

By: Representative Yancey

To: Public Health and Human Services

HOUSE BILL NO. 848  
(As Passed the House)

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

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

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

25 41-7-173. For the purposes of Section 41-7-171 et seq., the  
26 following words shall have the meanings ascribed herein, unless  
27 the context otherwise requires:



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

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

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



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

54 (ii) "Capital expenditure," when pertaining to  
55 other than major medical equipment, shall mean any expenditure  
56 which under generally accepted accounting principles consistently  
57 applied is not properly chargeable as an expense of operation and  
58 maintenance and which exceeds, for clinical health services, as  
59 defined in \* \* \* paragraph (k) below, Five Million Dollars  
60 (\$5,000,000.00), adjusted for inflation as published by the State  
61 Department of Health or which exceeds, for nonclinical health  
62 services, as defined in \* \* \* paragraph (k) below, Ten Million  
63 Dollars (\$10,000,000.00), adjusted for inflation as published by  
64 the State Department of Health.

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

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



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

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



101           (e) "Commencement of construction" means that all of  
102 the following have been completed with respect to a proposal or  
103 project proposing construction, renovating, remodeling or  
104 alteration:

105                   (i) A legally binding written contract has been  
106 consummated by the proponent and a lawfully licensed contractor to  
107 construct and/or complete the intent of the proposal within a  
108 specified period of time in accordance with final architectural  
109 plans which have been approved by the licensing authority of the  
110 State Department of Health;

111                   (ii) Any and all permits and/or approvals deemed  
112 lawfully necessary by all authorities with responsibility for such  
113 have been secured; and

114                   (iii) Actual bona fide undertaking of the subject  
115 proposal has commenced, and a progress payment of at least one  
116 percent (1%) of the total cost price of the contract has been paid  
117 to the contractor by the proponent, and the requirements of this  
118 paragraph (e) have been certified to in writing by the State  
119 Department of Health.

120           Force account expenditures, such as deposits, securities,  
121 bonds, et cetera, may, in the discretion of the State Department  
122 of Health, be excluded from any or all of the provisions of  
123 defined commencement of construction.



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

127 (g) "Develop," when used in connection with health  
128 services, means to undertake those activities which, on their  
129 completion, will result in the offering of a new institutional  
130 health service or the incurring of a financial obligation as  
131 defined under applicable state law in relation to the offering of  
132 such services.

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



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

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

160 (iii) \* \* \* [Deleted]

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

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



173 furnishing maintenance hemodialysis services to stabilized  
174 patients.

175 (vi) \* \* \* [Deleted]

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

183 (viii) \* \* \* [Deleted]

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

- 193 1. Physical, occupational or speech therapy;  
194 2. Medical social services;  
195 3. Part-time or intermittent services of a  
196 home health aide;





- 197                   4. Other services as approved by the  
198 licensing agency for home health agencies;
- 199                   5. Medical supplies, other than drugs and  
200 biologicals, and the use of medical appliances; or
- 201                   6. Medical services provided by an intern or  
202 resident-in-training at a hospital under a teaching program of  
203 such hospital.

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

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

213                   (x)   \* \* \* [Deleted]

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

220                   (xii)  "Long-term care hospital" means a  
221 freestanding, Medicare-certified hospital that has an average



222 length of inpatient stay greater than twenty-five (25) days, which  
223 is primarily engaged in providing chronic or long-term medical  
224 care to patients who do not require more than three (3) hours of  
225 rehabilitation or comprehensive rehabilitation per day, and has a  
226 transfer agreement with an acute care medical center and a  
227 comprehensive medical rehabilitation facility. Long-term care  
228 hospitals shall not use rehabilitation, comprehensive medical  
229 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
230 nursing home, skilled nursing facility or sub-acute care facility  
231 in association with its name.

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

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

243 2. Emphasizes education and training of  
244 individuals with disabilities;

245 3. Incorporates at least the following core  
246 disciplines:



- 247                   \* \* \*a. Physical Therapy;  
248                   \* \* \*b. Occupational Therapy;  
249                   \* \* \*c. Speech and Language Therapy;  
250                   \* \* \*d. Rehabilitation Nursing; and

251                   4. Incorporates at least three (3) of the  
252 following disciplines:

- 253                   \* \* \*a. Psychology;  
254                   \* \* \*b. Audiology;  
255                   \* \* \*c. Respiratory Therapy;  
256                   \* \* \*d. Therapeutic Recreation;  
257                   \* \* \*e. Orthotics;  
258                   \* \* \*f. Prosthetics;  
259                   \* \* \*g. Special Education;  
260                   \* \* \*h. Vocational Rehabilitation;  
261                   \* \* \*i. Psychotherapy;  
262                   \* \* \*j. Social Work;  
263                   \* \* \*k. Rehabilitation Engineering.

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

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

270                   (i) Provides or otherwise makes available to  
271 enrolled participants health care services, including



272 substantially the following basic health care services: usual  
273 physician services, hospitalization, laboratory, x-ray, emergency  
274 and preventive services, and out-of-area coverage;

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

279 (iii) Provides physician services primarily:

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

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

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

290 (k) "Health services" means clinically related (i.e.,  
291 diagnostic, treatment or rehabilitative) services and  
292 includes \* \* \* mental health and home health care services.

293 "Clinical health services" shall only include those activities  
294 which contemplate any change in the existing bed complement of any  
295 health care facility through the addition or conversion of any  
296 beds, under Section 41-7-191(1) (c) or propose to offer any health



297 services if those services have not been provided on a regular  
298 basis by the proposed provider of such services within the period  
299 of twelve (12) months prior to the time such services would be  
300 offered, under Section 41-7-191(1)(d). "Nonclinical health  
301 services" shall be all other services which do not involve any  
302 change in the existing bed complement or offering health services  
303 as described above. "Health services" does not include medical  
304 and related services for the diagnosis and treatment of chemical  
305 dependency such as alcohol and drug abuse.

306 (l) "Institutional health services" shall mean health  
307 services provided in or through health care facilities and shall  
308 include the entities in or through which such services are  
309 provided.

