of a county hospital facility



761 in Itawamba County to a nursing facility, not to exceed sixty (60)
762 beds, including any necessary construction, renovation or
763 expansion. From and after July 1, 1999, there shall be no
764 prohibition or restrictions on participation in the Medicaid
765 program (Section 43-13-101 et seq.) for the beds in the nursing
766 facility that were authorized under this paragraph (f).

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

775 (h) The State Department of Health may issue a
776 certificate of need for the construction or expansion of nursing
777 facility beds or the conversion of other beds to nursing facility
778 beds in either Hancock, Harrison or Jackson County, not to exceed
779 sixty (60) beds. From and after July 1, 1999, there shall be no
780 prohibition or restrictions on participation in the Medicaid
781 program (Section 43-13-101 et seq.) for the beds in the facility
782 that were authorized under this paragraph (h).

783 (i) The department may issue a certificate of need for
784 the new construction of a skilled nursing facility in Leake
785 County, provided that the recipient of the certificate of need



786 agrees in writing that the skilled nursing facility will not at
787 any time participate in the Medicaid program (Section 43-13-101 et
788 seq.) or admit or keep any patients in the skilled nursing
789 facility who are participating in the Medicaid program. This
790 written agreement by the recipient of the certificate of need
791 shall be fully binding on any subsequent owner of the skilled
792 nursing facility, if the ownership of the facility is transferred
793 at any time after the issuance of the certificate of need.
794 Agreement that the skilled nursing facility will not participate
795 in the Medicaid program shall be a condition of the issuance of a
796 certificate of need to any person under this paragraph (i), and if
797 such skilled nursing facility at any time after the issuance of
798 the certificate of need, regardless of the ownership of the
799 facility, participates in the Medicaid program or admits or keeps
800 any patients in the facility who are participating in the Medicaid
801 program, the State Department of Health shall revoke the
802 certificate of need, if it is still outstanding, and shall deny or
803 revoke the license of the skilled nursing facility, at the time
804 that the department determines, after a hearing complying with due
805 process, that the facility has failed to comply with any of the
806 conditions upon which the certificate of need was issued, as
807 provided in this paragraph and in the written agreement by the
808 recipient of the certificate of need. The provision of Section
809 41-7-193(1) regarding substantial compliance of the projection of
810 need as reported in the current State Health Plan is waived for



811 the purposes of this paragraph. The total number of nursing
812 facility beds that may be authorized by any certificate of need
813 issued under this paragraph (i) shall not exceed sixty (60) beds.
814 If the skilled nursing facility authorized by the certificate of
815 need issued under this paragraph is not constructed and fully
816 operational within eighteen (18) months after July 1, 1994, the
817 State Department of Health, after a hearing complying with due
818 process, shall revoke the certificate of need, if it is still
819 outstanding, and shall not issue a license for the skilled nursing
820 facility at any time after the expiration of the eighteen-month
821 period.

822 (j) The department may issue certificates of need to
823 allow any existing freestanding long-term care facility in
824 Tishomingo County and Hancock County that on July 1, 1995, is
825 licensed with fewer than sixty (60) beds. For the purposes of
826 this paragraph (j), the provisions of Section 41-7-193(1)
827 requiring substantial compliance with the projection of need as
828 reported in the current State Health Plan are waived. From and
829 after July 1, 1999, there shall be no prohibition or restrictions
830 on participation in the Medicaid program (Section 43-13-101 et
831 seq.) for the beds in the long-term care facilities that were
832 authorized under this paragraph (j).

833 (k) The department may issue a certificate of need for
834 the construction of a nursing facility at a continuing care
835 retirement community in Lowndes County. The total number of beds



836 that may be authorized under the authority of this paragraph (k)
837 shall not exceed sixty (60) beds. From and after July 1, 2001,
838 the prohibition on the facility participating in the Medicaid
839 program (Section 43-13-101 et seq.) that was a condition of
840 issuance of the certificate of need under this paragraph (k) shall
841 be revised as follows: The nursing facility may participate in
842 the Medicaid program from and after July 1, 2001, if the owner of
843 the facility on July 1, 2001, agrees in writing that no more than
844 thirty (30) of the beds at the facility will be certified for
845 participation in the Medicaid program, and that no claim will be
846 submitted for Medicaid reimbursement for more than thirty (30)
847 patients in the facility in any month or for any patient in the
848 facility who is in a bed that is not Medicaid-certified. This
849 written agreement by the owner of the facility shall be a
850 condition of licensure of the facility, and the agreement shall be
851 fully binding on any subsequent owner of the facility if the
852 ownership of the facility is transferred at any time after July 1,
853 2001. After this written agreement is executed, the Division of
854 Medicaid and the State Department of Health shall not certify more
855 than thirty (30) of the beds in the facility for participation in
856 the Medicaid program. If the facility violates the terms of the
857 written agreement by admitting or keeping in the facility on a
858 regular or continuing basis more than thirty (30) patients who are
859 participating in the Medicaid program, the State Department of
860 Health shall revoke the license of the facility, at the time that



861 the department determines, after a hearing complying with due
862 process, that the facility has violated the written agreement.

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

873 (m) The State Department of Health may issue a
874 certificate of need to a county-owned hospital in the Second
875 Judicial District of Panola County for the conversion of not more
876 than seventy-two (72) hospital beds to nursing facility beds,
877 provided that the recipient of the certificate of need agrees in
878 writing that none of the beds at the nursing facility will be
879 certified for participation in the Medicaid program (Section
880 43-13-101 et seq.), and that no claim will be submitted for
881 Medicaid reimbursement in the nursing facility in any day or for
882 any patient in the nursing facility. This written agreement by
883 the recipient of the certificate of need shall be a condition of
884 the issuance of the certificate of need under this paragraph, and
885 the agreement shall be fully binding on any subsequent owner of



886 the nursing facility if the ownership of the nursing facility is
887 transferred at any time after the issuance of the certificate of
888 need. After this written agreement is executed, the Division of
889 Medicaid and the State Department of Health shall not certify any
890 of the beds in the nursing facility for participation in the
891 Medicaid program. If the nursing facility violates the terms of
892 the written agreement by admitting or keeping in the nursing
893 facility on a regular or continuing basis any patients who are
894 participating in the Medicaid program, the State Department of
895 Health shall revoke the license of the nursing facility, at the
896 time that the department determines, after a hearing complying
897 with due process, that the nursing facility has violated the
898 condition upon which the certificate of need was issued, as
899 provided in this paragraph and in the written agreement. If the
900 certificate of need authorized under this paragraph is not issued
901 within twelve (12) months after July 1, 2001, the department shall
902 deny the application for the certificate of need and shall not
903 issue the certificate of need at any time after the twelve-month
904 period, unless the issuance is contested. If the certificate of
905 need is issued and substantial construction of the nursing
906 facility beds has not commenced within eighteen (18) months after
907 July 1, 2001, the State Department of Health, after a hearing
908 complying with due process, shall revoke the certificate of need
909 if it is still outstanding, and the department shall not issue a
910 license for the nursing facility at any time after the



911 eighteen-month period. However, if the issuance of the
912 certificate of need is contested, the department shall require
913 substantial construction of the nursing facility beds within six
914 (6) months after final adjudication on the issuance of the
915 certificate of need.

916 (n) The department may issue a certificate of need for
917 the new construction, addition or conversion of skilled nursing
918 facility beds in Madison County, provided that the recipient of
919 the certificate of need agrees in writing that the skilled nursing
920 facility will not at any time participate in the Medicaid program
921 (Section 43-13-101 et seq.) or admit or keep any patients in the
922 skilled nursing facility who are participating in the Medicaid
923 program. This written agreement by the recipient of the
924 certificate of need shall be fully binding on any subsequent owner
925 of the skilled nursing facility, if the ownership of the facility
926 is transferred at any time after the issuance of the certificate
927 of need. Agreement that the skilled nursing facility will not
928 participate in the Medicaid program shall be a condition of the
929 issuance of a certificate of need to any person under this
930 paragraph (n), and if such skilled nursing facility at any time
931 after the issuance of the certificate of need, regardless of the
932 ownership of the facility, participates in the Medicaid program or
933 admits or keeps any patients in the facility who are participating
934 in the Medicaid program, the State Department of Health shall
935 revoke the certificate of need, if it is still outstanding, and



936 shall deny or revoke the license of the skilled nursing facility,
937 at the time that the department determines, after a hearing
938 complying with due process, that the facility has failed to comply
939 with any of the conditions upon which the certificate of need was
940 issued, as provided in this paragraph and in the written agreement
941 by the recipient of the certificate of need. The total number of
942 nursing facility beds that may be authorized by any certificate of
943 need issued under this paragraph (n) shall not exceed sixty (60)
944 beds. If the certificate of need authorized under this paragraph
945 is not issued within twelve (12) months after July 1, 1998, the
946 department shall deny the application for the certificate of need
947 and shall not issue the certificate of need at any time after the
948 twelve-month period, unless the issuance is contested. If the
949 certificate of need is issued and substantial construction of the
950 nursing facility beds has not commenced within eighteen (18)
951 months after July 1, 1998, the State Department of Health, after a
952 hearing complying with due process, shall revoke the certificate
953 of need if it is still outstanding, and the department shall not
954 issue a license for the nursing facility at any time after the
955 eighteen-month period. However, if the issuance of the
956 certificate of need is contested, the department shall require
957 substantial construction of the nursing facility beds within six
958 (6) months after final adjudication on the issuance of the
959 certificate of need.



960 (o) The department may issue a certificate of need for
961 the new construction, addition or conversion of skilled nursing
962 facility beds in Leake County, provided that the recipient of the
963 certificate of need agrees in writing that the skilled nursing
964 facility will not at any time participate in the Medicaid program
965 (Section 43-13-101 et seq.) or admit or keep any patients in the
966 skilled nursing facility who are participating in the Medicaid
967 program. This written agreement by the recipient of the
968 certificate of need shall be fully binding on any subsequent owner
969 of the skilled nursing facility, if the ownership of the facility
970 is transferred at any time after the issuance of the certificate
971 of need. Agreement that the skilled nursing facility will not
972 participate in the Medicaid program shall be a condition of the
973 issuance of a certificate of need to any person under this
974 paragraph (o), and if such skilled nursing facility at any time
975 after the issuance of the certificate of need, regardless of the
976 ownership of the facility, participates in the Medicaid program or
977 admits or keeps any patients in the facility who are participating
978 in the Medicaid program, the State Department of Health shall
979 revoke the certificate of need, if it is still outstanding, and
980 shall deny or revoke the license of the skilled nursing facility,
981 at the time that the department determines, after a hearing
982 complying with due process, that the facility has failed to comply
983 with any of the conditions upon which the certificate of need was
984 issued, as provided in this paragraph and in the written agreement



985 by the recipient of the certificate of need. The total number of
986 nursing facility beds that may be authorized by any certificate of
987 need issued under this paragraph (o) shall not exceed sixty (60)
988 beds. If the certificate of need authorized under this paragraph
989 is not issued within twelve (12) months after July 1, 2001, the
990 department shall deny the application for the certificate of need
991 and shall not issue the certificate of need at any time after the
992 twelve-month period, unless the issuance is contested. If the
993 certificate of need is issued and substantial construction of the
994 nursing facility beds has not commenced within eighteen (18)
995 months after July 1, 2001, the State Department of Health, after a
996 hearing complying with due process, shall revoke the certificate
997 of need if it is still outstanding, and the department shall not
998 issue a license for the nursing facility at any time after the
999 eighteen-month period. However, if the issuance of the
1000 certificate of need is contested, the department shall require
1001 substantial construction of the nursing facility beds within six
1002 (6) months after final adjudication on the issuance of the
1003 certificate of need.

1004 (p) The department may issue a certificate of need for
1005 the construction of a municipally owned nursing facility within
1006 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1007 beds, provided that the recipient of the certificate of need
1008 agrees in writing that the skilled nursing facility will not at
1009 any time participate in the Medicaid program (Section 43-13-101 et



1010 seq.) or admit or keep any patients in the skilled nursing
1011 facility who are participating in the Medicaid program. This
1012 written agreement by the recipient of the certificate of need
1013 shall be fully binding on any subsequent owner of the skilled
1014 nursing facility, if the ownership of the facility is transferred
1015 at any time after the issuance of the certificate of need.
1016 Agreement that the skilled nursing facility will not participate
1017 in the Medicaid program shall be a condition of the issuance of a
1018 certificate of need to any person under this paragraph (p), and if
1019 such skilled nursing facility at any time after the issuance of
1020 the certificate of need, regardless of the ownership of the
1021 facility, participates in the Medicaid program or admits or keeps
1022 any patients in the facility who are participating in the Medicaid
1023 program, the State Department of Health shall revoke the
1024 certificate of need, if it is still outstanding, and shall deny or
1025 revoke the license of the skilled nursing facility, at the time
1026 that the department determines, after a hearing complying with due
1027 process, that the facility has failed to comply with any of the
1028 conditions upon which the certificate of need was issued, as
1029 provided in this paragraph and in the written agreement by the
1030 recipient of the certificate of need. The provision of Section
1031 41-7-193(1) regarding substantial compliance of the projection of
1032 need as reported in the current State Health Plan is waived for
1033 the purposes of this paragraph. If the certificate of need
1034 authorized under this paragraph is not issued within twelve (12)



1035 months after July 1, 1998, the department shall deny the
1036 application for the certificate of need and shall not issue the
1037 certificate of need at any time after the twelve-month period,
1038 unless the issuance is contested. If the certificate of need is
1039 issued and substantial construction of the nursing facility beds
1040 has not commenced within eighteen (18) months after July 1, 1998,
1041 the State Department of Health, after a hearing complying with due
1042 process, shall revoke the certificate of need if it is still
1043 outstanding, and the department shall not issue a license for the
1044 nursing facility at any time after the eighteen-month period.
1045 However, if the issuance of the certificate of need is contested,
1046 the department shall require substantial construction of the
1047 nursing facility beds within six (6) months after final
1048 adjudication on the issuance of the certificate of need.

1049 (q) (i) Beginning on July 1, 1999, the State
1050 Department of Health shall issue certificates of need during each
1051 of the next four (4) fiscal years for the construction or
1052 expansion of nursing facility beds or the conversion of other beds
1053 to nursing facility beds in each county in the state having a need
1054 for fifty (50) or more additional nursing facility beds, as shown
1055 in the fiscal year 1999 State Health Plan, in the manner provided
1056 in this paragraph (q). The total number of nursing facility beds
1057 that may be authorized by any certificate of need authorized under
1058 this paragraph (q) shall not exceed sixty (60) beds.



1059 (ii) Subject to the provisions of subparagraph
1060 (v), during each of the next four (4) fiscal years, the department
1061 shall issue six (6) certificates of need for new nursing facility
1062 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1063 (1) certificate of need shall be issued for new nursing facility
1064 beds in the county in each of the four (4) Long-Term Care Planning
1065 Districts designated in the fiscal year 1999 State Health Plan
1066 that has the highest need in the district for those beds; and two
1067 (2) certificates of need shall be issued for new nursing facility
1068 beds in the two (2) counties from the state at large that have the
1069 highest need in the state for those beds, when considering the
1070 need on a statewide basis and without regard to the Long-Term Care
1071 Planning Districts in which the counties are located. During
1072 fiscal year 2003, one (1) certificate of need shall be issued for
1073 new nursing facility beds in any county having a need for fifty
1074 (50) or more additional nursing facility beds, as shown in the
1075 fiscal year 1999 State Health Plan, that has not received a
1076 certificate of need under this paragraph (q) during the three (3)
1077 previous fiscal years. During fiscal year 2000, in addition to
1078 the six (6) certificates of need authorized in this subparagraph,
1079 the department also shall issue a certificate of need for new
1080 nursing facility beds in Amite County and a certificate of need
1081 for new nursing facility beds in Carroll County.

1082 (iii) Subject to the provisions of subparagraph
1083 (v), the certificate of need issued under subparagraph (ii) for



1084 nursing facility beds in each Long-Term Care Planning District
1085 during each fiscal year shall first be available for nursing
1086 facility beds in the county in the district having the highest
1087 need for those beds, as shown in the fiscal year 1999 State Health
1088 Plan. If there are no applications for a certificate of need for
1089 nursing facility beds in the county having the highest need for
1090 those beds by the date specified by the department, then the
1091 certificate of need shall be available for nursing facility beds
1092 in other counties in the district in descending order of the need
1093 for those beds, from the county with the second highest need to
1094 the county with the lowest need, until an application is received
1095 for nursing facility beds in an eligible county in the district.

1096 (iv) Subject to the provisions of subparagraph
1097 (v), the certificate of need issued under subparagraph (ii) for
1098 nursing facility beds in the two (2) counties from the state at
1099 large during each fiscal year shall first be available for nursing
1100 facility beds in the two (2) counties that have the highest need
1101 in the state for those beds, as shown in the fiscal year 1999
1102 State Health Plan, when considering the need on a statewide basis
1103 and without regard to the Long-Term Care Planning Districts in
1104 which the counties are located. If there are no applications for
1105 a certificate of need for nursing facility beds in either of the
1106 two (2) counties having the highest need for those beds on a
1107 statewide basis by the date specified by the department, then the
1108 certificate of need shall be available for nursing facility beds



1109 in other counties from the state at large in descending order of
1110 the need for those beds on a statewide basis, from the county with
1111 the second highest need to the county with the lowest need, until
1112 an application is received for nursing facility beds in an
1113 eligible county from the state at large.

1114 (v) If a certificate of need is authorized to be
1115 issued under this paragraph (q) for nursing facility beds in a
1116 county on the basis of the need in the Long-Term Care Planning
1117 District during any fiscal year of the four-year period, a
1118 certificate of need shall not also be available under this
1119 paragraph (q) for additional nursing facility beds in that county
1120 on the basis of the need in the state at large, and that county
1121 shall be excluded in determining which counties have the highest
1122 need for nursing facility beds in the state at large for that
1123 fiscal year. After a certificate of need has been issued under
1124 this paragraph (q) for nursing facility beds in a county during
1125 any fiscal year of the four-year period, a certificate of need
1126 shall not be available again under this paragraph (q) for
1127 additional nursing facility beds in that county during the
1128 four-year period, and that county shall be excluded in determining
1129 which counties have the highest need for nursing facility beds in
1130 succeeding fiscal years.

1131 (vi) If more than one (1) application is made for
1132 a certificate of need for nursing home facility beds available
1133 under this paragraph (q), in Yalobusha, Newton or Tallahatchie



1134 County, and one (1) of the applicants is a county-owned hospital
1135 located in the county where the nursing facility beds are
1136 available, the department shall give priority to the county-owned
1137 hospital in granting the certificate of need if the following
1138 conditions are met:

1139 1. The county-owned hospital fully meets all
1140 applicable criteria and standards required to obtain a certificate
1141 of need for the nursing facility beds; and

1142 2. The county-owned hospital's qualifications
1143 for the certificate of need, as shown in its application and as
1144 determined by the department, are at least equal to the
1145 qualifications of the other applicants for the certificate of
1146 need.

1147 (r) (i) Beginning on July 1, 1999, the State
1148 Department of Health shall issue certificates of need during each
1149 of the next two (2) fiscal years for the construction or expansion
1150 of nursing facility beds or the conversion of other beds to
1151 nursing facility beds in each of the four (4) Long-Term Care
1152 Planning Districts designated in the fiscal year 1999 State Health
1153 Plan, to provide care exclusively to patients with Alzheimer's
1154 disease.

1155 (ii) Not more than twenty (20) beds may be
1156 authorized by any certificate of need issued under this paragraph
1157 (r), and not more than a total of sixty (60) beds may be
1158 authorized in any Long-Term Care Planning District by all



1159 certificates of need issued under this paragraph (r). However,
1160 the total number of beds that may be authorized by all
1161 certificates of need issued under this paragraph (r) during any
1162 fiscal year shall not exceed one hundred twenty (120) beds, and
1163 the total number of beds that may be authorized in any Long-Term
1164 Care Planning District during any fiscal year shall not exceed
1165 forty (40) beds. Of the certificates of need that are issued for
1166 each Long-Term Care Planning District during the next two (2)
1167 fiscal years, at least one (1) shall be issued for beds in the
1168 northern part of the district, at least one (1) shall be issued
1169 for beds in the central part of the district, and at least one (1)
1170 shall be issued for beds in the southern part of the district.

1171 (iii) The State Department of Health, in
1172 consultation with the Department of Mental Health and the Division
1173 of Medicaid, shall develop and prescribe the staffing levels,
1174 space requirements and other standards and requirements that must
1175 be met with regard to the nursing facility beds authorized under
1176 this paragraph (r) to provide care exclusively to patients with
1177 Alzheimer's disease.

1178 (s) The State Department of Health may issue a
1179 certificate of need to a nonprofit skilled nursing facility using
1180 the Green House model of skilled nursing care and located in Yazoo
1181 City, Yazoo County, Mississippi, for the construction, expansion
1182 or conversion of not more than nineteen (19) nursing facility
1183 beds. For purposes of this paragraph (s), the provisions of



1184 Section 41-7-193(1) requiring substantial compliance with the
1185 projection of need as reported in the current State Health Plan
1186 and the provisions of Section 41-7-197 requiring a formal
1187 certificate of need hearing process are waived. There shall be no
1188 prohibition or restrictions on participation in the Medicaid
1189 program for the person receiving the certificate of need
1190 authorized under this paragraph (s).

1191 (t) The State Department of Health shall issue
1192 certificates of need to the owner of a nursing facility in
1193 operation at the time of Hurricane Katrina in Hancock County that
1194 was not operational on December 31, 2005, because of damage
1195 sustained from Hurricane Katrina to authorize the following: (i)
1196 the construction of a new nursing facility in Harrison County;
1197 (ii) the relocation of forty-nine (49) nursing facility beds from
1198 the Hancock County facility to the new Harrison County facility;
1199 (iii) the establishment of not more than twenty (20) non-Medicaid
1200 nursing facility beds at the Hancock County facility; and (iv) the
1201 establishment of not more than twenty (20) non-Medicaid beds at
1202 the new Harrison County facility. The certificates of need that
1203 authorize the non-Medicaid nursing facility beds under
1204 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1205 subject to the following conditions: The owner of the Hancock
1206 County facility and the new Harrison County facility must agree in
1207 writing that no more than fifty (50) of the beds at the Hancock
1208 County facility and no more than forty-nine (49) of the beds at



1209 the Harrison County facility will be certified for participation
1210 in the Medicaid program, and that no claim will be submitted for
1211 Medicaid reimbursement for more than fifty (50) patients in the
1212 Hancock County facility in any month, or for more than forty-nine
1213 (49) patients in the Harrison County facility in any month, or for
1214 any patient in either facility who is in a bed that is not
1215 Medicaid-certified. This written agreement by the owner of the
1216 nursing facilities shall be a condition of the issuance of the
1217 certificates of need under this paragraph (t), and the agreement
1218 shall be fully binding on any later owner or owners of either
1219 facility if the ownership of either facility is transferred at any
1220 time after the certificates of need are issued. After this
1221 written agreement is executed, the Division of Medicaid and the
1222 State Department of Health shall not certify more than fifty (50)
1223 of the beds at the Hancock County facility or more than forty-nine
1224 (49) of the beds at the Harrison County facility for participation
1225 in the Medicaid program. If the Hancock County facility violates
1226 the terms of the written agreement by admitting or keeping in the
1227 facility on a regular or continuing basis more than fifty (50)
1228 patients who are participating in the Medicaid program, or if the
1229 Harrison County facility violates the terms of the written
1230 agreement by admitting or keeping in the facility on a regular or
1231 continuing basis more than forty-nine (49) patients who are
1232 participating in the Medicaid program, the State Department of
1233 Health shall revoke the license of the facility that is in



1234 violation of the agreement, at the time that the department
1235 determines, after a hearing complying with due process, that the
1236 facility has violated the agreement.

1237 (u) The State Department of Health shall issue a
1238 certificate of need to a nonprofit venture for the establishment,
1239 construction and operation of a skilled nursing facility of not
1240 more than sixty (60) beds to provide skilled nursing care for
1241 ventilator dependent or otherwise medically dependent pediatric
1242 patients who require medical and nursing care or rehabilitation
1243 services to be located in a county in which an academic medical
1244 center and a children's hospital are located, and for any
1245 construction and for the acquisition of equipment related to those
1246 beds. The facility shall be authorized to keep such ventilator
1247 dependent or otherwise medically dependent pediatric patients
1248 beyond age twenty-one (21) in accordance with regulations of the
1249 State Board of Health. For purposes of this paragraph (u), the
1250 provisions of Section 41-7-193(1) requiring substantial compliance
1251 with the projection of need as reported in the current State
1252 Health Plan are waived, and the provisions of Section 41-7-197
1253 requiring a formal certificate of need hearing process are waived.
1254 The beds authorized by this paragraph shall be counted as
1255 pediatric skilled nursing facility beds for health planning
1256 purposes under Section 41-7-171 et seq. There shall be no
1257 prohibition of or restrictions on participation in the Medicaid



1258 program for the person receiving the certificate of need
1259 authorized by this paragraph.

1260 (3) The State Department of Health may grant approval for
1261 and issue certificates of need to any person proposing the new
1262 construction of, addition to, conversion of beds of or expansion
1263 of any health care facility defined in subparagraph (x)
1264 (psychiatric residential treatment facility) of Section
1265 41-7-173(h). The total number of beds which may be authorized by
1266 such certificates of need shall not exceed three hundred
1267 thirty-four (334) beds for the entire state.

1268 (a) Of the total number of beds authorized under this
1269 subsection, the department shall issue a certificate of need to a
1270 privately owned psychiatric residential treatment facility in
1271 Simpson County for the conversion of sixteen (16) intermediate
1272 care facility for the mentally retarded (ICF-MR) beds to
1273 psychiatric residential treatment facility beds, provided that
1274 facility agrees in writing that the facility shall give priority
1275 for the use of those sixteen (16) beds to Mississippi residents
1276 who are presently being treated in out-of-state facilities.

1277 (b) Of the total number of beds authorized under this
1278 subsection, the department may issue a certificate or certificates
1279 of need for the construction or expansion of psychiatric
1280 residential treatment facility beds or the conversion of other
1281 beds to psychiatric residential treatment facility beds in Warren
1282 County, not to exceed sixty (60) psychiatric residential treatment



1283 facility beds, provided that the facility agrees in writing that
1284 no more than thirty (30) of the beds at the psychiatric
1285 residential treatment facility will be certified for participation
1286 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1287 any patients other than those who are participating only in the
1288 Medicaid program of another state, and that no claim will be
1289 submitted to the Division of Medicaid for Medicaid reimbursement
1290 for more than thirty (30) patients in the psychiatric residential
1291 treatment facility in any day or for any patient in the
1292 psychiatric residential treatment facility who is in a bed that is
1293 not Medicaid-certified. This written agreement by the recipient
1294 of the certificate of need shall be a condition of the issuance of
1295 the certificate of need under this paragraph, and the agreement
1296 shall be fully binding on any subsequent owner of the psychiatric
1297 residential treatment facility if the ownership of the facility is
1298 transferred at any time after the issuance of the certificate of
1299 need. After this written agreement is executed, the Division of
1300 Medicaid and the State Department of Health shall not certify more
1301 than thirty (30) of the beds in the psychiatric residential
1302 treatment facility for participation in the Medicaid program for
1303 the use of any patients other than those who are participating
1304 only in the Medicaid program of another state. If the psychiatric
1305 residential treatment facility violates the terms of the written
1306 agreement by admitting or keeping in the facility on a regular or
1307 continuing basis more than thirty (30) patients who are



1308 participating in the Mississippi Medicaid program, the State
1309 Department of Health shall revoke the license of the facility, at
1310 the time that the department determines, after a hearing complying
1311 with due process, that the facility has violated the condition
1312 upon which the certificate of need was issued, as provided in this
1313 paragraph and in the written agreement.

1314 The State Department of Health, on or before July 1, 2002,
1315 shall transfer the certificate of need authorized under the
1316 authority of this paragraph (b), or reissue the certificate of
1317 need if it has expired, to River Region Health System.

1318 (c) Of the total number of beds authorized under this
1319 subsection, the department shall issue a certificate of need to a
1320 hospital currently operating Medicaid-certified acute psychiatric
1321 beds for adolescents in DeSoto County, for the establishment of a
1322 forty-bed psychiatric residential treatment facility in DeSoto
1323 County, provided that the hospital agrees in writing (i) that the
1324 hospital shall give priority for the use of those forty (40) beds
1325 to Mississippi residents who are presently being treated in
1326 out-of-state facilities, and (ii) that no more than fifteen (15)
1327 of the beds at the psychiatric residential treatment facility will
1328 be certified for participation in the Medicaid program (Section
1329 43-13-101 et seq.), and that no claim will be submitted for
1330 Medicaid reimbursement for more than fifteen (15) patients in the
1331 psychiatric residential treatment facility in any day or for any
1332 patient in the psychiatric residential treatment facility who is



1333 in a bed that is not Medicaid-certified. This written agreement
1334 by the recipient of the certificate of need shall be a condition
1335 of the issuance of the certificate of need under this paragraph,
1336 and the agreement shall be fully binding on any subsequent owner
1337 of the psychiatric residential treatment facility if the ownership
1338 of the facility is transferred at any time after the issuance of
1339 the certificate of need. After this written agreement is
1340 executed, the Division of Medicaid and the State Department of
1341 Health shall not certify more than fifteen (15) of the beds in the
1342 psychiatric residential treatment facility for participation in
1343 the Medicaid program. If the psychiatric residential treatment
1344 facility violates the terms of the written agreement by admitting
1345 or keeping in the facility on a regular or continuing basis more
1346 than fifteen (15) patients who are participating in the Medicaid
1347 program, the State Department of Health shall revoke the license
1348 of the facility, at the time that the department determines, after
1349 a hearing complying with due process, that the facility has
1350 violated the condition upon which the certificate of need was
1351 issued, as provided in this paragraph and in the written
1352 agreement.

1353 (d) Of the total number of beds authorized under this
1354 subsection, the department may issue a certificate or certificates
1355 of need for the construction or expansion of psychiatric
1356 residential treatment facility beds or the conversion of other
1357 beds to psychiatric treatment facility beds, not to exceed thirty



1358 (30) psychiatric residential treatment facility beds, in either
1359 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1360 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1361 (e) Of the total number of beds authorized under this
1362 subsection (3) the department shall issue a certificate of need to
1363 a privately owned, nonprofit psychiatric residential treatment
1364 facility in Hinds County for an eight-bed expansion of the
1365 facility, provided that the facility agrees in writing that the
1366 facility shall give priority for the use of those eight (8) beds
1367 to Mississippi residents who are presently being treated in
1368 out-of-state facilities.

1369 (f) The department shall issue a certificate of need to
1370 a one-hundred-thirty-four-bed specialty hospital located on
1371 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1372 at 5900 Highway 39 North in Meridian (Lauderdale County),
1373 Mississippi, for the addition, construction or expansion of
1374 child/adolescent psychiatric residential treatment facility beds
1375 in Lauderdale County. As a condition of issuance of the
1376 certificate of need under this paragraph, the facility shall give
1377 priority in admissions to the child/adolescent psychiatric
1378 residential treatment facility beds authorized under this
1379 paragraph to patients who otherwise would require out-of-state
1380 placement. The Division of Medicaid, in conjunction with the
1381 Department of Human Services, shall furnish the facility a list of
1382 all out-of-state patients on a quarterly basis. Furthermore,



1383 notice shall also be provided to the parent, custodial parent or
1384 guardian of each out-of-state patient notifying them of the
1385 priority status granted by this paragraph. For purposes of this
1386 paragraph, the provisions of Section 41-7-193(1) requiring
1387 substantial compliance with the projection of need as reported in
1388 the current State Health Plan are waived. The total number of
1389 child/adolescent psychiatric residential treatment facility beds
1390 that may be authorized under the authority of this paragraph shall
1391 be sixty (60) beds. There shall be no prohibition or restrictions
1392 on participation in the Medicaid program (Section 43-13-101 et
1393 seq.) for the person receiving the certificate of need authorized
1394 under this paragraph or for the beds converted pursuant to the
1395 authority of that certificate of need.

1396 (4) (a) From and after March 25, 2021, the department may
1397 issue a certificate of need to any person for the new construction
1398 of any hospital, psychiatric hospital or chemical dependency
1399 hospital that will contain any child/adolescent psychiatric or
1400 child/adolescent chemical dependency beds, or for the conversion
1401 of any other health care facility to a hospital, psychiatric
1402 hospital or chemical dependency hospital that will contain any
1403 child/adolescent psychiatric or child/adolescent chemical
1404 dependency beds. There shall be no prohibition or restrictions on
1405 participation in the Medicaid program (Section 43-13-101 et seq.)
1406 for the person(s) receiving the certificate(s) of need authorized
1407 under this paragraph (a) or for the beds converted pursuant to the



1408 authority of that certificate of need. In issuing any new
1409 certificate of need for any child/adolescent psychiatric or
1410 child/adolescent chemical dependency beds, either by new
1411 construction or conversion of beds of another category, the
1412 department shall give preference to beds which will be located in
1413 an area of the state which does not have such beds located in it,
1414 and to a location more than sixty-five (65) miles from existing
1415 beds. Upon receiving 2020 census data, the department may amend
1416 the State Health Plan regarding child/adolescent psychiatric and
1417 child/adolescent chemical dependency beds to reflect the need
1418 based on new census data.

1419 (i) [Deleted]

1420 (ii) The department may issue a certificate of
1421 need for the conversion of existing beds in a county hospital in
1422 Choctaw County from acute care beds to child/adolescent chemical
1423 dependency beds. For purposes of this subparagraph (ii), the
1424 provisions of Section 41-7-193(1) requiring substantial compliance
1425 with the projection of need as reported in the current State
1426 Health Plan are waived. The total number of beds that may be
1427 authorized under authority of this subparagraph shall not exceed
1428 twenty (20) beds. There shall be no prohibition or restrictions
1429 on participation in the Medicaid program (Section 43-13-101 et
1430 seq.) for the hospital receiving the certificate of need
1431 authorized under this subparagraph or for the beds converted
1432 pursuant to the authority of that certificate of need.



1433 (iii) The department may issue a certificate or
1434 certificates of need for the construction or expansion of
1435 child/adolescent psychiatric beds or the conversion of other beds
1436 to child/adolescent psychiatric beds in Warren County. For
1437 purposes of this subparagraph (iii), the provisions of Section
1438 41-7-193(1) requiring substantial compliance with the projection
1439 of need as reported in the current State Health Plan are waived.
1440 The total number of beds that may be authorized under the
1441 authority of this subparagraph shall not exceed twenty (20) beds.
1442 There shall be no prohibition or restrictions on participation in
1443 the Medicaid program (Section 43-13-101 et seq.) for the person
1444 receiving the certificate of need authorized under this
1445 subparagraph or for the beds converted pursuant to the authority
1446 of that certificate of need.

1447 If by January 1, 2002, there has been no significant
1448 commencement of construction of the beds authorized under this
1449 subparagraph (iii), or no significant action taken to convert
1450 existing beds to the beds authorized under this subparagraph, then
1451 the certificate of need that was previously issued under this
1452 subparagraph shall expire. If the previously issued certificate
1453 of need expires, the department may accept applications for
1454 issuance of another certificate of need for the beds authorized
1455 under this subparagraph, and may issue a certificate of need to
1456 authorize the construction, expansion or conversion of the beds
1457 authorized under this subparagraph.