310 (m) "Major medical equipment" means medical equipment  
311 designed for providing medical or any health-related service which  
312 costs in excess of One Million Five Hundred Thousand Dollars  
313 (\$1,500,000.00). However, this definition shall not be applicable  
314 to clinical laboratories if they are determined by the State  
315 Department of Health to be independent of any physician's office,  
316 hospital or other health care facility or otherwise not so defined  
317 by federal or state law, or rules and regulations promulgated  
318 thereunder.

319 (n) "State Department of Health" or "department" shall  
320 mean the state agency created under Section 41-3-15, which shall



321 be considered to be the State Health Planning and Development  
322 Agency, as defined in paragraph (u) of this section.

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

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

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

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

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



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

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

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

357 41-7-191. (1) No person shall engage in any of the  
358 following activities without obtaining the required certificate of  
359 need:

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

364 (b) The relocation of a health care facility or portion  
365 thereof, or major medical equipment, unless such relocation of a  
366 health care facility or portion thereof, or major medical  
367 equipment, which does not involve a capital expenditure by or on  
368 behalf of a health care facility, is within five thousand two  
369 hundred eighty (5,280) feet from the main entrance of the health  
370 care facility;



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

394 (d) Offering of the following health services if those  
395 services have not been provided on a regular basis by the proposed





396 provider of such services within the period of twelve (12) months  
397 prior to the time such services would be offered:

- 398 (i) Open-heart surgery services;
- 399 (ii) Cardiac catheterization services;
- 400 (iii) Comprehensive inpatient rehabilitation

401 services;

- 402 (iv) Licensed psychiatric services;

- 403 (v) \* \* \* [Deleted]

- 404 (vi) Radiation therapy services;

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

- 407 (viii) Nursing home care as defined in \* \* \*  
408 subparagraph (iv) \* \* \* of Section 41-7-173(h);

- 409 (ix) Home health services;

- 410 (x) Swing-bed services;

- 411 (xi) Ambulatory surgical services;

- 412 (xii) Magnetic resonance imaging services;

- 413 (xiii) [Deleted]

- 414 (xiv) Long-term care hospital services;

- 415 (xv) Positron emission tomography (PET) services;

416 (e) The relocation of one or more health services from  
417 one physical facility or site to another physical facility or  
418 site, unless such relocation, which does not involve a capital  
419 expenditure by or on behalf of a health care facility, (i) is to a  
420 physical facility or site within five thousand two hundred eighty



421 (5,280) feet from the main entrance of the health care facility  
422 where the health care service is located, or (ii) is the result of  
423 an order of a court of appropriate jurisdiction or a result of  
424 pending litigation in such court, or by order of the State  
425 Department of Health, or by order of any other agency or legal  
426 entity of the state, the federal government, or any political  
427 subdivision of either, whose order is also approved by the State  
428 Department of Health;

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

439 (g) Changes of ownership of existing health care  
440 facilities in which a notice of intent is not filed with the State  
441 Department of Health at least thirty (30) days prior to the date  
442 such change of ownership occurs, or a change in services or bed  
443 capacity as prescribed in paragraph (c) or (d) of this subsection  
444 as a result of the change of ownership; an acquisition for less



445 than fair market value must be reviewed, if the acquisition at  
446 fair market value would be subject to review;

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

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

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

462 (k) The contracting of a health care facility as  
463 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
464 to establish a home office, subunit, or branch office in the space  
465 operated as a health care facility through a formal arrangement  
466 with an existing health care facility as defined in subparagraph  
467 (ix) of Section 41-7-173(h);

468 (l) The replacement or relocation of a health care  
469 facility designated as a critical access hospital shall be exempt



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

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

477 (2) The State Department of Health shall not grant approval  
478 for or issue a certificate of need to any person proposing the new  
479 construction of, addition to, or expansion of any health care  
480 facility defined in \* \* \* subparagraph (iv) (skilled nursing  
481 facility) \* \* \* of Section 41-7-173(h) or the conversion of vacant  
482 hospital beds to provide skilled \* \* \* nursing home care, except  
483 as hereinafter authorized:

484 (a) The department may issue a certificate of need to  
485 any person proposing the new construction of any health care  
486 facility defined in subparagraphs (iv) and (vi) of Section  
487 41-7-173(h) as part of a life care retirement facility, in any  
488 county bordering on the Gulf of Mexico in which is located a  
489 National Aeronautics and Space Administration facility, not to  
490 exceed forty (40) beds. From and after July 1, 1999, there shall  
491 be no prohibition or restrictions on participation in the Medicaid  
492 program (Section 43-13-101 et seq.) for the beds in the health  
493 care facility that were authorized under this paragraph (a).



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

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



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

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

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



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

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

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

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



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

571 (i) The department may issue a certificate of need for  
572 the new construction of a skilled nursing facility in Leake  
573 County, provided that the recipient of the certificate of need  
574 agrees in writing that the skilled nursing facility will not at  
575 any time participate in the Medicaid program (Section 43-13-101 et  
576 seq.) or admit or keep any patients in the skilled nursing  
577 facility who are participating in the Medicaid program. This  
578 written agreement by the recipient of the certificate of need  
579 shall be fully binding on any subsequent owner of the skilled  
580 nursing facility, if the ownership of the facility is transferred  
581 at any time after the issuance of the certificate of need.  
582 Agreement that the skilled nursing facility will not participate  
583 in the Medicaid program shall be a condition of the issuance of a  
584 certificate of need to any person under this paragraph (i), and if  
585 such skilled nursing facility at any time after the issuance of  
586 the certificate of need, regardless of the ownership of the  
587 facility, participates in the Medicaid program or admits or keeps  
588 any patients in the facility who are participating in the Medicaid  
589 program, the State Department of Health shall revoke the  
590 certificate of need, if it is still outstanding, and shall deny or  
591 revoke the license of the skilled nursing facility, at the time  
592 that the department determines, after a hearing complying with due  
593 process, that the facility has failed to comply with any of the





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

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



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

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



644 the Medicaid program. If the facility violates the terms of the  
645 written agreement by admitting or keeping in the facility on a  
646 regular or continuing basis more than thirty (30) patients who are  
647 participating in the Medicaid program, the State Department of  
648 Health shall revoke the license of the facility, at the time that  
649 the department determines, after a hearing complying with due  
650 process, that the facility has violated the written agreement.

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

661 (m) The State Department of Health may issue a  
662 certificate of need to a county-owned hospital in the Second  
663 Judicial District of Panola County for the conversion of not more  
664 than seventy-two (72) hospital beds to nursing facility beds,  
665 provided that the recipient of the certificate of need agrees in  
666 writing that none of the beds at the nursing facility will be  
667 certified for participation in the Medicaid program (Section  
668 43-13-101 et seq.), and that no claim will be submitted for



669 Medicaid reimbursement in the nursing facility in any day or for  
670 any patient in the nursing facility. This written agreement by  
671 the recipient of the certificate of need shall be a condition of  
672 the issuance of the certificate of need under this paragraph, and  
673 the agreement shall be fully binding on any subsequent owner of  
674 the nursing facility if the ownership of the nursing facility is  
675 transferred at any time after the issuance of the certificate of  
676 need. After this written agreement is executed, the Division of  
677 Medicaid and the State Department of Health shall not certify any  
678 of the beds in the nursing facility for participation in the  
679 Medicaid program. If the nursing facility violates the terms of  
680 the written agreement by admitting or keeping in the nursing  
681 facility on a regular or continuing basis any patients who are  
682 participating in the Medicaid program, the State Department of  
683 Health shall revoke the license of the nursing facility, at the  
684 time that the department determines, after a hearing complying  
685 with due process, that the nursing facility has violated the  
686 condition upon which the certificate of need was issued, as  
687 provided in this paragraph and in the written agreement. If the  
688 certificate of need authorized under this paragraph is not issued  
689 within twelve (12) months after July 1, 2001, the department shall  
690 deny the application for the certificate of need and shall not  
691 issue the certificate of need at any time after the twelve-month  
692 period, unless the issuance is contested. If the certificate of  
693 need is issued and substantial construction of the nursing



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

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



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



744 certificate of need is contested, the department shall require  
745 substantial construction of the nursing facility beds within six  
746 (6) months after final adjudication on the issuance of the  
747 certificate of need.

748 (o) The department may issue a certificate of need for  
749 the new construction, addition or conversion of skilled nursing  
750 facility beds in Leake County, provided that the recipient of the  
751 certificate of need agrees in writing that the skilled nursing  
752 facility will not at any time participate in the Medicaid program  
753 (Section 43-13-101 et seq.) or admit or keep any patients in the  
754 skilled nursing facility who are participating in the Medicaid  
755 program. This written agreement by the recipient of the  
756 certificate of need shall be fully binding on any subsequent owner  
757 of the skilled nursing facility, if the ownership of the facility  
758 is transferred at any time after the issuance of the certificate  
759 of need. Agreement that the skilled nursing facility will not  
760 participate in the Medicaid program shall be a condition of the  
761 issuance of a certificate of need to any person under this  
762 paragraph (o), and if such skilled nursing facility at any time  
763 after the issuance of the certificate of need, regardless of the  
764 ownership of the facility, participates in the Medicaid program or  
765 admits or keeps any patients in the facility who are participating  
766 in the Medicaid program, the State Department of Health shall  
767 revoke the certificate of need, if it is still outstanding, and  
768 shall deny or revoke the license of the skilled nursing facility,



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

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





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



819 41-7-193(1) regarding substantial compliance of the projection of  
820 need as reported in the current State Health Plan is waived for  
821 the purposes of this paragraph. If the certificate of need  
822 authorized under this paragraph is not issued within twelve (12)  
823 months after July 1, 1998, the department shall deny the  
824 application for the certificate of need and shall not issue the  
825 certificate of need at any time after the twelve-month period,  
826 unless the issuance is contested. If the certificate of need is  
827 issued and substantial construction of the nursing facility beds  
828 has not commenced within eighteen (18) months after July 1, 1998,  
829 the State Department of Health, after a hearing complying with due  
830 process, shall revoke the certificate of need if it is still  
831 outstanding, and the department shall not issue a license for the  
832 nursing facility at any time after the eighteen-month period.  
833 However, if the issuance of the certificate of need is contested,  
834 the department shall require substantial construction of the  
835 nursing facility beds within six (6) months after final  
836 adjudication on the issuance of the certificate of need.

837 (q) (i) Beginning on July 1, 1999, the State  
838 Department of Health shall issue certificates of need during each  
839 of the next four (4) fiscal years for the construction or  
840 expansion of nursing facility beds or the conversion of other beds  
841 to nursing facility beds in each county in the state having a need  
842 for fifty (50) or more additional nursing facility beds, as shown  
843 in the fiscal year 1999 State Health Plan, in the manner provided



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

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



868 nursing facility beds in Amite County and a certificate of need  
869 for new nursing facility beds in Carroll County.

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

884 (iv) Subject to the provisions of subparagraph  
885 (v), the certificate of need issued under subparagraph (ii) for  
886 nursing facility beds in the two (2) counties from the state at  
887 large during each fiscal year shall first be available for nursing  
888 facility beds in the two (2) counties that have the highest need  
889 in the state for those beds, as shown in the fiscal year 1999  
890 State Health Plan, when considering the need on a statewide basis  
891 and without regard to the Long-Term Care Planning Districts in  
892 which the counties are located. If there are no applications for



893 a certificate of need for nursing facility beds in either of the  
894 two (2) counties having the highest need for those beds on a  
895 statewide basis by the date specified by the department, then the  
896 certificate of need shall be available for nursing facility beds  
897 in other counties from the state at large in descending order of  
898 the need for those beds on a statewide basis, from the county with  
899 the second highest need to the county with the lowest need, until  
900 an application is received for nursing facility beds in an  
901 eligible county from the state at large.

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



917 which counties have the highest need for nursing facility beds in  
918 succeeding fiscal years.

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

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

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

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



941 Plan, to provide care exclusively to patients with Alzheimer's  
942 disease.

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

959 (iii) The State Department of Health, in  
960 consultation with the Department of Mental Health and the Division  
961 of Medicaid, shall develop and prescribe the staffing levels,  
962 space requirements and other standards and requirements that must  
963 be met with regard to the nursing facility beds authorized under  
964 this paragraph (r) to provide care exclusively to patients with  
965 Alzheimer's disease.