1458 (iv) The department shall issue a certificate of
1459 need to the Region 7 Mental Health/Retardation Commission for the
1460 construction or expansion of child/adolescent psychiatric beds or
1461 the conversion of other beds to child/adolescent psychiatric beds
1462 in any of the counties served by the commission. For purposes of
1463 this subparagraph (iv), the provisions of Section 41-7-193(1)
1464 requiring substantial compliance with the projection of need as
1465 reported in the current State Health Plan are waived. The total
1466 number of beds that may be authorized under the authority of this
1467 subparagraph shall not exceed twenty (20) beds. There shall be no
1468 prohibition or restrictions on participation in the Medicaid
1469 program (Section 43-13-101 et seq.) for the person receiving the
1470 certificate of need authorized under this subparagraph or for the
1471 beds converted pursuant to the authority of that certificate of
1472 need.

1473 (v) The department may issue a certificate of need
1474 to any county hospital located in Leflore County for the
1475 construction or expansion of adult psychiatric beds or the
1476 conversion of other beds to adult psychiatric beds, not to exceed
1477 twenty (20) beds, provided that the recipient of the certificate
1478 of need agrees in writing that the adult psychiatric beds will not
1479 at any time be certified for participation in the Medicaid program
1480 and that the hospital will not admit or keep any patients who are
1481 participating in the Medicaid program in any of such adult
1482 psychiatric beds. This written agreement by the recipient of the



1483 certificate of need shall be fully binding on any subsequent owner
1484 of the hospital if the ownership of the hospital is transferred at
1485 any time after the issuance of the certificate of need. Agreement
1486 that the adult psychiatric beds will not be certified for
1487 participation in the Medicaid program shall be a condition of the
1488 issuance of a certificate of need to any person under this
1489 subparagraph (v), and if such hospital at any time after the
1490 issuance of the certificate of need, regardless of the ownership
1491 of the hospital, has any of such adult psychiatric beds certified
1492 for participation in the Medicaid program or admits or keeps any
1493 Medicaid patients in such adult psychiatric beds, the State
1494 Department of Health shall revoke the certificate of need, if it
1495 is still outstanding, and shall deny or revoke the license of the
1496 hospital at the time that the department determines, after a
1497 hearing complying with due process, that the hospital has failed
1498 to comply with any of the conditions upon which the certificate of
1499 need was issued, as provided in this subparagraph and in the
1500 written agreement by the recipient of the certificate of need.

1501 (vi) The department may issue a certificate or
1502 certificates of need for the expansion of child psychiatric beds
1503 or the conversion of other beds to child psychiatric beds at the
1504 University of Mississippi Medical Center. For purposes of this
1505 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1506 substantial compliance with the projection of need as reported in
1507 the current State Health Plan are waived. The total number of



1508 beds that may be authorized under the authority of this
1509 subparagraph shall not exceed fifteen (15) beds. There shall be
1510 no prohibition or restrictions on participation in the Medicaid
1511 program (Section 43-13-101 et seq.) for the hospital receiving the
1512 certificate of need authorized under this subparagraph or for the
1513 beds converted pursuant to the authority of that certificate of
1514 need.

1515 (b) From and after July 1, 1990, no hospital,
1516 psychiatric hospital or chemical dependency hospital shall be
1517 authorized to add any child/adolescent psychiatric or
1518 child/adolescent chemical dependency beds or convert any beds of
1519 another category to child/adolescent psychiatric or
1520 child/adolescent chemical dependency beds without a certificate of
1521 need under the authority of subsection (1)(c) and subsection
1522 (4)(a) of this section.

1523 (5) The department may issue a certificate of need to a
1524 county hospital in Winston County for the conversion of fifteen
1525 (15) acute care beds to geriatric psychiatric care beds.

1526 (6) The State Department of Health shall issue a certificate
1527 of need to a Mississippi corporation qualified to manage a
1528 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1529 Harrison County, not to exceed eighty (80) beds, including any
1530 necessary renovation or construction required for licensure and
1531 certification, provided that the recipient of the certificate of
1532 need agrees in writing that the long-term care hospital will not



1533 at any time participate in the Medicaid program (Section 43-13-101
1534 et seq.) or admit or keep any patients in the long-term care
1535 hospital who are participating in the Medicaid program. This
1536 written agreement by the recipient of the certificate of need
1537 shall be fully binding on any subsequent owner of the long-term
1538 care hospital, if the ownership of the facility is transferred at
1539 any time after the issuance of the certificate of need. Agreement
1540 that the long-term care hospital will not participate in the
1541 Medicaid program shall be a condition of the issuance of a
1542 certificate of need to any person under this subsection (6), and
1543 if such long-term care hospital at any time after the issuance of
1544 the certificate of need, regardless of the ownership of the
1545 facility, participates in the Medicaid program or admits or keeps
1546 any patients in the facility who are participating in the Medicaid
1547 program, the State Department of Health shall revoke the
1548 certificate of need, if it is still outstanding, and shall deny or
1549 revoke the license of the long-term care hospital, at the time
1550 that the department determines, after a hearing complying with due
1551 process, that the facility has failed to comply with any of the
1552 conditions upon which the certificate of need was issued, as
1553 provided in this subsection and in the written agreement by the
1554 recipient of the certificate of need. For purposes of this
1555 subsection, the provisions of Section 41-7-193(1) requiring
1556 substantial compliance with the projection of need as reported in
1557 the current State Health Plan are waived.



1558 (7) The State Department of Health may issue a certificate
1559 of need to any hospital in the state to utilize a portion of its
1560 beds for the "swing-bed" concept. Any such hospital must be in
1561 conformance with the federal regulations regarding such swing-bed
1562 concept at the time it submits its application for a certificate
1563 of need to the State Department of Health, except that such
1564 hospital may have more licensed beds or a higher average daily
1565 census (ADC) than the maximum number specified in federal
1566 regulations for participation in the swing-bed program. Any
1567 hospital meeting all federal requirements for participation in the
1568 swing-bed program which receives such certificate of need shall
1569 render services provided under the swing-bed concept to any
1570 patient eligible for Medicare (Title XVIII of the Social Security
1571 Act) who is certified by a physician to be in need of such
1572 services, and no such hospital shall permit any patient who is
1573 eligible for both Medicaid and Medicare or eligible only for
1574 Medicaid to stay in the swing beds of the hospital for more than
1575 thirty (30) days per admission unless the hospital receives prior
1576 approval for such patient from the Division of Medicaid, Office of
1577 the Governor. Any hospital having more licensed beds or a higher
1578 average daily census (ADC) than the maximum number specified in
1579 federal regulations for participation in the swing-bed program
1580 which receives such certificate of need shall develop a procedure
1581 to ensure that before a patient is allowed to stay in the swing
1582 beds of the hospital, there are no vacant nursing home beds



1583 available for that patient located within a fifty-mile radius of
1584 the hospital. When any such hospital has a patient staying in the
1585 swing beds of the hospital and the hospital receives notice from a
1586 nursing home located within such radius that there is a vacant bed
1587 available for that patient, the hospital shall transfer the
1588 patient to the nursing home within a reasonable time after receipt
1589 of the notice. Any hospital which is subject to the requirements
1590 of the two (2) preceding sentences of this subsection may be
1591 suspended from participation in the swing-bed program for a
1592 reasonable period of time by the State Department of Health if the
1593 department, after a hearing complying with due process, determines
1594 that the hospital has failed to comply with any of those
1595 requirements.

1596 (8) The Department of Health shall not grant approval for or
1597 issue a certificate of need to any person proposing the new
1598 construction of, addition to or expansion of a health care
1599 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1600 except as hereinafter provided: The department may issue a
1601 certificate of need to a nonprofit corporation located in Madison
1602 County, Mississippi, for the construction, expansion or conversion
1603 of not more than twenty (20) beds in a community living program
1604 for developmentally disabled adults in a facility as defined in
1605 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1606 subsection (8), the provisions of Section 41-7-193(1) requiring
1607 substantial compliance with the projection of need as reported in



1608 the current State Health Plan and the provisions of Section
1609 41-7-197 requiring a formal certificate of need hearing process
1610 are waived. There shall be no prohibition or restrictions on
1611 participation in the Medicaid program for the person receiving the
1612 certificate of need authorized under this subsection (8).

1613 (9) The Department of Health shall not grant approval for or
1614 issue a certificate of need to any person proposing the
1615 establishment of, or expansion of the currently approved territory
1616 of, or the contracting to establish a home office, subunit or
1617 branch office within the space operated as a health care facility
1618 as defined in Section 41-7-173(h) (i) through (viii) by a health
1619 care facility as defined in subparagraph (ix) of Section
1620 41-7-173(h).

1621 (10) Health care facilities owned and/or operated by the
1622 state or its agencies are exempt from the restraints in this
1623 section against issuance of a certificate of need if such addition
1624 or expansion consists of repairing or renovation necessary to
1625 comply with the state licensure law. This exception shall not
1626 apply to the new construction of any building by such state
1627 facility. This exception shall not apply to any health care
1628 facilities owned and/or operated by counties, municipalities,
1629 districts, unincorporated areas, other defined persons, or any
1630 combination thereof.

1631 (11) The new construction, renovation or expansion of or
1632 addition to any health care facility defined in subparagraph (ii)



1633 (psychiatric hospital), subparagraph (iv) (skilled nursing
1634 facility), subparagraph (vi) (intermediate care facility),
1635 subparagraph (viii) (intermediate care facility for the mentally
1636 retarded) and subparagraph (x) (psychiatric residential treatment
1637 facility) of Section 41-7-173(h) which is owned by the State of
1638 Mississippi and under the direction and control of the State
1639 Department of Mental Health, and the addition of new beds or the
1640 conversion of beds from one category to another in any such
1641 defined health care facility which is owned by the State of
1642 Mississippi and under the direction and control of the State
1643 Department of Mental Health, shall not require the issuance of a
1644 certificate of need under Section 41-7-171 et seq.,
1645 notwithstanding any provision in Section 41-7-171 et seq. to the
1646 contrary.

1647 (12) The new construction, renovation or expansion of or
1648 addition to any veterans homes or domiciliaries for eligible
1649 veterans of the State of Mississippi as authorized under Section
1650 35-1-19 shall not require the issuance of a certificate of need,
1651 notwithstanding any provision in Section 41-7-171 et seq. to the
1652 contrary.

1653 (13) The repair or the rebuilding of an existing, operating
1654 health care facility that sustained significant damage from a
1655 natural disaster that occurred after April 15, 2014, in an area
1656 that is proclaimed a disaster area or subject to a state of
1657 emergency by the Governor or by the President of the United States



1658 shall be exempt from all of the requirements of the Mississippi
1659 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1660 rules and regulations promulgated under that law, subject to the
1661 following conditions:

1662 (a) The repair or the rebuilding of any such damaged
1663 health care facility must be within one (1) mile of the
1664 pre-disaster location of the campus of the damaged health care
1665 facility, except that any temporary post-disaster health care
1666 facility operating location may be within five (5) miles of the
1667 pre-disaster location of the damaged health care facility;

1668 (b) The repair or the rebuilding of the damaged health
1669 care facility (i) does not increase or change the complement of
1670 its bed capacity that it had before the Governor's or the
1671 President's proclamation, (ii) does not increase or change its
1672 levels and types of health care services that it provided before
1673 the Governor's or the President's proclamation, and (iii) does not
1674 rebuild in a different county; however, this paragraph does not
1675 restrict or prevent a health care facility from decreasing its bed
1676 capacity that it had before the Governor's or the President's
1677 proclamation, or from decreasing the levels of or decreasing or
1678 eliminating the types of health care services that it provided
1679 before the Governor's or the President's proclamation, when the
1680 damaged health care facility is repaired or rebuilt;

1681 (c) The exemption from Certificate of Need Law provided
1682 under this subsection (13) is valid for only five (5) years from



1683 the date of the Governor's or the President's proclamation. If
1684 actual construction has not begun within that five-year period,
1685 the exemption provided under this subsection is inapplicable; and

1686 (d) The Division of Health Facilities Licensure and
1687 Certification of the State Department of Health shall provide the
1688 same oversight for the repair or the rebuilding of the damaged
1689 health care facility that it provides to all health care facility
1690 construction projects in the state.

1691 For the purposes of this subsection (13), "significant
1692 damage" to a health care facility means damage to the health care
1693 facility requiring an expenditure of at least One Million Dollars
1694 (\$1,000,000.00).

1695 (14) The State Department of Health shall issue a
1696 certificate of need to any hospital which is currently licensed
1697 for two hundred fifty (250) or more acute care beds and is located
1698 in any general hospital service area not having a comprehensive
1699 cancer center, for the establishment and equipping of such a
1700 center which provides facilities and services for outpatient
1701 radiation oncology therapy, outpatient medical oncology therapy,
1702 and appropriate support services including the provision of
1703 radiation therapy services. The provisions of Section 41-7-193(1)
1704 regarding substantial compliance with the projection of need as
1705 reported in the current State Health Plan are waived for the
1706 purpose of this subsection.



1707 (15) The State Department of Health may authorize the
1708 transfer of hospital beds, not to exceed sixty (60) beds, from the
1709 North Panola Community Hospital to the South Panola Community
1710 Hospital. The authorization for the transfer of those beds shall
1711 be exempt from the certificate of need review process.

1712 (16) The State Department of Health shall issue any
1713 certificates of need necessary for Mississippi State University
1714 and a public or private health care provider to jointly acquire
1715 and operate a linear accelerator and a magnetic resonance imaging
1716 unit. Those certificates of need shall cover all capital
1717 expenditures related to the project between Mississippi State
1718 University and the health care provider, including, but not
1719 limited to, the acquisition of the linear accelerator, the
1720 magnetic resonance imaging unit and other radiological modalities;
1721 the offering of linear accelerator and magnetic resonance imaging
1722 services; and the cost of construction of facilities in which to
1723 locate these services. The linear accelerator and the magnetic
1724 resonance imaging unit shall be (a) located in the City of
1725 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1726 Mississippi State University and the public or private health care
1727 provider selected by Mississippi State University through a
1728 request for proposals (RFP) process in which Mississippi State
1729 University selects, and the Board of Trustees of State
1730 Institutions of Higher Learning approves, the health care provider
1731 that makes the best overall proposal; (c) available to Mississippi



1732 State University for research purposes two-thirds (2/3) of the
1733 time that the linear accelerator and magnetic resonance imaging
1734 unit are operational; and (d) available to the public or private
1735 health care provider selected by Mississippi State University and
1736 approved by the Board of Trustees of State Institutions of Higher
1737 Learning one-third (1/3) of the time for clinical, diagnostic and
1738 treatment purposes. For purposes of this subsection, the
1739 provisions of Section 41-7-193(1) requiring substantial compliance
1740 with the projection of need as reported in the current State
1741 Health Plan are waived.

1742 (17) The State Department of Health shall issue a
1743 certificate of need for the construction of an acute care hospital
1744 in Kemper County, not to exceed twenty-five (25) beds, which shall
1745 be named the "John C. Stennis Memorial Hospital." In issuing the
1746 certificate of need under this subsection, the department shall
1747 give priority to a hospital located in Lauderdale County that has
1748 two hundred fifteen (215) beds. For purposes of this subsection,
1749 the provisions of Section 41-7-193(1) requiring substantial
1750 compliance with the projection of need as reported in the current
1751 State Health Plan and the provisions of Section 41-7-197 requiring
1752 a formal certificate of need hearing process are waived. There
1753 shall be no prohibition or restrictions on participation in the
1754 Medicaid program (Section 43-13-101 et seq.) for the person or
1755 entity receiving the certificate of need authorized under this



1756 subsection or for the beds constructed under the authority of that
1757 certificate of need.

1758 (18) The planning, design, construction, renovation,
1759 addition, furnishing and equipping of a clinical research unit at
1760 any health care facility defined in Section 41-7-173(h) that is
1761 under the direction and control of the University of Mississippi
1762 Medical Center and located in Jackson, Mississippi, and the
1763 addition of new beds or the conversion of beds from one (1)
1764 category to another in any such clinical research unit, shall not
1765 require the issuance of a certificate of need under Section
1766 41-7-171 et seq., notwithstanding any provision in Section
1767 41-7-171 et seq. to the contrary.

1768 (19) [Repealed]

1769 (20) Nothing in this section or in any other provision of
1770 Section 41-7-171 et seq. shall prevent any nursing facility from
1771 designating an appropriate number of existing beds in the facility
1772 as beds for providing care exclusively to patients with
1773 Alzheimer's disease.

1774 (21) Nothing in this section or any other provision of
1775 Section 41-7-171 et seq. shall prevent any health care facility
1776 from the new construction, renovation, conversion or expansion of
1777 new beds in the facility designated as intensive care units,
1778 negative pressure rooms, or isolation rooms pursuant to the
1779 provisions of Sections 41-14-1 through 41-14-11, or Section
1780 41-14-31. For purposes of this subsection, the provisions of



1781 Section 41-7-193(1) requiring substantial compliance with the
1782 projection of need as reported in the current State Health Plan
1783 and the provisions of Section 41-7-197 requiring a formal
1784 certificate of need hearing process are waived.

1785 **SECTION 11.** Section 41-7-193, Mississippi Code of 1972, is
1786 brought forward as follows:

1787 41-7-193. (1) No person may enter into any financing
1788 arrangement or commitment for financing a new institutional health
1789 service or any other project requiring a certificate of need
1790 unless such certificate has been granted for such purpose. A
1791 certificate of need shall not be granted or issued to any person
1792 for any proposal, cause or reason, unless the proposal has been
1793 reviewed for consistency with the specifications and the criteria
1794 established by the State Department of Health and substantially
1795 complies with the projection of need as reported in the state
1796 health plan in effect at the time the application for the proposal
1797 was submitted.

1798 (2) An application for a certificate of need for an
1799 institutional health service, medical equipment or any proposal
1800 requiring a certificate of need shall specify the time, within
1801 that granted, such shall be functional or operational according to
1802 a time schedule submitted with the application. Each certificate
1803 of need shall specify the maximum amount of capital expenditure
1804 that may be obligated. The State Department of Health shall



1805 periodically review the progress and time schedule of any person
1806 issued or granted a certificate of need for any purpose.