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

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





991 authorize the non-Medicaid nursing facility beds under  
992 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
993 subject to the following conditions: The owner of the Hancock  
994 County facility and the new Harrison County facility must agree in  
995 writing that no more than fifty (50) of the beds at the Hancock  
996 County facility and no more than forty-nine (49) of the beds at  
997 the Harrison County facility will be certified for participation  
998 in the Medicaid program, and that no claim will be submitted for  
999 Medicaid reimbursement for more than fifty (50) patients in the  
1000 Hancock County facility in any month, or for more than forty-nine  
1001 (49) patients in the Harrison County facility in any month, or for  
1002 any patient in either facility who is in a bed that is not  
1003 Medicaid-certified. This written agreement by the owner of the  
1004 nursing facilities shall be a condition of the issuance of the  
1005 certificates of need under this paragraph (t), and the agreement  
1006 shall be fully binding on any later owner or owners of either  
1007 facility if the ownership of either facility is transferred at any  
1008 time after the certificates of need are issued. After this  
1009 written agreement is executed, the Division of Medicaid and the  
1010 State Department of Health shall not certify more than fifty (50)  
1011 of the beds at the Hancock County facility or more than forty-nine  
1012 (49) of the beds at the Harrison County facility for participation  
1013 in the Medicaid program. If the Hancock County facility violates  
1014 the terms of the written agreement by admitting or keeping in the  
1015 facility on a regular or continuing basis more than fifty (50)



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

1025           (u) The State Department of Health shall issue a  
1026 certificate of need to a nonprofit venture for the establishment,  
1027 construction and operation of a skilled nursing facility of not  
1028 more than sixty (60) beds to provide skilled nursing care for  
1029 ventilator dependent or otherwise medically dependent pediatric  
1030 patients who require medical and nursing care or rehabilitation  
1031 services to be located in a county in which an academic medical  
1032 center and a children's hospital are located, and for any  
1033 construction and for the acquisition of equipment related to those  
1034 beds. The facility shall be authorized to keep such ventilator  
1035 dependent or otherwise medically dependent pediatric patients  
1036 beyond age twenty-one (21) in accordance with regulations of the  
1037 State Board of Health. For purposes of this paragraph (u), the  
1038 provisions of Section 41-7-193(1) requiring substantial compliance  
1039 with the projection of need as reported in the current State  
1040 Health Plan are waived, and the provisions of Section 41-7-197



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

1048 (3) \* \* \* [Deleted]

1049 (4) (a) From and after \* \* \* July 1, 2024, the department  
1050 may issue a certificate of need to any person for the new  
1051 construction of any hospital \* \* \* or psychiatric hospital \* \* \*  
1052 that will contain any child/adolescent psychiatric \* \* \* beds, or  
1053 for the conversion of any other health care facility to a  
1054 hospital \* \* \* or psychiatric hospital \* \* \* that will contain any  
1055 child/adolescent psychiatric \* \* \* beds. There shall be no  
1056 prohibition or restrictions on participation in the Medicaid  
1057 program (Section 43-13-101 et seq.) for the person(s) receiving  
1058 the certificate(s) of need authorized under this paragraph (a) or  
1059 for the beds converted pursuant to the authority of that  
1060 certificate of need. In issuing any new certificate of need for  
1061 any child/adolescent psychiatric \* \* \* beds, either by new  
1062 construction or conversion of beds of another category, the  
1063 department shall give preference to beds which will be located in  
1064 an area of the state which does not have such beds located in it,  
1065 and to a location more than sixty-five (65) miles from existing



1066 beds. Upon receiving 2020 census data, the department may amend  
1067 the State Health Plan regarding child/adolescent psychiatric \* \* \*  
1068 beds to reflect the need based on new census data.

1069 (i) [Deleted]

1070 (ii) \* \* \* [Deleted]

1071 (iii) The department may issue a certificate or  
1072 certificates of need for the construction or expansion of  
1073 child/adolescent psychiatric beds or the conversion of other beds  
1074 to child/adolescent psychiatric beds in Warren County. For  
1075 purposes of this subparagraph (iii), the provisions of Section  
1076 41-7-193(1) requiring substantial compliance with the projection  
1077 of need as reported in the current State Health Plan are waived.  
1078 The total number of beds that may be authorized under the  
1079 authority of this subparagraph shall not exceed twenty (20) beds.  
1080 There shall be no prohibition or restrictions on participation in  
1081 the Medicaid program (Section 43-13-101 et seq.) for the person  
1082 receiving the certificate of need authorized under this  
1083 subparagraph or for the beds converted pursuant to the authority  
1084 of that certificate of need.

1085 If by January 1, 2002, there has been no significant  
1086 commencement of construction of the beds authorized under this  
1087 subparagraph (iii), or no significant action taken to convert  
1088 existing beds to the beds authorized under this subparagraph, then  
1089 the certificate of need that was previously issued under this  
1090 subparagraph shall expire. If the previously issued certificate



1091 of need expires, the department may accept applications for  
1092 issuance of another certificate of need for the beds authorized  
1093 under this subparagraph, and may issue a certificate of need to  
1094 authorize the construction, expansion or conversion of the beds  
1095 authorized under this subparagraph.

1096 (iv) The department shall issue a certificate of  
1097 need to the Region 7 Mental Health/Retardation Commission for the  
1098 construction or expansion of child/adolescent psychiatric beds or  
1099 the conversion of other beds to child/adolescent psychiatric beds  
1100 in any of the counties served by the commission. For purposes of  
1101 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1102 requiring substantial compliance with the projection of need as  
1103 reported in the current State Health Plan are waived. The total  
1104 number of beds that may be authorized under the authority of this  
1105 subparagraph shall not exceed twenty (20) beds. There shall be no  
1106 prohibition or restrictions on participation in the Medicaid  
1107 program (Section 43-13-101 et seq.) for the person receiving the  
1108 certificate of need authorized under this subparagraph or for the  
1109 beds converted pursuant to the authority of that certificate of  
1110 need.