1807 (3) An application for a certificate of need may be filed at
1808 any time with the department after the applicant has given the
1809 department fifteen (15) days' written notice of its intent to
1810 apply for a certificate of need. The department shall not delay
1811 review of an application. The department shall make its
1812 recommendation approving or disapproving a complete application
1813 within forty-five (45) days of the date the application was filed
1814 or within fifteen (15) days of receipt of any requested
1815 information, whichever is later, said request to be made by the
1816 department within fifteen (15) days of the filing of the
1817 application.

1818 **SECTION 12.** Section 41-7-195, Mississippi Code of 1972, is
1819 brought forward as follows:

1820 41-7-195. (1) A certificate of need shall be valid only for
1821 the defined scope, physical location and person named in the
1822 application. A certificate of need shall not be transferable or
1823 assignable nor shall a project or capital expenditure project be
1824 transferred from one person to another, except with the approval
1825 of the State Department of Health. A certificate of need shall be
1826 valid for the period of time specified therein.

1827 (2) A certificate of need shall be issued for a period of
1828 twelve (12) months, or such other lesser period as specified by
1829 the State Department of Health.



1830 (3) The State Department of Health may define by regulation,
1831 not to exceed six (6) months, the time for which a certificate of
1832 need may be extended.

1833 (4) If commencement of construction or other preparation is
1834 not substantially undertaken during a valid certificate of need
1835 period or the State Department of Health determines the applicant
1836 is not making a good faith effort to obligate such approved
1837 expenditure, the State Department of Health shall have the right
1838 to withdraw, revoke or rescind the certificate.

1839 (5) The State Department of Health may approve or disapprove
1840 a proposal for a certificate of need as originally presented in
1841 final form, or it may approve a certificate of need by a
1842 modification, by reduction only, of such proposal provided the
1843 proponent agrees to such modification.

1844 **SECTION 13.** Section 41-7-197, Mississippi Code of 1972, is
1845 brought forward as follows:

1846 41-7-197. (1) The State Department of Health shall adopt
1847 and utilize procedures for conducting certificate of need reviews.
1848 Such procedures shall include, inter alia, the following: (a)
1849 written notification to the applicant; (b) written notification to
1850 health care facilities in the same health service area as the
1851 proposed service; (c) written notification to other persons who
1852 prior to the receipt of the application have filed a formal notice
1853 of intent to provide the proposed services in the same service
1854 area; and (d) notification to members of the public who reside in



1855 the service area where the service is proposed, which may be
1856 provided through newspapers or public information channels.

1857 (2) All notices provided shall include, inter alia, the
1858 following: (a) the proposed schedule for the review; (b) written
1859 notification of the period within which a public hearing during
1860 the course of the review may be requested in writing by one or
1861 more affected persons, such request to be made within ten (10)
1862 days of the department's staff recommendation for approval or
1863 disapproval of an application; and (c) the manner in which
1864 notification will be provided of the time and place of any hearing
1865 so requested. Any such hearing shall be commenced by an
1866 independent hearing officer designated by the State Department of
1867 Health within sixty (60) days of the filing of the hearing request
1868 unless all parties to the hearing agree to extend the time for the
1869 commencement of the hearing. At such hearing, the hearing officer
1870 and any person affected by the proposal being reviewed may conduct
1871 reasonable questioning of persons who make relevant factual
1872 allegations concerning the proposal. The hearing officer shall
1873 require that all persons be sworn before they may offer any
1874 testimony at the hearing, and the hearing officer is authorized to
1875 administer oaths. Any person so choosing may be represented by
1876 counsel at the hearing. A record of the hearing shall be made,
1877 which shall consist of a transcript of all testimony received, all
1878 documents and other material introduced by any interested person,
1879 the staff report and recommendation and such other material as the



1880 hearing officer considers relevant, including his own
1881 recommendation, which he shall make, after reviewing, studying and
1882 analyzing the evidence presented during the hearing, within a
1883 reasonable period of time after the hearing is closed, which in no
1884 event shall exceed forty-five (45) days. The completed record
1885 shall be certified to the State Health Officer, who shall consider
1886 only the record in making his decision, and shall not consider any
1887 evidence or material which is not included therein. All final
1888 decisions regarding the issuance of a certificate of need shall be
1889 made by the State Health Officer. The State Health Officer shall
1890 make his or her written findings and issue his or her order after
1891 reviewing said record. The findings and decision of the State
1892 Health Officer shall not be deferred to any later date.

1893 (3) Unless a hearing is held, if review by the State
1894 Department of Health concerning the issuance of a certificate of
1895 need is not complete with a final decision issued by the State
1896 Health Officer within the time specified by rule or regulation,
1897 which shall not exceed ninety (90) days from the filing of the
1898 application for a certificate of need, the proponent of the
1899 proposal may, within thirty (30) days after the expiration of the
1900 specified time for review, commence such legal action as is
1901 necessary, in the Chancery Court of the First Judicial District of
1902 Hinds County or in the chancery court of the county in which the
1903 service or facility is proposed to be provided, to compel the



1904 State Health Officer to issue written findings and written order
1905 approving or disapproving the proposal in question.

1906 **SECTION 14.** Section 41-7-201, Mississippi Code of 1972, is
1907 brought forward as follows:

1908 41-7-201. (1) The provisions of this subsection (1) shall
1909 apply to any party appealing any final order of the State
1910 Department of Health pertaining to a certificate of need for a
1911 home health agency, as defined in Section 41-7-173(h) (ix):

1912 (a) In addition to other remedies now available at law
1913 or in equity, any party aggrieved by any such final order of the
1914 State Department of Health shall have the right of appeal to the
1915 Chancery Court of the First Judicial District of Hinds County,
1916 Mississippi, which appeal must be filed within thirty (30) days
1917 after the date of the final order. Provided, however, that any
1918 appeal of an order disapproving an application for such a
1919 certificate of need may be made to the chancery court of the
1920 county where the proposed construction, expansion or alteration
1921 was to be located or the new service or purpose of the capital
1922 expenditure was to be located. Such appeal must be filed in
1923 accordance with the thirty (30) days for filing as heretofore
1924 provided. Any appeal shall state briefly the nature of the
1925 proceedings before the State Department of Health and shall
1926 specify the order complained of. Any appeal shall state briefly
1927 the nature of the proceedings before the State Department of
1928 Health and shall specify the order complained of. Any person



1929 whose rights may be materially affected by the action of the State
1930 Department of Health may appear and become a party or the court
1931 may, upon motion, order that any such person, organization or
1932 entity be joined as a necessary party.

1933 (b) Upon the filing of such an appeal, the clerk of the
1934 chancery court shall serve notice thereof upon the State
1935 Department of Health, whereupon the State Department of Health
1936 shall, within thirty (30) days or within such additional time as
1937 the court may by order for cause allow from the service of such
1938 notice, certify to the chancery court the record in the case,
1939 which records shall include a transcript of all testimony,
1940 together with all exhibits or copies thereof, all pleadings,
1941 proceedings, orders, findings and opinions entered in the case;
1942 provided, however, that the parties and the State Department of
1943 Health may stipulate that a specified portion only of the record
1944 shall be certified to the court as the record on appeal.

1945 (c) The court may dispose of the appeal in termtime or
1946 vacation and may sustain or dismiss the appeal, modify or vacate
1947 the order complained of, in whole or in part, as the case may be;
1948 but in case the order is wholly or partly vacated, the court may
1949 also, in its discretion, remand the matter to the State Department
1950 of Health for such further proceedings, not inconsistent with the
1951 court's order, as, in the opinion of the court, justice may
1952 require. The order shall not be vacated or set aside, either in
1953 whole or in part, except for errors of law, unless the court finds



1954 that the order of the State Department of Health is not supported
1955 by substantial evidence, is contrary to the manifest weight of the
1956 evidence, is in excess of the statutory authority or jurisdiction
1957 of the State Department of Health, or violates any vested
1958 constitutional rights of any party involved in the appeal.

1959 Provided, however, an order of the chancery court reversing the
1960 denial of a certificate of need by the State Department of Health
1961 shall not entitle the applicant to effectuate the certificate of
1962 need until either:

1963 (i) Such order of the chancery court has become
1964 final and has not been appealed to the Supreme Court; or

1965 (ii) The Supreme Court has entered a final order
1966 affirming the chancery court.

1967 (d) Appeals in accordance with law may be had to the
1968 Supreme Court of the State of Mississippi from any final judgment
1969 of the chancery court.

1970 (2) The provisions of this subsection (2) shall apply to any
1971 party appealing any final order of the State Department of Health
1972 pertaining to a certificate of need for any health care facility
1973 as defined in Section 41-7-173(h), with the exception of any home
1974 health agency as defined in Section 41-7-173(h)(ix):

1975 (a) There shall be a "stay of proceedings" of any final
1976 order issued by the State Department of Health pertaining to the
1977 issuance of a certificate of need for the establishment,
1978 construction, expansion or replacement of a health care facility



1979 for a period of thirty (30) days from the date of the order, if an
1980 existing provider located in the same service area where the
1981 health care facility is or will be located has requested a hearing
1982 during the course of review in opposition to the issuance of the
1983 certificate of need. The stay of proceedings shall expire at the
1984 termination of thirty (30) days; however, no construction,
1985 renovation or other capital expenditure that is the subject of the
1986 order shall be undertaken, no license to operate any facility that
1987 is the subject of the order shall be issued by the licensing
1988 agency, and no certification to participate in the Title XVII or
1989 Title XIX programs of the Social Security Act shall be granted,
1990 until all statutory appeals have been exhausted or the time for
1991 such appeals has expired. Notwithstanding the foregoing, the
1992 filing of an appeal from a final order of the State Department of
1993 Health or the chancery court for the issuance of a certificate of
1994 need shall not prevent the purchase of medical equipment or
1995 development or offering of institutional health services granted
1996 in a certificate of need issued by the State Department of Health.

1997 (b) In addition to other remedies now available at law
1998 or in equity, any party aggrieved by such final order of the State
1999 Department of Health shall have the right of appeal to the
2000 Chancery Court of the First Judicial District of Hinds County,
2001 Mississippi, which appeal must be filed within twenty (20) days
2002 after the date of the final order. Provided, however, that any
2003 appeal of an order disapproving an application for such a



2004 certificate of need may be made to the chancery court of the
2005 county where the proposed construction, expansion or alteration
2006 was to be located or the new service or purpose of the capital
2007 expenditure was to be located. Such appeal must be filed in
2008 accordance with the twenty (20) days for filing as heretofore
2009 provided. Any appeal shall state briefly the nature of the
2010 proceedings before the State Department of Health and shall
2011 specify the order complained of.

2012 (c) Upon the filing of such an appeal, the clerk of the
2013 chancery court shall serve notice thereof upon the State
2014 Department of Health, whereupon the State Department of Health
2015 shall, within thirty (30) days of the date of the filing of the
2016 appeal, certify to the chancery court the record in the case,
2017 which records shall include a transcript of all testimony,
2018 together with all exhibits or copies thereof, all proceedings,
2019 orders, findings and opinions entered in the case; provided,
2020 however, that the parties and the State Department of Health may
2021 stipulate that a specified portion only of the record shall be
2022 certified to the court as the record on appeal. The chancery
2023 court shall give preference to any such appeal from a final order
2024 by the State Department of Health in a certificate of need
2025 proceeding, and shall render a final order regarding such appeal
2026 no later than one hundred twenty (120) days from the date of the
2027 final order by the State Department of Health. If the chancery
2028 court has not rendered a final order within this



2029 one-hundred-twenty-day period, then the final order of the State
2030 Department of Health shall be deemed to have been affirmed by the
2031 chancery court, and any party to the appeal shall have the right
2032 to appeal from the chancery court to the Supreme Court on the
2033 record certified by the State Department of Health as otherwise
2034 provided in paragraph (g) of this subsection. In the event the
2035 chancery court has not rendered a final order within the
2036 one-hundred-twenty-day period and an appeal is made to the Supreme
2037 Court as provided herein, the Supreme Court shall remand the case
2038 to the chancery court to make an award of costs, fees, reasonable
2039 expenses and attorney's fees incurred in favor of appellee payable
2040 by the appellant(s) should the Supreme Court affirm the order of
2041 the State Department of Health.

2042 (d) Any appeal of a final order by the State Department
2043 of Health in a certificate of need proceeding shall require the
2044 giving of a bond by the appellant(s) sufficient to secure the
2045 appellee against the loss of costs, fees, expenses and attorney's
2046 fees incurred in defense of the appeal, approved by the chancery
2047 court within five (5) days of the date of filing the appeal.

2048 (e) No new or additional evidence shall be introduced
2049 in the chancery court but the case shall be determined upon the
2050 record certified to the court.

2051 (f) The court may dispose of the appeal in termtime or
2052 vacation and may sustain or dismiss the appeal, modify or vacate
2053 the order complained of in whole or in part and may make an award



2054 of costs, fees, expenses and attorney's fees, as the case may be;
2055 but in case the order is wholly or partly vacated, the court may
2056 also, in its discretion, remand the matter to the State Department
2057 of Health for such further proceedings, not inconsistent with the
2058 court's order, as, in the opinion of the court, justice may
2059 require. The court, as part of the final order, shall make an
2060 award of costs, fees, reasonable expenses and attorney's fees
2061 incurred in favor of appellee payable by the appellant(s) should
2062 the court affirm the order of the State Department of Health. The
2063 order shall not be vacated or set aside, either in whole or in
2064 part, except for errors of law, unless the court finds that the
2065 order of the State Department of Health is not supported by
2066 substantial evidence, is contrary to the manifest weight of the
2067 evidence, is in excess of the statutory authority or jurisdiction
2068 of the State Department of Health, or violates any vested
2069 constitutional rights of any party involved in the appeal.
2070 Provided, however, an order of the chancery court reversing the
2071 denial of a certificate of need by the State Department of Health
2072 shall not entitle the applicant to effectuate the certificate of
2073 need until either:

2074 (i) Such order of the chancery court has become
2075 final and has not been appealed to the Supreme Court; or

2076 (ii) The Supreme Court has entered a final order
2077 affirming the chancery court.



2078 (g) Appeals in accordance with law may be had to the
2079 Supreme Court of the State of Mississippi from any final judgment
2080 of the chancery court. The Supreme Court must give preference and
2081 conduct an expedited judicial review of an appeal of a final order
2082 of the chancery court relating to a certificate of need proceeding
2083 and must render a final order regarding the appeal no later than
2084 one hundred twenty (120) days from the date the final order by the
2085 chancery court is certified to the Supreme Court. The Supreme
2086 Court shall consider such appeals in an expeditious manner without
2087 regard to position on the court docket.

2088 (h) Within thirty (30) days from the date of a final
2089 order by the Supreme Court or a final order of the chancery court
2090 not appealed to the Supreme Court that modifies or wholly or
2091 partly vacates the final order of the State Department of Health
2092 granting a certificate of need, the State Department of Health
2093 shall issue another order in conformity with the final order of
2094 the Supreme Court, or the final order of the chancery court not
2095 appealed to the Supreme Court.

2096 **SECTION 15.** Section 41-7-202, Mississippi Code of 1972, is
2097 brought forward as follows:

2098 41-7-202. There shall be a "stay of proceedings" of any
2099 written decision of the State Department of Health pertaining to a
2100 certificate of need for a home health agency, as defined in
2101 Section 41-7-173(h) (ix), for a period of thirty (30) days from the
2102 date of that decision. The stay of proceedings shall expire at



2103 the termination of thirty (30) days; however, no license to
2104 operate any such home health agency that is the subject of the
2105 decision shall be issued by the licensing agency, and no
2106 certification for such home health agency to participate in the
2107 Title XVIII or Title XIX programs of the Social Security Act shall
2108 be granted until all statutory appeals have been exhausted or the
2109 time for such appeals has expired. The stay of proceedings
2110 provided for in this section shall not apply to any party
2111 appealing any final order of the State Department of Health
2112 pertaining to a certificate of need for any health care facility
2113 as defined in Section 41-7-173(h), with the exception of any home
2114 health agency as defined in Section 41-7-173(h)(ix).

2115 **SECTION 16.** Section 41-7-205, Mississippi Code of 1972, is
2116 brought forward as follows:

2117 41-7-205. An applicant proposing a project which may be
2118 governed by the provisions of Section 41-7-171 et seq. may submit
2119 a determination of reviewability request to obtain a written
2120 declaratory opinion regarding the reviewability of the proposed
2121 project. If such opinion is sought, the requestor and department
2122 shall abide by the provisions of Section 25-43-2.103 as they are
2123 effective on July 1, 2016, except that the department's response
2124 shall be provided within forty-five (45) days of the request.

2125 **SECTION 17.** Section 41-7-207, Mississippi Code of 1972, is
2126 brought forward as follows:



2127 41-7-207. Notwithstanding any other provisions of Sections
2128 41-7-171 through 41-7-209, except when the owner of a damaged
2129 health care facility applies to repair or rebuild the facility in
2130 accordance with the provisions of Section 41-7-191(13), when the
2131 need for any emergency replacement occurs, the certificate of need
2132 review process shall be expedited by promulgation of
2133 administrative procedures for expenditures necessary to alleviate
2134 an emergency condition and restore health care access. Emergency
2135 replacement means the replacement, and/or a necessary relocation,
2136 of all or the damaged part of the facilities or equipment the
2137 replacement of which is not exempt from certificate of need review
2138 under the medical equipment replacement exemption provided in
2139 Section 41-7-191(1)(f), without which the operation of the
2140 facility and the health and safety of patients would be
2141 immediately jeopardized and health care access would be denied to
2142 such patients. Expenditures under this section shall be limited
2143 to the replacement of those necessary facilities or equipment, the
2144 loss of which constitutes an emergency; however, in the case of
2145 the destruction or major damage to a health care facility, the
2146 department shall be authorized to issue a certificate of need to
2147 address the current and future health care needs of the community,
2148 including, but not limited to, the expansion of the health care
2149 facility and/or the relocation of the health care facility. In
2150 exercising the authority granted in this section, the department
2151 may waive all or part of the required certificate of need



2152 application fee for any application filed under this section if
2153 the expenditure would create a further hardship or undue burden on
2154 the health care facility.

2155 **SECTION 18.** Section 41-7-209, Mississippi Code of 1972, is
2156 brought forward as follows:

2157 41-7-209. (1) Any person or entity violating the provisions
2158 of Sections 41-7-171 through 41-7-209, or regulations promulgated
2159 thereunder, by not obtaining a certificate of need, by deviating
2160 from the provisions of a certificate of need, or by refusing or
2161 failing to cooperate with the State Department of Health in its
2162 exercise or execution of its functions, responsibilities and
2163 powers shall be subject to the following:

2164 (a) Revocation of the license of a health care facility
2165 or a designated section, component or bed service thereof, or
2166 revocation of the license of any other person for which the State
2167 Department of Health is the licensing agency. If the State
2168 Department of Health lacks jurisdiction to revoke the license of
2169 such person, the State Health Officer shall recommend and show
2170 cause to the appropriate licensing agency that such license should
2171 be revoked;

2172 (b) Nonlicensure by the State Department of Health of a
2173 specific or designated bed service offered by the entity or
2174 person;



2175 (c) Nonlicensure by the State Department of Health
2176 where infractions occur concerning the acquisition or control of
2177 major medical equipment;

2178 (d) Revoking, rescinding or withdrawing a certificate
2179 of need previously issued.

2180 (2) Violations of Sections 41-7-171 through 41-7-209, or any
2181 rules or regulations promulgated in furtherance thereof by intent,
2182 fraud, deceit, unlawful design, willful and/or deliberate
2183 misrepresentation, or by careless, negligent or incautious
2184 disregard for such statutes or rules and regulations, either by
2185 persons acting individually or in concert with others, shall
2186 constitute a misdemeanor and shall be punishable by a fine not to
2187 exceed One Thousand Dollars (\$1,000.00) for each such offense.
2188 Each day of continuing violation shall be considered a separate
2189 offense. The venue for prosecution of any such violation shall be
2190 in any county of the state wherein any such violation, or portion
2191 thereof, occurred.

2192 (3) The Attorney General, upon certification by the State
2193 Health Officer, shall seek injunctive relief in a court of proper
2194 jurisdiction to prevent violations of Sections 41-7-171 through
2195 41-7-209 or any rules or regulations promulgated in furtherance of
2196 Sections 41-7-171 through 41-7-209 in cases where other
2197 administrative penalties and legal sanctions imposed have failed
2198 to prevent or cause a discontinuance of any such violation.



2199 (4) Major third party payers, public or private, shall be
2200 notified of any violation or infraction under this section and
2201 shall be requested to take such appropriate punitive action as is
2202 provided by law.

2203 **SECTION 19.** Section 23-15-625, Mississippi Code of 1972, is
2204 brought forward as follows:

2205 23-15-625. (1) The registrar shall be responsible for
2206 providing applications for absentee voting as provided in this
2207 section. At least sixty (60) days before any election in which
2208 absentee voting is provided for by law, the registrar shall
2209 provide a sufficient number of applications. In the event a
2210 special election is called and set at a date which makes it
2211 impractical or impossible to prepare applications for absent
2212 elector's ballot sixty (60) days before the election, the
2213 registrar shall provide applications as soon as practicable after
2214 the election is called. The registrar shall fill in the date of
2215 the particular election on the application for which the
2216 application will be used.

2217 (2) The registrar shall be authorized to disburse
2218 applications for absentee ballots to any qualified elector within
2219 the county where he or she serves. Any person who presents to the
2220 registrar an oral or written request for an absentee ballot
2221 application for a voter entitled to vote absentee by mail, other
2222 than the elector who seeks to vote by absentee ballot, shall, in
2223 the presence of the registrar, sign the application and print on



2224 the application his or her name and address and the name of the
2225 elector for whom the application is being requested in the place
2226 provided for on the application for that purpose. However, if for
2227 any reason such person is unable to write the information
2228 required, then the registrar shall write the information on a
2229 printed form which has been prescribed by the Secretary of State.
2230 The form shall provide a place for such person to place his or her
2231 mark after the form has been filled out by the registrar.

2232 (3) It shall be unlawful for any person to solicit absentee
2233 ballot applications or absentee ballots for persons staying in any
2234 skilled nursing facility as defined in Section 41-7-173 unless the
2235 person soliciting the absentee ballot applications or absentee
2236 ballots is:

2237 (a) A family member of the person staying in the
2238 skilled nursing facility; or

2239 (b) A person designated by the person for whom the
2240 absentee ballot application or absentee ballot is sought, the
2241 registrar or the deputy registrar.

2242 As used in this subsection, "family member" means a spouse,
2243 parent, grandparent, sibling, adult child, grandchild or legal
2244 guardian.

2245 (4) The registrar in the county wherein a voter is qualified
2246 to vote upon receiving by mail the envelope containing the
2247 absentee ballots shall keep an accurate list of all persons
2248 preparing such ballots. The list shall be kept in a conspicuous



2249 place accessible to the public near the entrance to the
2250 registrar's office. The registrar shall also furnish to each
2251 precinct manager a list of the names of all persons in each
2252 respective precinct voting absentee by mail and in person to be
2253 posted in a conspicuous place at the polling place for public
2254 notice. The application on file with the registrar and the
2255 envelopes containing the ballots that voters mailed to the
2256 registrar shall be kept by the registrar in his or her office in a
2257 secure location. At the time such boxes are delivered to the
2258 election commissioners or managers, the registrar shall also turn
2259 over a list of all such persons who have voted and whose mailed
2260 ballots are in the registrar's office.

2261 (5) The registrar shall also be authorized to mail one (1)
2262 application to any qualified elector of the county, who is
2263 eligible to vote by absentee ballot, for use in a particular
2264 election.

2265 (6) The registrar shall process all applications for
2266 absentee ballots by using the Statewide Election Management
2267 System. The registrar shall account for all absentee ballots
2268 delivered to and received by mail as well as those who voted
2269 absentee in person from qualified voters by processing such
2270 ballots using the Statewide Election Management System.

2271 **SECTION 20.** Section 25-41-7, Mississippi Code of 1972, is
2272 brought forward as follows:



2273 25-41-7. (1) Any public body may enter into executive
2274 session for the transaction of public business; however, all
2275 meetings of any public body shall commence as an open meeting, and
2276 an affirmative vote of three-fifths (3/5) of all members present
2277 shall be required to declare an executive session.

2278 (2) The procedure to be followed by any public body in
2279 declaring an executive session shall be as follows: Any member
2280 shall have the right to request by motion a closed determination
2281 upon the issue of whether or not to declare an executive session.
2282 The motion, by majority vote, shall require the meeting to be
2283 closed for a preliminary determination of the necessity for
2284 executive session. No other business shall be transacted until
2285 the discussion of the nature of the matter requiring executive
2286 session has been completed and a vote, as required in subsection
2287 (1) hereof, has been taken on the issue.

2288 (3) An executive session shall be limited to matters allowed
2289 to be exempted from open meetings by subsection (4) of this
2290 section. The reason for holding an executive session shall be
2291 stated in an open meeting, and the reason so stated shall be
2292 recorded in the minutes of the meeting. Nothing in this section
2293 shall be construed to require that any meeting be closed to the
2294 public, nor shall any executive session be used to circumvent or
2295 to defeat the purposes of this chapter.

2296 (4) A public body may hold an executive session pursuant to
2297 this section for one or more of the following reasons:



2298 (a) Transaction of business and discussion of personnel
2299 matters relating to the job performance, character, professional
2300 competence, or physical or mental health of a person holding a
2301 specific position, or matters relating to the terms of any
2302 potential or current employment or services agreement with any
2303 physicians or other employees of public hospitals, including any
2304 discussion of any person applying for medical staff privileges or
2305 membership with a public hospital.

2306 (b) Strategy sessions or negotiations with respect to
2307 prospective litigation, litigation or issuance of an appealable
2308 order when an open meeting would have a detrimental effect on the
2309 litigating position of the public body.

2310 (c) Transaction of business and discussion regarding
2311 the report, development or course of action regarding security
2312 personnel, plans or devices.

2313 (d) Investigative proceedings by any public body
2314 regarding allegations of misconduct or violation of law.

2315 (e) Any body of the Legislature which is meeting on
2316 matters within the jurisdiction of that body.

2317 (f) Cases of extraordinary emergency which would pose
2318 immediate or irrevocable harm or damage to persons or property, or
2319 both, within the jurisdiction of the public body.

2320 (g) Transaction of business and discussion regarding
2321 the prospective purchase, sale or leasing of lands.



2322 (h) Discussions between a school board and individual
2323 students who attend a school within the jurisdiction of the school
2324 board or the parents or teachers of the students regarding
2325 problems of the students or their parents or teachers.

2326 (i) Transaction of business and discussion concerning
2327 the preparation of tests for admission to practice in recognized
2328 professions.

2329 (j) Transaction of business and discussions or
2330 negotiations regarding the location, relocation or expansion of a
2331 business, medical service or an industry.

2332 (k) Transaction of business and discussions regarding
2333 employment or job performance of a person in a specific position
2334 or termination of an employee holding a specific position. The
2335 exemption provided by this paragraph includes transaction of
2336 business and discussion in executive session by the board of
2337 trustees of a public hospital regarding any employee or medical
2338 staff member or applicant for medical staff privileges and any
2339 such individual's credentialing, health, performance, salary,
2340 raises or disciplinary action. The exemption provided by this
2341 paragraph includes the right to enter into executive session
2342 concerning a line item in a budget which might affect the
2343 termination of an employee or employees. All other budget items
2344 shall be considered in open meetings and final budgetary adoption
2345 shall not be taken in executive session.



2346 (l) Discussions regarding material or data exempt from
2347 the Mississippi Public Records Act of 1983 pursuant to Section
2348 25-11-121.

2349 (m) Transaction of business and discussion regarding
2350 prospective strategic business decisions of public hospitals,
2351 including without limitation, decisions to open a new service
2352 line, implement capital improvements, or file applications for
2353 certificates of need or determinations of nonreviewability with
2354 the State Department of Health.

2355 (n) Transaction of business of the boards of trustees
2356 of public hospitals that would require discussion of any
2357 identifiable patient information, including without limitation,
2358 patient complaints, patients' accounts, patients receiving charity
2359 care, or treatment that could be identified to a patient.

2360 (o) Investigative discussions, investigative
2361 strategies, probative strategies related to identifiable instances
2362 of human trafficking or commercial sexual exploitation, and
2363 discussions involving locations of shelters or safe-houses for
2364 victims of human trafficking or commercial sexual exploitation.

2365 (p) Transaction of business of committees,
2366 subcommittees or boards that would require discussion of any
2367 identifiable information of victims of human trafficking or
2368 children under eighteen years old who are victims of commercial
2369 sexual exploitation.



2370 (5) The total vote on the question of entering into an
2371 executive session shall be recorded and spread upon the minutes of
2372 the public body.

2373 (6) Any vote whereby an executive session is declared shall
2374 be applicable only to that particular meeting on that particular
2375 day.

2376 **SECTION 21.** Section 35-1-19, Mississippi Code of 1972, is
2377 brought forward as follows:

2378 35-1-19. There is hereby authorized to be established by the
2379 State Veterans Affairs Board, the Mississippi State Veterans Home
2380 on a site to be determined by the State Veterans Affairs Board,
2381 with the approval of the Bureau of Building, Grounds and Real
2382 Property Management of the Governor's Office of General Services,
2383 when funds are made available for such purpose by any agency of
2384 the federal government or other sources. The object and purpose
2385 of the establishment of the Mississippi State Veterans Home shall
2386 be to provide domiciliary care and other related services for
2387 eligible veterans of the State of Mississippi.

2388 One or more additional veterans homes or domiciliaries are
2389 hereby authorized to be established by the State Veterans Affairs
2390 Board on sites in northern, central or southern Mississippi, to be
2391 determined by the State Veterans Affairs Board, with the approval
2392 of the Department of Finance and Administration, when funds are
2393 made available for such purpose by any agency of the federal
2394 government or other sources. The Veterans Affairs Board shall



2395 give the three (3) regions, northern, southern and central
2396 priority as to where the veterans home shall be located, with the
2397 northern region having first priority, the southern region having
2398 the next level priority and the central region being third in
2399 order of priority. The Veterans Affairs Board shall establish and
2400 operate the veterans home in Rankin County under the provisions of
2401 Chapter 389, Laws of 2023. The object and purpose of the
2402 establishment of such additional homes or domiciliaries shall be
2403 to provide domiciliary care and other related services for
2404 eligible veterans of the State of Mississippi. The State Veterans
2405 Affairs Board shall not be required to obtain certificates of need
2406 to carry out the intent and purpose of this section.

2407 **SECTION 22.** Section 41-3-15, Mississippi Code of 1972, is
2408 brought forward as follows:

2409 41-3-15. (1) (a) There shall be a State Department of
2410 Health.

2411 (b) The State Board of Health shall have the following
2412 powers and duties:

2413 (i) To formulate the policy of the State
2414 Department of Health regarding public health matters within the
2415 jurisdiction of the department;

2416 (ii) To adopt, modify, repeal and promulgate,
2417 after due notice and hearing, and enforce rules and regulations
2418 implementing or effectuating the powers and duties of the



2419 department under any and all statutes within the department's
2420 jurisdiction, and as the board may deem necessary;

2421 (iii) To apply for, receive, accept and expend any
2422 federal or state funds or contributions, gifts, trusts, devises,
2423 bequests, grants, endowments or funds from any other source or
2424 transfers of property of any kind;

2425 (iv) To enter into, and to authorize the executive
2426 officer to execute contracts, grants and cooperative agreements
2427 with any federal or state agency or subdivision thereof, or any
2428 public or private institution located inside or outside the State
2429 of Mississippi, or any person, corporation or association in
2430 connection with carrying out the provisions of this chapter, if it
2431 finds those actions to be in the public interest and the contracts
2432 or agreements do not have a financial cost that exceeds the
2433 amounts appropriated for those purposes by the Legislature;

2434 (v) To appoint, upon recommendation of the
2435 Executive Officer of the State Department of Health, a Director of
2436 Internal Audit who shall be either a Certified Public Accountant
2437 or Certified Internal Auditor, and whose employment shall be
2438 continued at the discretion of the board, and who shall report
2439 directly to the board, or its designee; and

2440 (vi) To discharge such other duties,
2441 responsibilities and powers as are necessary to implement the
2442 provisions of this chapter.



2443 (c) The Executive Officer of the State Department of
2444 Health shall have the following powers and duties:

2445 (i) To administer the policies of the State Board
2446 of Health within the authority granted by the board;

2447 (ii) To supervise and direct all administrative
2448 and technical activities of the department, except that the
2449 department's internal auditor shall be subject to the sole
2450 supervision and direction of the board;

2451 (iii) To organize the administrative units of the
2452 department in accordance with the plan adopted by the board and,
2453 with board approval, alter the organizational plan and reassign
2454 responsibilities as he or she may deem necessary to carry out the
2455 policies of the board;

2456 (iv) To coordinate the activities of the various
2457 offices of the department;

2458 (v) To employ, subject to regulations of the State
2459 Personnel Board, qualified professional personnel in the subject
2460 matter or fields of each office, and such other technical and
2461 clerical staff as may be required for the operation of the
2462 department. The executive officer shall be the appointing
2463 authority for the department, and shall have the power to delegate
2464 the authority to appoint or dismiss employees to appropriate
2465 subordinates, subject to the rules and regulations of the State
2466 Personnel Board;



2467 (vi) To recommend to the board such studies and
2468 investigations as he or she may deem appropriate, and to carry out
2469 the approved recommendations in conjunction with the various
2470 offices;

2471 (vii) To prepare and deliver to the Legislature
2472 and the Governor on or before January 1 of each year, and at such
2473 other times as may be required by the Legislature or Governor, a
2474 full report of the work of the department and the offices thereof,
2475 including a detailed statement of expenditures of the department
2476 and any recommendations the board may have;

2477 (viii) To prepare and deliver to the Chairmen of
2478 the Public Health and Welfare/Human Services Committees of the
2479 Senate and House on or before January 1 of each year, a plan for
2480 monitoring infant mortality in Mississippi and a full report of
2481 the work of the department on reducing Mississippi's infant
2482 mortality and morbidity rates and improving the status of maternal
2483 and infant health; and

2484 (ix) To enter into contracts, grants and
2485 cooperative agreements with any federal or state agency or
2486 subdivision thereof, or any public or private institution located
2487 inside or outside the State of Mississippi, or any person,
2488 corporation or association in connection with carrying out the
2489 provisions of this chapter, if he or she finds those actions to be
2490 in the public interest and the contracts or agreements do not have
2491 a financial cost that exceeds the amounts appropriated for those



2492 purposes by the Legislature. Each contract or agreement entered
2493 into by the executive officer shall be submitted to the board
2494 before its next meeting.

2495 (2) The State Board of Health shall have the authority to
2496 establish an Office of Rural Health within the department. The
2497 duties and responsibilities of this office shall include the
2498 following:

2499 (a) To collect and evaluate data on rural health
2500 conditions and needs;

2501 (b) To engage in policy analysis, policy development
2502 and economic impact studies with regard to rural health issues;

2503 (c) To develop and implement plans and provide
2504 technical assistance to enable community health systems to respond
2505 to various changes in their circumstances;

2506 (d) To plan and assist in professional recruitment and
2507 retention of medical professionals and assistants; and

2508 (e) To establish information clearinghouses to improve
2509 access to and sharing of rural health care information.

2510 (3) The State Board of Health shall have general supervision
2511 of the health interests of the people of the state and to exercise
2512 the rights, powers and duties of those acts which it is authorized
2513 by law to enforce.