1111 (v) The department may issue a certificate of need  
1112 to any county hospital located in Leflore County for the  
1113 construction or expansion of adult psychiatric beds or the  
1114 conversion of other beds to adult psychiatric beds, not to exceed  
1115 twenty (20) beds, provided that the recipient of the certificate



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

1139 (vi) The department may issue a certificate or  
1140 certificates of need for the expansion of child psychiatric beds



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

1153 (b) From and after July 1, \* \* \* 2024, no  
1154 hospital \* \* \* or psychiatric hospital \* \* \* shall be authorized  
1155 to add any child/adolescent psychiatric \* \* \* beds or convert any  
1156 beds of another category to child/adolescent psychiatric \* \* \*  
1157 beds without a certificate of need under the authority of  
1158 subsection (1)(c) and subsection (4)(a) of this section.

1159 (5) The department may issue a certificate of need to a  
1160 county hospital in Winston County for the conversion of fifteen  
1161 (15) acute care beds to geriatric psychiatric care beds.

1162 (6) The State Department of Health shall issue a certificate  
1163 of need to a Mississippi corporation qualified to manage a  
1164 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1165 Harrison County, not to exceed eighty (80) beds, including any



1166 necessary renovation or construction required for licensure and  
1167 certification, provided that the recipient of the certificate of  
1168 need agrees in writing that the long-term care hospital will not  
1169 at any time participate in the Medicaid program (Section 43-13-101  
1170 et seq.) or admit or keep any patients in the long-term care  
1171 hospital who are participating in the Medicaid program. This  
1172 written agreement by the recipient of the certificate of need  
1173 shall be fully binding on any subsequent owner of the long-term  
1174 care hospital, if the ownership of the facility is transferred at  
1175 any time after the issuance of the certificate of need. Agreement  
1176 that the long-term care hospital will not participate in the  
1177 Medicaid program shall be a condition of the issuance of a  
1178 certificate of need to any person under this subsection (6), and  
1179 if such long-term care hospital at any time after the issuance of  
1180 the certificate of need, regardless of the ownership of the  
1181 facility, participates in the Medicaid program or admits or keeps  
1182 any patients in the facility who are participating in the Medicaid  
1183 program, the State Department of Health shall revoke the  
1184 certificate of need, if it is still outstanding, and shall deny or  
1185 revoke the license of the long-term care hospital, at the time  
1186 that the department determines, after a hearing complying with due  
1187 process, that the facility has failed to comply with any of the  
1188 conditions upon which the certificate of need was issued, as  
1189 provided in this subsection and in the written agreement by the  
1190 recipient of the certificate of need. For purposes of this





1191 subsection, the provisions of Section 41-7-193(1) requiring  
1192 substantial compliance with the projection of need as reported in  
1193 the current State Health Plan are waived.

1194 (7) The State Department of Health may issue a certificate  
1195 of need to any hospital in the state to utilize a portion of its  
1196 beds for the "swing-bed" concept. Any such hospital must be in  
1197 conformance with the federal regulations regarding such swing-bed  
1198 concept at the time it submits its application for a certificate  
1199 of need to the State Department of Health, except that such  
1200 hospital may have more licensed beds or a higher average daily  
1201 census (ADC) than the maximum number specified in federal  
1202 regulations for participation in the swing-bed program. Any  
1203 hospital meeting all federal requirements for participation in the  
1204 swing-bed program which receives such certificate of need shall  
1205 render services provided under the swing-bed concept to any  
1206 patient eligible for Medicare (Title XVIII of the Social Security  
1207 Act) who is certified by a physician to be in need of such  
1208 services, and no such hospital shall permit any patient who is  
1209 eligible for both Medicaid and Medicare or eligible only for  
1210 Medicaid to stay in the swing beds of the hospital for more than  
1211 thirty (30) days per admission unless the hospital receives prior  
1212 approval for such patient from the Division of Medicaid, Office of  
1213 the Governor. Any hospital having more licensed beds or a higher  
1214 average daily census (ADC) than the maximum number specified in  
1215 federal regulations for participation in the swing-bed program



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

1232 (8) \* \* \* [Deleted]

1233 (9) The Department of Health shall not grant approval for or  
1234 issue a certificate of need to any person proposing the  
1235 establishment of, or expansion of the currently approved territory  
1236 of, or the contracting to establish a home office, subunit or  
1237 branch office within the space operated as a health care facility  
1238 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1239 care facility as defined in subparagraph (ix) of Section  
1240 41-7-173(h).



1241 (10) Health care facilities owned and/or operated by the  
1242 state or its agencies are exempt from the restraints in this  
1243 section against issuance of a certificate of need if such addition  
1244 or expansion consists of repairing or renovation necessary to  
1245 comply with the state licensure law. This exception shall not  
1246 apply to the new construction of any building by such state  
1247 facility. This exception shall not apply to any health care  
1248 facilities owned and/or operated by counties, municipalities,  
1249 districts, unincorporated areas, other defined persons, or any  
1250 combination thereof.

1251 (11) The new construction, renovation or expansion of or  
1252 addition to any health care facility defined in subparagraph (ii)  
1253 (psychiatric hospital) \* \* \* and subparagraph (iv) (skilled  
1254 nursing facility) \* \* \* of Section 41-7-173(h) which is owned by  
1255 the State of Mississippi and under the direction and control of  
1256 the State Department of Mental Health, and the addition of new  
1257 beds or the conversion of beds from one category to another in any  
1258 such defined health care facility which is owned by the State of  
1259 Mississippi and under the direction and control of the State  
1260 Department of Mental Health, shall not require the issuance of a  
1261 certificate of need under Section 41-7-171 et seq.,  
1262 notwithstanding any provision in Section 41-7-171 et seq. to the  
1263 contrary.

1264 (12) The new construction, renovation or expansion of or  
1265 addition to any veterans homes or domiciliaries for eligible



1266 veterans of the State of Mississippi as authorized under Section  
1267 35-1-19 shall not require the issuance of a certificate of need,  
1268 notwithstanding any provision in Section 41-7-171 et seq. to the  
1269 contrary.