2514 (4) The State Board of Health shall have authority:

2515 (a) To make investigations and inquiries with respect
2516 to the causes of disease and death, and to investigate the effect



2517 of environment, including conditions of employment and other
2518 conditions that may affect health, and to make such other
2519 investigations as it may deem necessary for the preservation and
2520 improvement of health.

2521 (b) To make such sanitary investigations as it may,
2522 from time to time, deem necessary for the protection and
2523 improvement of health and to investigate nuisance questions that
2524 affect the security of life and health within the state.

2525 (c) To direct and control sanitary and quarantine
2526 measures for dealing with all diseases within the state possible
2527 to suppress same and prevent their spread.

2528 (d) To obtain, collect and preserve such information
2529 relative to mortality, morbidity, disease and health as may be
2530 useful in the discharge of its duties or may contribute to the
2531 prevention of disease or the promotion of health in this state.

2532 (e) To charge and collect reasonable fees for health
2533 services, including immunizations, inspections and related
2534 activities, and the board shall charge fees for those services;
2535 however, if it is determined that a person receiving services is
2536 unable to pay the total fee, the board shall collect any amount
2537 that the person is able to pay. Any increase in the fees charged
2538 by the board under this paragraph shall be in accordance with the
2539 provisions of Section 41-3-65.

2540 (f) (i) To establish standards for, issue permits and
2541 exercise control over, any cafes, restaurants, food or drink



2542 stands, sandwich manufacturing establishments, and all other
2543 establishments, other than churches, church-related and private
2544 schools, and other nonprofit or charitable organizations, where
2545 food or drink is regularly prepared, handled and served for pay;
2546 and

2547 (ii) To require that a permit be obtained from the
2548 Department of Health before those persons begin operation. If any
2549 such person fails to obtain the permit required in this
2550 subparagraph (ii), the State Board of Health, after due notice and
2551 opportunity for a hearing, may impose a monetary penalty not to
2552 exceed One Thousand Dollars (\$1,000.00) for each violation.
2553 However, the department is not authorized to impose a monetary
2554 penalty against any person whose gross annual prepared food sales
2555 are less than Five Thousand Dollars (\$5,000.00). Money collected
2556 by the board under this subparagraph (ii) shall be deposited to
2557 the credit of the State General Fund of the State Treasury.

2558 (g) To promulgate rules and regulations and exercise
2559 control over the production and sale of milk pursuant to the
2560 provisions of Sections 75-31-41 through 75-31-49.

2561 (h) On presentation of proper authority, to enter into
2562 and inspect any public place or building where the State Health
2563 Officer or his representative deems it necessary and proper to
2564 enter for the discovery and suppression of disease and for the
2565 enforcement of any health or sanitary laws and regulations in the
2566 state.



2567 (i) To conduct investigations, inquiries and hearings,
2568 and to issue subpoenas for the attendance of witnesses and the
2569 production of books and records at any hearing when authorized and
2570 required by statute to be conducted by the State Health Officer or
2571 the State Board of Health.

2572 (j) To promulgate rules and regulations, and to collect
2573 data and information, on (i) the delivery of services through the
2574 practice of telemedicine; and (ii) the use of electronic records
2575 for the delivery of telemedicine services.

2576 (k) To enforce and regulate domestic and imported fish
2577 as authorized under Section 69-7-601 et seq.

2578 (5) (a) The State Board of Health shall have the authority,
2579 in its discretion, to establish programs to promote the public
2580 health, to be administered by the State Department of Health.
2581 Specifically, those programs may include, but shall not be limited
2582 to, programs in the following areas:

- 2583 (i) Maternal and child health;
- 2584 (ii) Family planning;
- 2585 (iii) Pediatric services;
- 2586 (iv) Services to crippled and disabled children;
- 2587 (v) Control of communicable and noncommunicable
2588 disease;
- 2589 (vi) Chronic disease;
- 2590 (vii) Accidental deaths and injuries;
- 2591 (viii) Child care licensure;



2592 (ix) Radiological health;
2593 (x) Dental health;
2594 (xi) Milk sanitation;
2595 (xii) Occupational safety and health;
2596 (xiii) Food, vector control and general
2597 sanitation;
2598 (xiv) Protection of drinking water;
2599 (xv) Sanitation in food handling establishments
2600 open to the public;
2601 (xvi) Registration of births and deaths and other
2602 vital events;
2603 (xvii) Such public health programs and services as
2604 may be assigned to the State Board of Health by the Legislature or
2605 by executive order; and
2606 (xviii) Regulation of domestic and imported fish
2607 for human consumption.
2608 (b) The State Board of Health and State Department of
2609 Health shall not be authorized to sell, transfer, alienate or
2610 otherwise dispose of any of the home health agencies owned and
2611 operated by the department on January 1, 1995, and shall not be
2612 authorized to sell, transfer, assign, alienate or otherwise
2613 dispose of the license of any of those home health agencies,
2614 except upon the specific authorization of the Legislature by an
2615 amendment to this section. However, this paragraph (b) shall not
2616 prevent the board or the department from closing or terminating



2617 the operation of any home health agency owned and operated by the
2618 department, or closing or terminating any office, branch office or
2619 clinic of any such home health agency, or otherwise discontinuing
2620 the providing of home health services through any such home health
2621 agency, office, branch office or clinic, if the board first
2622 demonstrates that there are other providers of home health
2623 services in the area being served by the department's home health
2624 agency, office, branch office or clinic that will be able to
2625 provide adequate home health services to the residents of the area
2626 if the department's home health agency, office, branch office or
2627 clinic is closed or otherwise discontinues the providing of home
2628 health services. This demonstration by the board that there are
2629 other providers of adequate home health services in the area shall
2630 be spread at length upon the minutes of the board at a regular or
2631 special meeting of the board at least thirty (30) days before a
2632 home health agency, office, branch office or clinic is proposed to
2633 be closed or otherwise discontinue the providing of home health
2634 services.

2635 (c) The State Department of Health may undertake such
2636 technical programs and activities as may be required for the
2637 support and operation of those programs, including maintaining
2638 physical, chemical, bacteriological and radiological laboratories,
2639 and may make such diagnostic tests for diseases and tests for the
2640 evaluation of health hazards as may be deemed necessary for the
2641 protection of the people of the state.



2642 (6) (a) The State Board of Health shall administer the
2643 local governments and rural water systems improvements loan
2644 program in accordance with the provisions of Section 41-3-16.

2645 (b) The State Board of Health shall have authority:

2646 (i) To enter into capitalization grant agreements
2647 with the United States Environmental Protection Agency, or any
2648 successor agency thereto;

2649 (ii) To accept capitalization grant awards made
2650 under the federal Safe Drinking Water Act, as amended;

2651 (iii) To provide annual reports and audits to the
2652 United States Environmental Protection Agency, as may be required
2653 by federal capitalization grant agreements; and

2654 (iv) To establish and collect fees to defray the
2655 reasonable costs of administering the revolving fund or emergency
2656 fund if the State Board of Health determines that those costs will
2657 exceed the limitations established in the federal Safe Drinking
2658 Water Act, as amended. The administration fees may be included in
2659 loan amounts to loan recipients for the purpose of facilitating
2660 payment to the board; however, those fees may not exceed five
2661 percent (5%) of the loan amount.

2662 (7) Notwithstanding any other provision to the contrary, the
2663 State Department of Health shall have the following specific
2664 powers: The department shall issue a license to Alexander Milne
2665 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
2666 construction, conversion, expansion and operation of not more than



2667 forty-five (45) beds for developmentally disabled adults who have
2668 been displaced from New Orleans, Louisiana, with the beds to be
2669 located in a certified ICF-MR facility in the City of Laurel,
2670 Mississippi. There shall be no prohibition or restrictions on
2671 participation in the Medicaid program for the person receiving the
2672 license under this subsection (7). The license described in this
2673 subsection shall expire five (5) years from the date of its issue.
2674 The license authorized by this subsection shall be issued upon the
2675 initial payment by the licensee of an application fee of
2676 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
2677 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
2678 the license, to be paid as long as the licensee continues to
2679 operate. The initial and monthly licensing fees shall be
2680 deposited by the State Department of Health into the special fund
2681 created under Section 41-7-188.

2682 (8) Notwithstanding any other provision to the contrary, the
2683 State Department of Health shall have the following specific
2684 powers: The State Department of Health is authorized to issue a
2685 license to an existing home health agency for the transfer of a
2686 county from that agency to another existing home health agency,
2687 and to charge a fee for reviewing and making a determination on
2688 the application for such transfer not to exceed one-half (1/2) of
2689 the authorized fee assessed for the original application for the
2690 home health agency, with the revenue to be deposited by the State



2691 Department of Health into the special fund created under Section
2692 41-7-188.

2693 (9) Notwithstanding any other provision to the contrary, the
2694 State Department of Health shall have the following specific
2695 powers: For the period beginning July 1, 2010, through July 1,
2696 2017, the State Department of Health is authorized and empowered
2697 to assess a fee in addition to the fee prescribed in Section
2698 41-7-188 for reviewing applications for certificates of need in an
2699 amount not to exceed twenty-five one-hundredths of one percent
2700 (.25 of 1%) of the amount of a proposed capital expenditure, but
2701 shall be not less than Two Hundred Fifty Dollars (\$250.00)
2702 regardless of the amount of the proposed capital expenditure, and
2703 the maximum additional fee permitted shall not exceed Fifty
2704 Thousand Dollars (\$50,000.00). Provided that the total
2705 assessments of fees for certificate of need applications under
2706 Section 41-7-188 and this section shall not exceed the actual cost
2707 of operating the certificate of need program.

2708 (10) Notwithstanding any other provision to the contrary,
2709 the State Department of Health shall have the following specific
2710 powers: The State Department of Health is authorized to extend
2711 and renew any certificate of need that has expired, and to charge
2712 a fee for reviewing and making a determination on the application
2713 for such action not to exceed one-half (1/2) of the authorized fee
2714 assessed for the original application for the certificate of need,



2715 with the revenue to be deposited by the State Department of Health
2716 into the special fund created under Section 41-7-188.

2717 (11) Notwithstanding any other provision to the contrary,
2718 the State Department of Health shall have the following specific
2719 powers: The State Department of Health is authorized and
2720 empowered, to revoke, immediately, the license and require closure
2721 of any institution for the aged or infirm, including any other
2722 remedy less than closure to protect the health and safety of the
2723 residents of said institution or the health and safety of the
2724 general public.

2725 (12) Notwithstanding any other provision to the contrary,
2726 the State Department of Health shall have the following specific
2727 powers: The State Department of Health is authorized and
2728 empowered, to require the temporary detainment of individuals for
2729 disease control purposes based upon violation of any order of the
2730 State Health Officer, as provided in Section 41-23-5. For the
2731 purpose of enforcing such orders of the State Health Officer,
2732 persons employed by the department as investigators shall have
2733 general arrest powers. All law enforcement officers are
2734 authorized and directed to assist in the enforcement of such
2735 orders of the State Health Officer.

2736 **SECTION 23.** Section 41-4-18, Mississippi Code of 1972, is
2737 brought forward as follows:

2738 41-4-18. (1) Notwithstanding Section 41-7-191(11) and
2739 Section 41-7-171 et seq., Mississippi Code of 1972, or any other



2740 section of law, the Department of Mental Health shall have the
2741 authority to contract with private and/or public entities to
2742 transfer beds within Intermediate Care Facilities for the Mentally
2743 Retarded owned and operated by the Department of Mental Health to
2744 locations owned and operated by private and/or public entities for
2745 the purpose of serving individuals with intellectual disabilities
2746 in the settings most appropriate to meet their needs.

2747 (2) Any license granted to the Department of Mental Health
2748 by the Department of Health for the operation of transferred
2749 Intermediate Care Facility for the Mentally Retarded beds shall
2750 remain in the name of the Department of Mental Health and shall
2751 not be transferred into the name of the contractor unless the
2752 contractor has received the appropriate certificates of need.

2753 **SECTION 24.** Section 41-9-11, Mississippi Code of 1972, is
2754 brought forward as follows:

2755 41-9-11. Upon receipt of an application for license and the
2756 license fee, the licensing agency shall issue a license if the
2757 applicant and hospital facilities meet the requirements
2758 established under Sections 41-9-1 through 41-9-35, and the
2759 requirements of Section 41-7-173 et seq., where determined by the
2760 licensing agency to be applicable. A license, unless suspended or
2761 revoked, shall be renewable annually, upon filing by the licensee,
2762 and approval by the licensing agency of an annual report upon such
2763 uniform dates and containing such information in such form as the
2764 licensing agency prescribes by regulation and upon paying the



2765 annual fee for such license as determined by the schedule and
2766 provisions of Section 41-9-9. Each license shall be issued only
2767 for the premises and persons or governmental units named in the
2768 application and shall not be transferable or assignable except
2769 with the written approval of the licensing agency. Licenses shall
2770 be posted in a conspicuous place on the licensed premises.

2771 **SECTION 25.** Section 41-9-23, Mississippi Code of 1972, is
2772 brought forward as follows:

2773 41-9-23. Information received by the licensing agency
2774 through filed reports, inspection, or as otherwise authorized
2775 under Sections 41-9-1 through 41-9-35 shall not be disclosed
2776 publicly in such manner as to identify individuals, except in a
2777 proceeding involving the questions of licensure; however, the
2778 licensing agency may utilize statistical data concerning types of
2779 services and the utilization of these services for hospitals in
2780 performing the statutory duties imposed upon it by Section
2781 41-7-171, et seq. and by Section 41-9-29.

2782 **SECTION 26.** Section 41-9-68, Mississippi Code of 1972, is
2783 brought forward as follows:

2784 41-9-68. (1) Except as otherwise provided in subsection (2)
2785 of this section, records maintained by public hospitals shall be
2786 exempt from the provisions of the Mississippi Public Records Act
2787 of 1983.

2788 (2) The following records of public hospitals shall not be
2789 exempt from the Mississippi Public Records Act of 1983:



2790 (a) The official minutes of the board of trustees of a
2791 public hospital;

2792 (b) Financial reports not otherwise exempt that are
2793 required by state or federal statute or regulation to be filed
2794 with the owner of the public hospital or with any other agency of
2795 state or federal government; and

2796 (c) Any other record maintained by a public hospital
2797 that does not fall within the definition of the term "hospital
2798 records" as that term is defined in Section 41-9-61, except for
2799 the following records, which shall be exempt:

2800 (i) Records directly relating to the terms of any
2801 potential or current employment or services agreement with any
2802 physicians or other employees of a public hospital, including any
2803 application for medical staff privileges or membership with a
2804 public hospital;

2805 (ii) Records directly relating to the
2806 credentialing, health, performance, salary, raises or disciplinary
2807 action of any employee or medical staff member or applicant for
2808 medical staff privileges at a public hospital;

2809 (iii) Records directly relating to prospective
2810 strategic business decisions of a public hospital, including
2811 without limitation, decisions to open a new service line,
2812 implement capital improvements, or file applications for
2813 certificates of need or determinations of nonreviewability with
2814 the State Department of Health; and



2815 (iv) Records directly relating to individual
2816 patient billing and collection information.

2817 **SECTION 27.** Section 41-9-209, Mississippi Code of 1972, is
2818 brought forward as follows:

2819 41-9-209. Any hospital is authorized to seek designation as
2820 a critical access hospital. Subject to federal law, there shall
2821 be no requirement or limitation regarding the distance that a
2822 critical access hospital must be located from another hospital.
2823 The bed-size limit for a critical access hospital is twenty-five
2824 (25) operational acute care beds, and the average maximum length
2825 of stay for patients in a critical access hospital is ninety-six
2826 (96) hours, unless a longer period is required because of
2827 inclement weather or other emergency conditions. In the event the
2828 critical access hospital is a swing bed facility, any of the
2829 twenty-five (25) acute care beds allowed in a critical access
2830 hospital may be used for the provision of extended care services
2831 or acute care inpatient services so long as the furnishing of such
2832 services does not exceed twenty-five (25) beds and so long as the
2833 hospital does not seek Medicaid reimbursement for more than
2834 fifteen (15) acute care inpatient beds. A critical access
2835 hospital (a) must make available twenty-four-hour emergency care
2836 services, as described in the state rural health care plan, for
2837 ensuring access to emergency care services in the rural area
2838 served by the critical access hospital, and (b) must be a member
2839 of a rural health network. Any hospital that has a distinct-part



2840 skilled nursing facility, certified under Title XVIII of the
2841 federal Social Security Act, at the time it applies for
2842 designation as a critical access hospital, may continue its
2843 operation of the distinct-part skilled nursing facility and is not
2844 required to count the beds in the distinct-part skilled nursing
2845 facility for purposes of the allowed twenty-five (25) acute care
2846 inpatient beds. To the extent permitted under Section 41-7-171 et
2847 seq., a critical access hospital may establish a distinct-part
2848 psychiatric unit and a distinct-part rehabilitation unit, each of
2849 which must be certified under Title XVIII of the federal Social
2850 Security Act and each of which may consist of no more than ten
2851 (10) beds. No bed in the critical access hospital's distinct-part
2852 psychiatric unit or distinct-part rehabilitation unit shall be
2853 counted for purposes of the twenty-five (25) bed limitation. Each
2854 distinct-part unit in a critical access hospital must comply with
2855 all applicable state licensure laws and federal certification
2856 laws.

2857 **SECTION 28.** Section 41-9-210, Mississippi Code of 1972, is
2858 brought forward as follows:

2859 41-9-210. If a hospital seeks a new license from the
2860 department in order to be designated as a critical access
2861 hospital, the department shall maintain a record of the acute care
2862 beds of that hospital that have been delicensed as a result of
2863 that designation and continue counting those beds as part of the
2864 state's total acute care bed count for health care planning



2865 purposes. If a critical access hospital later desires to
2866 relicense some or all of its delicensed acute care beds, it shall
2867 notify the department of its intent to increase the number of its
2868 licensed acute care beds. The department shall survey the
2869 hospital within thirty (30) days of that notice and, if
2870 appropriate, issue the hospital a new license reflecting the new
2871 contingent of beds. That change may be accomplished without the
2872 need of the hospital to seek certificate of need approval under
2873 Section 41-7-171 et seq. However, in no event may a hospital that
2874 has delicensed some of its acute care beds in order to be
2875 designated as a critical access hospital be reissued a license to
2876 operate acute care beds in excess of its acute care bed count
2877 before the delicensure of some of its beds without seeking
2878 certificate of need approval.

2879 This section shall apply to all hospitals that are designated
2880 as critical access hospitals on July 1, 2003, and all hospitals
2881 that may become designated as critical access hospitals after July
2882 1, 2003.

2883 **SECTION 29.** Section 41-71-7, Mississippi Code of 1972, is
2884 brought forward as follows:

2885 41-71-7. Upon receipt of an application for a license and
2886 the license fee, and a determination by the licensing agency that
2887 the application is in compliance with Section 41-7-173 et seq. and
2888 in compliance with the provisions of this chapter, such license
2889 shall be issued. A license, unless suspended or revoked, shall be



2890 renewable annually upon payment by the licensee of a renewal fee
2891 of One Thousand Dollars (\$1,000.00) and upon approval by the
2892 licensing agency of an annual report, required to be submitted by
2893 the licensee, containing such information in such form and at such
2894 time as the licensing agency prescribes by rule or regulation.
2895 Any increase in the fee charged by the licensing agency under this
2896 section shall be in accordance with the provisions of Section
2897 41-3-65. Each license shall be issued only for the home health
2898 agency and person or persons or other legal entity or entities
2899 named in the application and shall not be transferable or
2900 assignable except with the written approval of the licensing
2901 agency. Licenses shall be posted in a conspicuous place in the
2902 designated business office of the licensee. Each licensee shall
2903 designate, in writing, one (1) individual person as the
2904 responsible party for the conducting of the business of the home
2905 health agency with the licensing agency.

2906 **SECTION 30.** Section 41-71-19, Mississippi Code of 1972, is
2907 brought forward as follows:

2908 41-71-19. Information received by the licensing agency
2909 through filed reports, inspection, or as otherwise authorized
2910 under this chapter, shall not be disclosed publicly in such manner
2911 as to identify individuals, except in proceedings involving the
2912 question of licensure; however, the licensing agency may utilize
2913 statistical data concerning types of services and the utilization
2914 of those services for home health care agencies in performing the



2915 statutory duties imposed upon it by Section 41-7-171 et seq., and
2916 regulations necessarily promulgated for participation in the
2917 Medicare or Medicaid programs.

2918 **SECTION 31.** Section 41-73-5, Mississippi Code of 1972, is
2919 brought forward as follows:

2920 41-73-5. When used in this act, unless the context requires
2921 a different definition, the following terms shall have the
2922 following meanings:

2923 (a) "Act" means the Mississippi Hospital Equipment and
2924 Facilities Authority Act.

2925 (b) "Authority" means the Mississippi Hospital
2926 Equipment and Facilities Authority created by this act and any
2927 successor to its functions.

2928 (c) "Bonds" means bonds, notes or other evidences of
2929 indebtedness of the authority issued pursuant to this act,
2930 including refunding bonds.

2931 (d) "Cost" as applied to hospital equipment means any
2932 and all costs of such hospital equipment and, without limiting the
2933 generality of the foregoing, shall include the following:

2934 (i) All costs of the acquisition, repair,
2935 restoration, reconditioning, refinancing or installation of any
2936 such hospital equipment and all costs incident or related thereto;

2937 (ii) The cost of any property interest in such
2938 hospital equipment including an option to purchase or leasehold
2939 interest;



2940 (iii) The cost of architectural, engineering,
2941 legal and related services; the cost of the preparation of plans,
2942 specifications, studies, surveys and estimates of cost and of
2943 revenue; and all other expenses necessary or incident to planning,
2944 providing or determining the need for or the feasibility and
2945 practicability of such hospital equipment; and the cost of
2946 providing or establishing a reasonable reserve fund for the
2947 payment of principal and interest on bonds;

2948 (iv) The cost of financing charges, including
2949 premiums or prepayment penalties, if any, and interest accrued
2950 prior to the acquisition and installation or refinancing of such
2951 hospital equipment and after such acquisition and installation or
2952 refinancing and start-up costs related to hospital equipment;

2953 (v) Any and all costs paid or incurred in
2954 connection with the financing of such hospital equipment,
2955 including out-of-pocket expenses, the cost of financing, legal,
2956 accounting, financial advisory and consulting fees, expenses and
2957 disbursements; the cost of any policy of insurance; the cost of
2958 printing, engraving and reproduction services; and the cost of the
2959 initial or acceptance fee of any trustee or paying agent;

2960 (vi) All direct or indirect costs of the authority
2961 incurred in connection with providing such hospital equipment,
2962 including, without limitation, reasonable sums to reimburse the
2963 authority for time spent by its agents or employees with respect



2964 to providing such hospital equipment and the financing thereof;
2965 and

2966 (vii) Any and all costs paid or incurred for the
2967 administration of any program for the purchase or lease of or the
2968 making of loans for hospital equipment, by the authority and any
2969 program for the sale or lease of or the making of loans for such
2970 hospital equipment to any participating hospital institution.

2971 (e) "Cost," as applied to hospital facilities, means
2972 any and all costs of such hospital facilities and, without
2973 limiting the generality of the foregoing, shall include the
2974 following:

2975 (i) All costs of the establishment, demolition,
2976 site development of new and rehabilitated buildings,
2977 rehabilitation, reconstruction repair, erection, building,
2978 construction, remodeling, adding to and furnishing of any such
2979 hospital facilities and all costs incident or related thereto;

2980 (ii) The cost of acquiring any property interest
2981 in such hospital facilities including the purchase thereof, the
2982 cost of an option to purchase or the cost of any leasehold
2983 interest;

2984 (iii) The cost of architectural, engineering,
2985 legal and related services; the cost of the preparation of plans,
2986 specifications, studies, surveys and estimates of cost and of
2987 revenue; all other expenses necessary or incident to planning,
2988 providing or determining the need for or the feasibility and



2989 practicability of such hospital facilities or the acquisition
2990 thereof; and the cost of providing or establishing a reasonable
2991 reserve fund for the payment of principal of and interest on
2992 bonds;

2993 (iv) The cost of financing charges, including
2994 premiums or prepayment penalties, if any, and interest accrued
2995 prior to the acquisition and completion or refinancing of such
2996 hospital facilities and after such acquisition and completion or
2997 refinancing and start-up costs related to hospital facilities;

2998 (v) Any and all costs paid or incurred in
2999 connection with the financing of such hospital facilities,
3000 including out-of-pocket expenses, the cost of financing, legal,
3001 accounting, financial advisory and consulting fees, expenses and
3002 disbursement; the cost of any policy of insurance; the cost of
3003 printing, engraving and reproduction services; and the cost of the
3004 initial or acceptance fee of any trustee or paying agent;

3005 (vi) All direct or indirect costs of the authority
3006 incurred in connection with providing such hospital facilities,
3007 including, without limitation, reasonable sums to reimburse the
3008 authority for time spent by its agents or employees with respect
3009 to providing such hospital facilities and the financing thereof;

3010 (vii) Any and all costs paid or incurred for the
3011 administration of any program for the purchase or lease of or the
3012 making of loans for hospital facilities, by the authority and any



3013 program for the sale or lease of or the making of loans for such
3014 hospital facilities to any participating hospital institution; and
3015 (viii) The cost of providing for the payment or
3016 the making provision for the payment of, by the appropriate
3017 escrowing of monies or securities, the principal of and interest
3018 on which when due will be adequate to make such payment, any
3019 indebtedness encumbering the revenues or property of a
3020 participating hospital institution, whether such payment is to be
3021 effected by redemption of such indebtedness prior to maturity or
3022 not.

3023 (f) "Hospital equipment" means any personal property
3024 which is found and determined by the authority to be required or
3025 necessary or helpful for medical care, research, training or
3026 teaching, any one (1) or all, in hospital facilities located in
3027 the state, irrespective of whether such property is in existence
3028 at the time of, or is to be provided after the making of, such
3029 finding. Provided further, that major medical equipment as
3030 defined in Section 41-7-173(n), shall require a certificate of
3031 need prior to the approval of the authority to contract with said
3032 hospital.

3033 (g) "Hospital facility" or "hospital facilities" means
3034 buildings and structures of any and all types used or useful, in
3035 the discretion of the authority, for providing any types of care
3036 to the sick, wounded, infirmed, needy, mentally incompetent or
3037 elderly and shall include, without limiting the generality of the



3038 foregoing, out-patient clinics, laboratories, laundries, nurses',
3039 doctors' or interns' residences, administration buildings, office
3040 buildings, facilities for research directly involved with hospital
3041 care, maintenance, storage or utility facilities, parking lots,
3042 and garages and all necessary, useful, or related furnishings, and
3043 appurtenances and all lands necessary or convenient as a site for
3044 the foregoing.

3045 (h) "Participating hospital institution" or "hospital
3046 institution" means a public or private corporation, association,
3047 foundation, trust, cooperative, agency, body politic, or other
3048 person or organization which provides or operates or proposes to
3049 provide or operate hospital facilities not for profit, and which,
3050 pursuant to the provisions of this act, contracts with the
3051 authority for the financing or refinancing of the lease or other
3052 acquisition of hospital equipment or hospital facilities, or both.

3053 (i) "State" means the State of Mississippi.

3054 The use of singular terms herein shall also include the
3055 plural of such term and the use of a plural term herein shall also
3056 include the singular of such term unless the context clearly
3057 requires a different connotation.

3058 **SECTION 32.** Section 41-75-1, Mississippi Code of 1972, is
3059 brought forward as follows:

3060 41-75-1. For the purpose of this chapter:

3061 (a) "Ambulatory surgical facility" means a publicly or
3062 privately owned institution that is primarily organized,



3063 constructed, renovated or otherwise established for the purpose of
3064 providing elective surgical treatment of "outpatients" whose
3065 recovery, under normal and routine circumstances, will not require
3066 "inpatient" care. The facility defined in this paragraph does not
3067 include the offices of private physicians or dentists, whether
3068 practicing individually or in groups, but does include
3069 organizations or facilities primarily engaged in that outpatient
3070 surgery, whether using the name "ambulatory surgical facility" or
3071 a similar or different name. That organization or facility, if in
3072 any manner considered to be operated or owned by a hospital or a
3073 hospital holding, leasing or management company, either for profit
3074 or not for profit, is required to comply with all licensing agency
3075 ambulatory surgical licensure standards governing a "hospital
3076 affiliated" facility as adopted under Section 41-9-1 et seq.,
3077 provided that the organization or facility does not intend to seek
3078 federal certification as an ambulatory surgical facility as
3079 provided for at 42 CFR, Parts 405 and 416. If the organization or
3080 facility is to be operated or owned by a hospital or a hospital
3081 holding, leasing or management company and intends to seek federal
3082 certification as an ambulatory facility, then the facility is
3083 considered to be "freestanding" and must comply with all licensing
3084 agency ambulatory surgical licensure standards governing a
3085 "freestanding" facility.

3086 If the organization or facility is to be owned or operated by
3087 an entity or person other than a hospital or hospital holding,



3088 leasing or management company, then the organization or facility
3089 must comply with all licensing agency ambulatory surgical facility
3090 standards governing a "freestanding" facility.

3091 (b) "Hospital affiliated" ambulatory surgical facility
3092 means a separate and distinct organized unit of a hospital or a
3093 building owned, leased, rented or utilized by a hospital and
3094 located in the same county in which the hospital is located, for
3095 the primary purpose of performing ambulatory surgery procedures.
3096 The facility is not required to be separately licensed under this
3097 chapter and may operate under the hospital's license in compliance
3098 with all applicable requirements of Section 41-9-1 et seq.

3099 (c) "Freestanding" ambulatory surgical facility means a
3100 separate and distinct facility or a separate and distinct
3101 organized unit of a hospital owned, leased, rented or utilized by
3102 a hospital or other persons for the primary purpose of performing
3103 ambulatory surgery procedures. The facility must be separately
3104 licensed as defined in this section and must comply with all
3105 licensing standards promulgated by the licensing agency under this
3106 chapter regarding a "freestanding" ambulatory surgical facility.
3107 Further, the facility must be a separate, identifiable entity and
3108 must be physically, administratively and financially independent
3109 and distinct from other operations of any other health facility,
3110 and shall maintain a separate organized medical and administrative
3111 staff. Furthermore, once licensed as a "freestanding" ambulatory
3112 surgical facility, the facility shall not become a component of



3113 any other health facility without securing a certificate of need
3114 to do that.

3115 (d) "Ambulatory surgery" means surgical procedures that
3116 are more complex than office procedures performed under local
3117 anesthesia, but less complex than major procedures requiring
3118 prolonged postoperative monitoring and hospital care to ensure
3119 safe recovery and desirable results. General anesthesia is used
3120 in most cases. The patient must arrive at the facility and expect
3121 to be discharged on the same day. Ambulatory surgery shall only
3122 be performed by physicians or dentists licensed to practice in the
3123 State of Mississippi.

3124 (e) "Abortion" means the use or prescription of any
3125 instrument, medicine, drug or any other substances or device to
3126 terminate the pregnancy of a woman known to be pregnant with an
3127 intention other than to increase the probability of a live birth,
3128 to preserve the life or health of the child after live birth or to
3129 remove a dead fetus. Abortion procedures after the first
3130 trimester shall only be performed at a Level I abortion facility
3131 or an ambulatory surgical facility or hospital licensed to perform
3132 that service.

3133 (f) "Abortion facility" means a facility operating
3134 substantially for the purpose of performing abortions and is a
3135 separate identifiable legal entity from any other health care
3136 facility. Abortions shall only be performed by physicians
3137 licensed to practice in the State of Mississippi. All physicians



3138 associated with the abortion facility must have admitting
3139 privileges at a local hospital and staff privileges to replace
3140 local hospital on-staff physicians. All physicians associated
3141 with an abortion facility must be board certified or eligible in
3142 obstetrics and gynecology, and a staff member trained in CPR shall
3143 always be present at the abortion facility when it is open. The
3144 term "abortion facility" includes physicians' offices that are
3145 used substantially for the purpose of performing abortions. An
3146 abortion facility operates substantially for the purpose of
3147 performing abortions if any of the following conditions are met:

3148 (i) The abortion facility is a provider for
3149 performing ten (10) or more abortion procedures per calendar month
3150 during any month of a calendar year, or one hundred (100) or more
3151 in a calendar year.

3152 (ii) The abortion facility, if operating less than
3153 twenty (20) days per calendar month, is a provider for performing
3154 ten (10) or more abortion procedures, or performing a number of
3155 abortion procedures that would be equivalent to ten (10)
3156 procedures per month, if the facility were operating twenty (20)
3157 or more days per calendar month, in any month of a calendar year.

3158 (iii) The abortion facility holds itself out to
3159 the public as an abortion provider by advertising by any public
3160 means, such as newspaper, telephone directory, magazine or
3161 electronic media, that it performs abortions.



3162 (iv) The facility applies to the licensing agency
3163 for licensure as an abortion facility.

3164 (g) "Licensing agency" means the State Department of
3165 Health.

3166 (h) "Operating" an abortion facility means that the
3167 facility is open for any period of time during a day and has on
3168 site at the facility or on call a physician licensed to practice
3169 in the State of Mississippi available to provide abortions.

3170 An abortion facility may apply to be licensed as a Level I
3171 facility or a Level II facility by the licensing agency. Level II
3172 abortion facilities shall be required to meet minimum standards
3173 for abortion facilities as established by the licensing agency.
3174 Level I abortion facilities shall be required to meet minimum
3175 standards for abortion facilities and minimum standards for
3176 ambulatory surgical facilities as established by the licensing
3177 agency.

3178 Any abortion facility that begins operation after June 30,
3179 1996, shall not be located within one thousand five hundred
3180 (1,500) feet from the property on which any church, school or
3181 kindergarten is located. An abortion facility shall not be in
3182 violation of this paragraph if it is in compliance with this
3183 paragraph on the date it begins operation and the property on
3184 which a church, school or kindergarten is located within one
3185 thousand five hundred (1,500) feet from the facility.



3186 (i) "Freestanding emergency room" is a facility open
3187 twenty-four (24) hours a day for the treatment of urgent and
3188 emergent medical conditions which is not located on a hospital
3189 campus. In order to be eligible for licensure under this chapter,
3190 the freestanding emergency room shall be located at least fifteen
3191 (15) miles from the nearest hospital-based emergency room in any
3192 rural community where the federal CMMS had previously designated a
3193 rural hospital as a critical access hospital and that designation
3194 has been revoked.

3195 (j) "Post-acute residential brain injury rehabilitation
3196 facility" is a facility containing no more than twelve (12) beds
3197 providing medically directed long-term but nonacute rehabilitation
3198 to patients who have acquired brain injury. In order to be
3199 eligible for licensure under this chapter, the post-acute
3200 residential brain injury rehabilitation facility shall be located
3201 at least twenty-five (25) miles from the nearest acute care
3202 rehabilitation hospital and at least five (5) miles from the
3203 boundaries of any municipality having a population of ten thousand
3204 (10,000) or more, according to the most recent federal decennial
3205 census, at the time that facility is established.

3206 (k) "Pilot freestanding emergency room" is a facility
3207 open twenty-four (24) hours a day for the treatment of urgent and
3208 emergent medical conditions that is not located on a hospital
3209 campus. In order to be eligible for licensure under this chapter,
3210 the pilot freestanding emergency room shall be located at least



3211 fifteen (15) miles from the nearest hospital-based emergency room
3212 in a county without emergency hospital care that is open
3213 twenty-four (24) hours a day.