1270 (13) The repair or the rebuilding of an existing, operating  
1271 health care facility that sustained significant damage from a  
1272 natural disaster that occurred after April 15, 2014, in an area  
1273 that is proclaimed a disaster area or subject to a state of  
1274 emergency by the Governor or by the President of the United States  
1275 shall be exempt from all of the requirements of the Mississippi  
1276 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1277 rules and regulations promulgated under that law, subject to the  
1278 following conditions:

1279 (a) The repair or the rebuilding of any such damaged  
1280 health care facility must be within one (1) mile of the  
1281 pre-disaster location of the campus of the damaged health care  
1282 facility, except that any temporary post-disaster health care  
1283 facility operating location may be within five (5) miles of the  
1284 pre-disaster location of the damaged health care facility;

1285 (b) The repair or the rebuilding of the damaged health  
1286 care facility (i) does not increase or change the complement of  
1287 its bed capacity that it had before the Governor's or the  
1288 President's proclamation, (ii) does not increase or change its  
1289 levels and types of health care services that it provided before  
1290 the Governor's or the President's proclamation, and (iii) does not



1291 rebuild in a different county; however, this paragraph does not  
1292 restrict or prevent a health care facility from decreasing its bed  
1293 capacity that it had before the Governor's or the President's  
1294 proclamation, or from decreasing the levels of or decreasing or  
1295 eliminating the types of health care services that it provided  
1296 before the Governor's or the President's proclamation, when the  
1297 damaged health care facility is repaired or rebuilt;

1298 (c) The exemption from Certificate of Need Law provided  
1299 under this subsection (13) is valid for only five (5) years from  
1300 the date of the Governor's or the President's proclamation. If  
1301 actual construction has not begun within that five-year period,  
1302 the exemption provided under this subsection is inapplicable; and

1303 (d) The Division of Health Facilities Licensure and  
1304 Certification of the State Department of Health shall provide the  
1305 same oversight for the repair or the rebuilding of the damaged  
1306 health care facility that it provides to all health care facility  
1307 construction projects in the state.

1308 For the purposes of this subsection (13), "significant  
1309 damage" to a health care facility means damage to the health care  
1310 facility requiring an expenditure of at least One Million Dollars  
1311 (\$1,000,000.00).

1312 (14) The State Department of Health shall issue a  
1313 certificate of need to any hospital which is currently licensed  
1314 for two hundred fifty (250) or more acute care beds and is located  
1315 in any general hospital service area not having a comprehensive



1316 cancer center, for the establishment and equipping of such a  
1317 center which provides facilities and services for outpatient  
1318 radiation oncology therapy, outpatient medical oncology therapy,  
1319 and appropriate support services including the provision of  
1320 radiation therapy services. The provisions of Section 41-7-193(1)  
1321 regarding substantial compliance with the projection of need as  
1322 reported in the current State Health Plan are waived for the  
1323 purpose of this subsection.

1324 (15) The State Department of Health may authorize the  
1325 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1326 North Panola Community Hospital to the South Panola Community  
1327 Hospital. The authorization for the transfer of those beds shall  
1328 be exempt from the certificate of need review process.

1329 (16) The State Department of Health shall issue any  
1330 certificates of need necessary for Mississippi State University  
1331 and a public or private health care provider to jointly acquire  
1332 and operate a linear accelerator and a magnetic resonance imaging  
1333 unit. Those certificates of need shall cover all capital  
1334 expenditures related to the project between Mississippi State  
1335 University and the health care provider, including, but not  
1336 limited to, the acquisition of the linear accelerator, the  
1337 magnetic resonance imaging unit and other radiological modalities;  
1338 the offering of linear accelerator and magnetic resonance imaging  
1339 services; and the cost of construction of facilities in which to  
1340 locate these services. The linear accelerator and the magnetic



1341 resonance imaging unit shall be (a) located in the City of  
1342 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1343 Mississippi State University and the public or private health care  
1344 provider selected by Mississippi State University through a  
1345 request for proposals (RFP) process in which Mississippi State  
1346 University selects, and the Board of Trustees of State  
1347 Institutions of Higher Learning approves, the health care provider  
1348 that makes the best overall proposal; (c) available to Mississippi  
1349 State University for research purposes two-thirds (2/3) of the  
1350 time that the linear accelerator and magnetic resonance imaging  
1351 unit are operational; and (d) available to the public or private  
1352 health care provider selected by Mississippi State University and  
1353 approved by the Board of Trustees of State Institutions of Higher  
1354 Learning one-third (1/3) of the time for clinical, diagnostic and  
1355 treatment purposes. For purposes of this subsection, the  
1356 provisions of Section 41-7-193(1) requiring substantial compliance  
1357 with the projection of need as reported in the current State  
1358 Health Plan are waived.

1359 (17) The State Department of Health shall issue a  
1360 certificate of need for the construction of an acute care hospital  
1361 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1362 be named the "John C. Stennis Memorial Hospital." In issuing the  
1363 certificate of need under this subsection, the department shall  
1364 give priority to a hospital located in Lauderdale County that has  
1365 two hundred fifteen (215) beds. For purposes of this subsection,



1366 the provisions of Section 41-7-193(1) requiring substantial  
1367 compliance with the projection of need as reported in the current  
1368 State Health Plan and the provisions of Section 41-7-197 requiring  
1369 a formal certificate of need hearing process are waived. There  
1370 shall be no prohibition or restrictions on participation in the  
1371 Medicaid program (Section 43-13-101 et seq.) for the person or  
1372 entity receiving the certificate of need authorized under this  
1373 subsection or for the beds constructed under the authority of that  
1374 certificate of need.

1375 (18) The planning, design, construction, renovation,  
1376 addition, furnishing and equipping of a clinical research unit at  
1377 any health care facility defined in Section 41-7-173(h) that is  
1378 under the direction and control of the University of Mississippi  
1379 Medical Center and located in Jackson, Mississippi, and the  
1380 addition of new beds or the conversion of beds from one (1)  
1381 category to another in any such clinical research unit, shall not  
1382 require the issuance of a certificate of need under Section  
1383 41-7-171 et seq., notwithstanding any provision in Section  
1384 41-7-171 et seq. to the contrary.

1385 (19) [Repealed]

1386 (20) Nothing in this section or in any other provision of  
1387 Section 41-7-171 et seq. shall prevent any nursing facility from  
1388 designating an appropriate number of existing beds in the facility  
1389 as beds for providing care exclusively to patients with  
1390 Alzheimer's disease.





1391 (21) Nothing in this section or any other provision of  
1392 Section 41-7-171 et seq. shall prevent any health care facility  
1393 from the new construction, renovation, conversion or expansion of  
1394 new beds in the facility designated as intensive care units,  
1395 negative pressure rooms, or isolation rooms pursuant to the  
1396 provisions of Sections 41-14-1 through 41-14-11, or Section  
1397 41-14-31. For purposes of this subsection, the provisions of  
1398 Section 41-7-193(1) requiring substantial compliance with the  
1399 projection of need as reported in the current State Health Plan  
1400 and the provisions of Section 41-7-197 requiring a formal  
1401 certificate of need hearing process are waived.

1402 **SECTION 3.** Section 41-7-193, Mississippi Code of 1972, is  
1403 amended as follows:

1404 41-7-193. (1) No person may enter into any financing  
1405 arrangement or commitment for financing a new institutional health  
1406 service or any other project requiring a certificate of need  
1407 unless such certificate has been granted for such purpose. A  
1408 certificate of need shall not be granted or issued to any person  
1409 for any proposal, cause or reason, unless the proposal has been  
1410 reviewed for consistency with the specifications and the criteria  
1411 established by the State Department of Health and substantially  
1412 complies with the \* \* \* projected need and with the applicable  
1413 criteria and standards presented in the state health plan in  
1414 effect at the time the application for the proposal was submitted.



1415           (2) The department shall disapprove any application for a  
1416 certificate of need:

1417                 (a) That does not substantially comply with the  
1418 projected need or with applicable criteria and standards presented  
1419 in the state health plan;

1420                 (b) That fails to confirm that the applicant will  
1421 provide a reasonable amount of indigent care, or if the  
1422 applicant's admission policies deny or discourage access to care  
1423 by indigent patients; or

1424                 (c) If such approval would have a significant adverse  
1425 effect on the ability of an existing facility or service to  
1426 provide indigent care.

1427           (3) (a) The department may use a variety of statistical  
1428 methodologies, including, but not limited to, market share  
1429 analysis or patient origin data to determine substantial  
1430 compliance with projected need and with applicable criteria and  
1431 standards in the state health plan.

1432                 (b) For the purpose of subsection (2) of this section,  
1433 a reasonable amount of indigent care is an amount that is  
1434 comparable to the amount of such care offered by other providers  
1435 of the requested service within the same, or proximate, geographic  
1436 area. The State Health Officer shall determine whether the amount  
1437 of indigent care provided or proposed to be offered by an  
1438 applicant is reasonable.



1439           (4) An application for a certificate of need for an  
1440 institutional health service, medical equipment or any proposal  
1441 requiring a certificate of need shall specify the time, within  
1442 that granted, such shall be functional or operational according to  
1443 a time schedule submitted with the application. Each certificate  
1444 of need shall specify the maximum amount of capital expenditure  
1445 that may be obligated. The State Department of Health shall  
1446 periodically review the progress and time schedule of any person  
1447 issued or granted a certificate of need for any purpose.

1448           ( \* \* \* 5) An application for a certificate of need may be  
1449 filed at any time with the department after the applicant has  
1450 given the department fifteen (15) days' written notice of its  
1451 intent to apply for a certificate of need. The department shall  
1452 not delay review of an application. The department shall make its  
1453 recommendation approving or disapproving a complete application  
1454 within forty-five (45) days of the date the application was filed  
1455 or within fifteen (15) days of receipt of any requested  
1456 information, whichever is later, \* \* \* the request to be made by  
1457 the department within fifteen (15) days of the filing of the  
1458 application.

1459           **SECTION 4.** Section 41-77-1, Mississippi Code of 1972, is  
1460 amended as follows:

1461           41-77-1. For purposes of this chapter:

1462           (a) "Birthing center" \* \* \* means a publicly or  
1463 privately owned facility, place or institution constructed,



1464 renovated, leased or otherwise established where nonemergency  
1465 births are planned to occur away from the mother's usual residence  
1466 following a documented period of prenatal care for a normal  
1467 uncomplicated pregnancy which has been determined to be low risk  
1468 through a formal risk scoring examination. Care provided in a  
1469 birthing center shall be provided by a licensed physician, or  
1470 certified nurse midwife, and a registered nurse. Services  
1471 provided in a birthing center shall be limited in the following  
1472 manner: (i) surgical services shall be limited to those normally  
1473 performed during uncomplicated childbirth, such as episiotomy and  
1474 repair, and shall not include operative obstetrics or caesarean  
1475 sections; (ii) labor shall not be inhibited, stimulated or  
1476 augmented with chemical agents during the first or second stage of  
1477 labor; (iii) systemic analgesia may be administered and local  
1478 anesthesia for pudental block and episiotomy repair may be  
1479 performed. General and conductive anesthesia shall not be  
1480 administered at birthing centers; (iv) patients shall not remain  
1481 in the facility in excess of twenty-four (24) hours.

1482 Hospitals are excluded from the definition of a "birthing  
1483 center" unless they choose to and are qualified to designate a  
1484 portion or part of the hospital as a birthing center, and nothing  
1485 herein shall be construed as referring to the usual service  
1486 provided the pregnant female in the obstetric-gynecology service  
1487 of an acute care hospital. Such facility or center, as heretofore  
1488 stated, shall include the offices of physicians in private



1489 practice alone or in groups of two (2) or more; and such facility  
1490 or center rendering service to pregnant female persons, as stated  
1491 heretofore and by the rules and regulations promulgated by the  
1492 licensing agency in furtherance thereof, shall be deemed to be a  
1493 "birthing center" whether using a similar or different name. Such  
1494 center or facility if in any manner is deemed to be or considered  
1495 to be operated or owned by a hospital or a hospital holding  
1496 leasing or management company, for profit or not for profit, is  
1497 required to comply with all birthing center standards governing a  
1498 "hospital affiliated" birthing center as adopted by the licensing  
1499 authority.