3214 **SECTION 33.** Section 41-75-5, Mississippi Code of 1972, is
3215 brought forward as follows:

3216 41-75-5. No person as defined in Section 41-7-173, acting
3217 severally or jointly with any other person, shall establish,
3218 conduct, operate or maintain an ambulatory surgical facility or an
3219 abortion facility or a freestanding emergency room or a post-acute
3220 residential brain injury rehabilitation facility in this state
3221 without a license under this chapter.

3222 **SECTION 34.** Section 41-75-9, Mississippi Code of 1972, is
3223 brought forward as follows:

3224 41-75-9. Upon receipt of an application for license and the
3225 license fee, the licensing agency shall issue a license if the
3226 applicant and the institutional facilities meet the requirements
3227 established under this chapter and the requirements of Section
3228 41-7-173 et seq. where determined by the licensing agency to be
3229 applicable. A license, unless suspended or revoked, shall be
3230 renewable annually upon payment of a renewal fee of Three Thousand
3231 Dollars (\$3,000.00), which shall be paid to the licensing agency,
3232 and upon filing by the licensee and approval by the licensing
3233 agency of an annual report upon such uniform dates and containing
3234 such information in such form as the licensing agency requires.
3235 Any increase in the fee charged by the licensing agency under this



3236 section shall be in accordance with the provisions of Section
3237 41-3-65. Each license shall be issued only for the premises and
3238 person or persons named in the application and shall not be
3239 transferable or assignable. Licenses shall be posted in a
3240 conspicuous place on the licensed premises.

3241 **SECTION 35.** Section 41-75-25, Mississippi Code of 1972, is
3242 brought forward as follows:

3243 41-75-25. Any person or persons or other entity or entities
3244 establishing, managing or operating an ambulatory surgical
3245 facility or conducting the business of an ambulatory surgical
3246 facility without the required license, or which otherwise violate
3247 any of the provisions of this chapter or the "Mississippi Health
3248 Care Commission Law of 1979," as amended, or the rules,
3249 regulations or standards promulgated in furtherance of any law in
3250 which the commission has authority therefor shall be subject to
3251 the penalties and sanctions of Section 41-7-209, Mississippi Code
3252 of 1972.

3253 **SECTION 36.** Section 41-77-1, Mississippi Code of 1972, is
3254 brought forward as follows:

3255 41-77-1. For purposes of this chapter:

3256 (a) "Birthing center" shall mean a publicly or
3257 privately owned facility, place or institution constructed,
3258 renovated, leased or otherwise established where nonemergency
3259 births are planned to occur away from the mother's usual residence
3260 following a documented period of prenatal care for a normal



3261 uncomplicated pregnancy which has been determined to be low risk
3262 through a formal risk scoring examination. Care provided in a
3263 birthing center shall be provided by a licensed physician, or
3264 certified nurse midwife, and a registered nurse. Services
3265 provided in a birthing center shall be limited in the following
3266 manner: (i) surgical services shall be limited to those normally
3267 performed during uncomplicated childbirth, such as episiotomy and
3268 repair, and shall not include operative obstetrics or caesarean
3269 sections; (ii) labor shall not be inhibited, stimulated or
3270 augmented with chemical agents during the first or second stage of
3271 labor; (iii) systemic analgesia may be administered and local
3272 anesthesia for pudental block and episiotomy repair may be
3273 performed. General and conductive anesthesia shall not be
3274 administered at birthing centers; (iv) patients shall not remain
3275 in the facility in excess of twenty-four (24) hours.

3276 Hospitals are excluded from the definition of a "birthing
3277 center" unless they choose to and are qualified to designate a
3278 portion or part of the hospital as a birthing center, and nothing
3279 herein shall be construed as referring to the usual service
3280 provided the pregnant female in the obstetric-gynecology service
3281 of an acute care hospital. Such facility or center, as heretofore
3282 stated, shall include the offices of physicians in private
3283 practice alone or in groups of two (2) or more; and such facility
3284 or center rendering service to pregnant female persons, as stated
3285 heretofore and by the rules and regulations promulgated by the



3286 licensing agency in furtherance thereof, shall be deemed to be a
3287 "birthing center" whether using a similar or different name. Such
3288 center or facility if in any manner is deemed to be or considered
3289 to be operated or owned by a hospital or a hospital holding
3290 leasing or management company, for profit or not for profit, is
3291 required to comply with all birthing center standards governing a
3292 "hospital affiliated" birthing center as adopted by the licensing
3293 authority.

3294 (b) "Hospital affiliated" birthing center shall mean a
3295 separate and distinct unit of a hospital or a building owned,
3296 leased, rented or utilized by a hospital and located in the same
3297 county as the hospital for the purpose of providing the service of
3298 a "birthing center." Such center or facility is not required to
3299 be licensed separately, and may operate under the license issued
3300 to the hospital if it is in compliance with Section 41-9-1 et
3301 seq., where applicable, and the rules and regulations promulgated
3302 by the licensing agency in furtherance thereof.

3303 (c) "Freestanding" birthing center shall mean a
3304 separate and distinct facility or center or a separate and
3305 distinct organized unit of a hospital or other defined persons
3306 (Section 41-7-173(q)) for the purpose of performing the service of
3307 a "birthing center." Such facility or center must be separately
3308 licensed and must comply with all licensing standards promulgated
3309 by the licensing agency by virtue of this chapter. Further, such
3310 facility or center must be a separate, identifiable entity and



3311 must be physically, administratively and financially independent
3312 from other operations of any hospital or other health care
3313 facility or service and shall maintain a separate and required
3314 staff, including administrative staff. Further, any "birthing
3315 center" licensed as a "freestanding" center shall not become a
3316 component of any hospital or other health care facility without
3317 securing a "certificate of need."

3318 (d) "Licensing agency" shall mean the State Department
3319 of Health.

3320 **SECTION 37.** Section 41-77-5, Mississippi Code of 1972, is
3321 brought forward as follows:

3322 41-77-5. No person as defined in Section 41-7-173(q),
3323 Mississippi Code of 1972, acting severally or jointly with any
3324 other person, shall establish, conduct or maintain a "birthing
3325 center" in this state without a license under this chapter.

3326 **SECTION 38.** Section 41-77-21, Mississippi Code of 1972, is
3327 brought forward as follows:

3328 41-77-21. Any applicant or licensee aggrieved by the
3329 decision of the licensing agency after a hearing may, within
3330 thirty (30) days after the mailing or serving of notice of the
3331 decision as provided in Section 43-11-11, Mississippi Code of
3332 1972, file a notice of appeal to the Chancery Court of the First
3333 Judicial District of Hinds County or in the chancery court of the
3334 county in which the institution is located or proposed to be
3335 located. If such notice of appeal is filed, it shall comply with



3336 Section 41-7-201(2), (3) and (4), Mississippi Code of 1972.
3337 Thereupon, the licensing agency shall, within the time and in the
3338 manner prescribed in Section 41-7-201(2), certify and file with
3339 the court a copy of the record and decision, including the
3340 transcript of the hearings in which the decision is based. No new
3341 or additional evidence shall be introduced in court; the case
3342 shall be determined upon the record certified to the court. The
3343 court may sustain or dismiss the appeal, modify or vacate the
3344 order complained of in whole or in part, as the case may be; but
3345 in case the order is wholly or partly vacated, the court may also,
3346 in its discretion, remand the matter to the licensing agency for
3347 such further proceedings, not inconsistent with the court's order,
3348 as, in the opinion of the court, justice may require. The order
3349 may not be vacated or set aside, either in whole or in part,
3350 except for errors of law, unless the court finds that the order of
3351 the licensing agency is not supported by substantial evidence, is
3352 contrary to the manifest weight of the evidence, is in excess of
3353 the statutory authority or jurisdiction of the licensing agency,
3354 or violates any vested constitutional rights of any party involved
3355 in the appeal. Pending final disposition of the matter, the
3356 status quo of the applicant or licensee shall be preserved, except
3357 as the court otherwise orders in the public interest. Rules with
3358 respect to court costs in other cases in chancery shall apply
3359 equally to cases hereunder. Appeals in accordance with law may be



3360 had to the Supreme Court of the State of Mississippi from any
3361 final judgment of the chancery court.

3362 **SECTION 39.** Section 41-77-23, Mississippi Code of 1972, is
3363 brought forward as follows:

3364 41-77-23. Any person or persons or other entity or entities
3365 establishing, managing or operating a "birthing center" or
3366 conducting the business of a "birthing center" without the
3367 required license, or which otherwise violate any of the provisions
3368 of this chapter or the Mississippi Health Care Commission Law of
3369 1979, as amended, or the rules, regulations or standards
3370 promulgated in furtherance of any law in which the commission has
3371 authority therefor, shall be subject to the penalties and
3372 sanctions of Section 41-7-209, Mississippi Code of 1972.

3373 **SECTION 40.** Section 41-77-25, Mississippi Code of 1972, is
3374 brought forward as follows:

3375 41-77-25. Upon receipt of an application for license and the
3376 license fee, the licensing agency shall issue a license if the
3377 applicant and the institutional facilities meet the requirements
3378 established under this chapter and the requirements of Section
3379 41-7-173 et seq., where determined by the licensing agency to be
3380 applicable. A license, unless suspended or revoked, shall be
3381 renewable annually upon payment of a renewal fee of Three Hundred
3382 Dollars (\$300.00), which shall be paid to the licensing agency,
3383 and upon filing by the licensee and approval by the licensing
3384 agency of an annual report upon such uniform dates and containing



3385 such information in such form as the licensing agency requires.
3386 Any increase in the fee charged by the licensing agency under this
3387 section shall be in accordance with the provisions of Section
3388 41-3-65. Each license shall be issued only for the premises and
3389 person or persons named in the application and shall not be
3390 transferable or assignable. Licenses shall be posted in a
3391 conspicuous place on the licensed premises.

3392 **SECTION 41.** Section 41-95-3, Mississippi Code of 1972, is
3393 brought forward as follows:

3394 41-95-3. As used in this chapter:

3395 (a) "Authority" means the Mississippi Health Finance
3396 Authority created under Section 41-95-5.

3397 (b) "Board" means the Mississippi Health Finance
3398 Authority Board created under Section 41-95-5.

3399 (c) "Health care facility" means all facilities and
3400 institutions, whether public or private, proprietary or nonprofit,
3401 which offer diagnosis, treatment, inpatient or ambulatory care to
3402 two (2) or more unrelated persons, and shall include, but shall
3403 not be limited to, all facilities and institutions included in
3404 Section 41-7-173(h).

3405 (d) "Health care provider" means a person, partnership
3406 or corporation, other than a facility or institution, licensed or
3407 certified or authorized by state or federal law to provide
3408 professional health care service in this state to an individual
3409 during that individual's health care, treatment or confinement.



3410 (e) "Health insurer" means any health insurance
3411 company, nonprofit hospital and medical service corporation,
3412 health maintenance organization and, to the extent permitted under
3413 federal law, any administrator of an insured, self-insured or
3414 publicly funded health care benefit plan offered by public and
3415 private entities.

3416 (f) "Resident" means a person who is domiciled in
3417 Mississippi as evidenced by an intent to maintain a principal
3418 dwelling place in Mississippi indefinitely and to return to
3419 Mississippi if temporarily absent, coupled with an act or acts
3420 consistent with that intent.

3421 (g) "Primary care" or "primary health care" includes
3422 those health care services provided to individuals, families and
3423 communities, at a first level of care, which preserve and improve
3424 health, and encompasses services which promote health, prevent
3425 disease, treat and cure illness. It is delivered by various
3426 health care providers in a variety of settings including hospital
3427 outpatient clinics, private provider offices, group practices,
3428 health maintenance organizations, public health departments and
3429 community health centers. A primary care system is characterized
3430 by coordination of comprehensive services, cultural sensitivity,
3431 community orientation, continuity, prevention, the absence of
3432 barriers to receive and provide services, and quality assurance.

3433 **SECTION 42.** Section 43-11-9, Mississippi Code of 1972, is
3434 brought forward as follows:



3435 43-11-9. (1) Upon receipt of an application for license and
3436 the license fee, the licensing agency shall issue a license if the
3437 applicant and the institutional facilities meet the requirements
3438 established under this chapter and the requirements of Section
3439 41-7-173 et seq., where determined by the licensing agency to be
3440 applicable. A license, unless suspended or revoked, shall be
3441 renewable annually upon payment by (a) the licensee of an
3442 institution for the aged or infirm, except for personal care
3443 homes, of a renewal fee of Twenty Dollars (\$20.00) for each bed in
3444 the institution, with a minimum fee per institution of Two Hundred
3445 Dollars (\$200.00), or (b) the licensee of a personal care home of
3446 a renewal fee of Fifteen Dollars (\$15.00) for each bed in the
3447 institution, with a minimum fee per institution of One Hundred
3448 Dollars (\$100.00), which shall be paid to the licensing agency,
3449 and upon filing by the licensee and approval by the licensing
3450 agency of an annual report upon such uniform dates and containing
3451 such information in such form as the licensing agency prescribes
3452 by regulation. Any increase in the fee charged by the licensing
3453 agency under this subsection shall be in accordance with the
3454 provisions of Section 41-3-65. Each license shall be issued only
3455 for the premises and person or persons or other legal entity or
3456 entities named in the application and shall not be transferable or
3457 assignable except with the written approval of the licensing
3458 agency. Licenses shall be posted in a conspicuous place on the
3459 licensed premises.



3460 (2) A fee known as a "User Fee" shall be applicable and
3461 shall be paid to the licensing agency as set out in subsection (1)
3462 of this section. Any increase in the fee charged by the licensing
3463 agency under this subsection shall be in accordance with the
3464 provisions of Section 41-3-65. This user fee shall be assessed
3465 for the purpose of the required reviewing and inspections of the
3466 proposal of any institution in which there are additions,
3467 renovations, modernizations, expansion, alterations, conversions,
3468 modifications or replacement of the entire facility involved in
3469 such proposal. This fee includes the reviewing of architectural
3470 plans in all steps required. There shall be a minimum user fee of
3471 Fifty Dollars (\$50.00) and a maximum user fee of Five Thousand
3472 Dollars (\$5,000.00).

3473 (3) No governmental entity or agency shall be required to
3474 pay the fee or fees set forth in this section.

3475 **SECTION 43.** Section 43-11-19, Mississippi Code of 1972, is
3476 brought forward as follows:

3477 43-11-19. Information received by the licensing agency
3478 through filed reports, inspection, or as otherwise authorized
3479 under this chapter, shall not be disclosed publicly in such manner
3480 as to identify individuals, except in a proceeding involving the
3481 questions of licensure; however, the licensing agency may utilize
3482 statistical data concerning types of services and the utilization
3483 of those services for institutions for the aged or infirm in



3484 performing the statutory duties imposed upon it by Section
3485 41-7-171, et seq. and by Section 43-11-21.

3486 **SECTION 44.** Section 57-117-5, Mississippi Code of 1972, is
3487 brought forward as follows:

3488 57-117-5. (1) The MDA may certify an area as a health care
3489 industry zone if the following requirements are met:

3490 (a) The area is located within:

3491 (i) Three (3) contiguous counties which have
3492 certificates of need of more than three hundred seventy-five (375)
3493 acute care hospital beds; and/or

3494 (ii) A county which has a hospital with a minimum
3495 capital investment of Two Hundred Fifty Million Dollars
3496 (\$250,000,000.00) and for which construction is completed before
3497 July 1, 2017;

3498 (b) The health care industry facility is located within
3499 a five-mile radius of:

3500 (i) A facility with a certificate of need for
3501 hospital beds; and/or

3502 (ii) A university or college that is:

3503 1. Accredited by the Southern Association of
3504 Colleges and Schools and awards degrees and/or trains workers for
3505 jobs in health care or pharmaceutical fields of study and/or work,
3506 and



3507 2. Located along or near Mississippi Highway
3508 67 within a master planned community as defined in Section
3509 19-5-10; and

3510 (c) The zoning of the local government unit, if
3511 applicable, allows the construction or operation in the proposed
3512 health care industry zone of the health care industry facility.

3513 (2) A health care industry facility that engages in an
3514 activity for which a certificate of need is required must comply
3515 with the provisions of Section 41-7-191 in order to be certified
3516 as a qualified business.

3517 (3) The MDA may adopt and promulgate such rules and
3518 regulations, in compliance with the Mississippi Administrative
3519 Procedures Law, as are necessary for the efficient and effective
3520 administration of this section in keeping with the purposes for
3521 which it is enacted.

3522 **SECTION 45.** Section 41-9-311, Mississippi Code of 1972, is
3523 brought forward as follows:

3524 41-9-311. Nothing in this act exempts hospitals from
3525 compliance with the provisions of Section 41-7-171 et seq.
3526 concerning certificates of need.

3527 **SECTION 46.** Section 43-13-117.5, Mississippi Code of 1972,
3528 is brought forward as follows:

3529 43-13-117.5. The Division of Medicaid is authorized to
3530 reimburse for services provided to eligible Medicaid beneficiaries
3531 by a licensed freestanding psychiatric hospital in a method and



3532 manner to be determined by the division in accordance with federal
3533 law and federal regulations. The division may seek any necessary
3534 waivers, make any required amendments to its State Plan, or revise
3535 any contracts authorized under Section 43-13-117(H) as necessary
3536 to provide the services authorized under this section. As used in
3537 this section, the term "psychiatric hospital" shall have the
3538 meaning as defined in Section 41-7-173(h) (ii), which is an
3539 institution that is primarily engaged in providing to inpatients,
3540 by or under the supervision of a physician, psychiatric services
3541 for the diagnosis and treatment of persons with mental illness.
3542 It is the intent of the Legislature that the cost of providing
3543 services to individuals in a psychiatric hospital shall not exceed
3544 the cost of providing the same services to individuals in a
3545 hospital as defined by Section 41-7-173(h) (i).

3546 **SECTION 47.** This act shall take effect and be in force from
3547 and after July 1, 2024, and shall stand repealed on June 30, 2024.