1500 (b) "Hospital affiliated" birthing center \* \* \* means a  
1501 separate and distinct unit of a hospital or a building owned,  
1502 leased, rented or utilized by a hospital and located in the same  
1503 county as the hospital for the purpose of providing the service of  
1504 a "birthing center." Such center or facility is not required to  
1505 be licensed separately, and may operate under the license issued  
1506 to the hospital if it is in compliance with Section 41-9-1 et  
1507 seq., where applicable, and the rules and regulations promulgated  
1508 by the licensing agency in furtherance thereof.

1509 (c) "Freestanding" birthing center \* \* \* means a  
1510 separate and distinct facility or center or a separate and  
1511 distinct organized unit of a hospital or other \* \* \* entity for  
1512 the purpose of performing the service of a "birthing center."  
1513 Such facility or center must be separately licensed and must



1514 comply with all licensing standards promulgated by the licensing  
1515 agency by virtue of this chapter. Further, such facility or  
1516 center must be a separate, identifiable entity and must be  
1517 physically, administratively and financially independent from  
1518 other operations of any hospital or other health care facility or  
1519 service and shall maintain a separate and required staff,  
1520 including administrative staff. \* \* \*

1521 (d) "Licensing agency" \* \* \* means the State Department  
1522 of Health.

1523 **SECTION 5.** Section 41-77-5, Mississippi Code of 1972, is  
1524 amended as follows:

1525 41-77-5. No person \* \* \* or other entity, acting severally  
1526 or jointly with any other person or entity, shall establish,  
1527 conduct or maintain a "birthing center" in this state without a  
1528 license under this chapter.

1529 **SECTION 6.** Section 41-77-21, Mississippi Code of 1972, is  
1530 amended as follows:

1531 41-77-21. Any applicant or licensee aggrieved by the  
1532 decision of the licensing agency after a hearing may, within  
1533 thirty (30) days after the mailing or serving of notice of the  
1534 decision as provided in Section 43-11-11, \* \* \* file a notice of  
1535 appeal to the Chancery Court of the First Judicial District of  
1536 Hinds County or in the chancery court of the county in which the  
1537 institution is located or proposed to be located. \* \* \*  
1538 Thereupon, the licensing agency shall \* \* \* certify and file with



1539 the court a copy of the record and decision, including the  
1540 transcript of the hearings in which the decision is based. No new  
1541 or additional evidence shall be introduced in court; the case  
1542 shall be determined upon the record certified to the court. The  
1543 court may sustain or dismiss the appeal, modify or vacate the  
1544 order complained of in whole or in part, as the case may be; but  
1545 in case the order is wholly or partly vacated, the court may also,  
1546 in its discretion, remand the matter to the licensing agency for  
1547 such further proceedings, not inconsistent with the court's order,  
1548 as, in the opinion of the court, justice may require. The order  
1549 may not be vacated or set aside, either in whole or in part,  
1550 except for errors of law, unless the court finds that the order of  
1551 the licensing agency is not supported by substantial evidence, is  
1552 contrary to the manifest weight of the evidence, is in excess of  
1553 the statutory authority or jurisdiction of the licensing agency,  
1554 or violates any vested constitutional rights of any party involved  
1555 in the appeal. Pending final disposition of the matter, the  
1556 status quo of the applicant or licensee shall be preserved, except  
1557 as the court otherwise orders in the public interest. Rules with  
1558 respect to court costs in other cases in chancery shall apply  
1559 equally to cases hereunder. Appeals in accordance with law may be  
1560 had to the Supreme Court of the State of Mississippi from any  
1561 final judgment of the chancery court.

1562       **SECTION 7.** Section 41-77-23, Mississippi Code of 1972, is  
1563 amended as follows:



1564 41-77-23. Any person or persons or other entity or entities  
1565 establishing, managing or operating a "birthing center" or  
1566 conducting the business of a "birthing center" without the  
1567 required license, or which otherwise violate any of the provisions  
1568 of this chapter \* \* \* or the rules, regulations or standards  
1569 promulgated in furtherance of any law in which the \* \* \* licensing  
1570 agency has authority therefor, shall be subject to the following  
1571 penalties and sanctions of Section 41-7-209 \* \* \*:

1572 (a) Revocation of the license of the birthing center or  
1573 a designated section, component or service thereof; or

1574 (b) Nonlicensure of a specific or designated service  
1575 offered by the birthing center.

1576 In addition, any violation of any provision of this chapter  
1577 or any rules or regulations promulgated in furtherance thereof by  
1578 intent, fraud, deceit, unlawful design, willful and/or deliberate  
1579 misrepresentation, or by careless, negligent or incautious  
1580 disregard for such statutes or rules and regulations, either by  
1581 persons acting individually or in concert with others, shall  
1582 constitute a misdemeanor and shall be punishable by a fine not to  
1583 exceed One Thousand Dollars (\$1,000.00) for each such offense.  
1584 Each day of continuing violation shall be considered a separate  
1585 offense. The venue for prosecution of any such violation shall be  
1586 in any county of the state in which any such violation, or portion  
1587 thereof, occurred.





1588           **SECTION 8.** Section 41-77-25, Mississippi Code of 1972, is  
1589 amended as follows:

1590           41-77-25. Upon receipt of an application for license and the  
1591 license fee, the licensing agency shall issue a license if the  
1592 applicant and the institutional facilities meet the requirements  
1593 established under this chapter \* \* \*. A license, unless suspended  
1594 or revoked, shall be renewable annually upon payment of a renewal  
1595 fee of Three Hundred Dollars (\$300.00), which shall be paid to the  
1596 licensing agency, and upon filing by the licensee and approval by  
1597 the licensing agency of an annual report upon such uniform dates  
1598 and containing such information in such form as the licensing  
1599 agency requires. Any increase in the fee charged by the licensing  
1600 agency under this section shall be in accordance with the  
1601 provisions of Section 41-3-65. Each license shall be issued only  
1602 for the premises and person or persons named in the application  
1603 and shall not be transferable or assignable. Licenses shall be  
1604 posted in a conspicuous place on the licensed premises.

1605           **SECTION 9.** This act shall take effect and be in force from  
1606 and after July 1, 2024.

