

By: Representatives Zuber, Creekmore IV

To: Public Health and Human Services; State Affairs

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 922

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 AND PSYCHIATRIC
4 RESIDENTIAL TREATMENT FACILITIES FROM THE REQUIREMENTS OF THE
5 HEALTH CARE CERTIFICATE OF NEED LAW; TO REMOVE HOSPITAL-BASED END
6 STAGE RENAL DISEASE FACILITIES, MAGNETIC RESONANCE IMAGING
7 SERVICES AND DIAGNOSTIC IMAGING SERVICES OF AN INVASIVE NATURE
8 FROM THE REQUIREMENTS OF THE CERTIFICATE OF NEED LAW FROM AND
9 AFTER JULY 1, 2029; TO INCREASE THE MINIMUM DOLLAR AMOUNTS OF
10 CAPITAL EXPENDITURES AND MAJOR MEDICAL EQUIPMENT THAT REQUIRE THE
11 ISSUANCE OF A CERTIFICATE OF NEED; TO DIRECT THE STATE DEPARTMENT
12 OF HEALTH TO ISSUE A CERTIFICATE OF NEED TO A NONPROFIT
13 CORPORATION LOCATED IN MADISON COUNTY FOR THE CONSTRUCTION,
14 EXPANSION OR CONVERSION OF ADDITIONAL BEDS IN A COMMUNITY LIVING
15 PROGRAM FOR DEVELOPMENTALLY DISABLED ADULTS IN AN INTERMEDIATE
16 CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES; TO
17 AUTHORIZE THE DEPARTMENT TO ISSUE CERTIFICATES OF NEED TO PERSONS
18 FOR THE NEW CONSTRUCTION OF INTERMEDIATE CARE FACILITIES FOR
19 INDIVIDUALS WITH INTELLECTUAL DISABILITIES, WITH NOT MORE THAN TEN
20 BEDS AUTHORIZED BY ANY CERTIFICATE OF NEED AND NOT MORE THAN
21 EIGHTY BEDS FOR ALL SUCH CERTIFICATES OF NEED; TO AMEND SECTION
22 41-7-185, MISSISSIPPI CODE OF 1972, TO DIRECT THE DEPARTMENT TO
23 PREPARE A STATE HEALTH PLAN ANNUALLY USING THE MOST RECENT DATA
24 AVAILABLE TO THE DEPARTMENT; TO AMEND SECTION 41-7-187,
25 MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DEPARTMENT FROM
26 EXEMPTING ANY PERSON OR ENTITY FROM HAVING TO OBTAIN A CERTIFICATE
27 OF NEED FOR ANY ACTIVITY THAT WOULD OTHERWISE REQUIRE THE ISSUANCE
28 OF A CERTIFICATE OF NEED UNDER THE CERTIFICATE OF NEED LAWS; TO
29 AMEND SECTION 41-7-193, MISSISSIPPI CODE OF 1972, TO REQUIRE
30 RECIPIENTS OF CERTIFICATES OF NEED TO MAKE WRITTEN PROGRESS
31 REPORTS OF THEIR PROJECTS AT LEAST EVERY SIX MONTHS AND AT
32 COMPLETION; TO PROVIDE THAT THE DEPARTMENT SHALL MONITOR THE
33 PROJECTS TO ASSURE COMPLIANCE WITH STATED POLICIES, STANDARDS AND
34 APPROVED COSTS; TO PROVIDE THAT THE DEPARTMENT SHALL PERIODICALLY



35 REVIEW THE HEALTH CARE FACILITY, EQUIPMENT OR SERVICE AUTHORIZED
36 BY THE CERTIFICATE OF NEED TO ENSURE THAT THE FACILITY, EQUIPMENT
37 OR SERVICE IS BEING USED OR OPERATED FOR THE PURPOSE THAT WAS
38 STATED IN THE APPLICATION FOR THE CERTIFICATE OF NEED AND IN A
39 MANNER CONSISTENT WITH THE INFORMATION PROVIDED IN THE
40 APPLICATION; TO AMEND SECTION 41-7-195, MISSISSIPPI CODE OF 1972,
41 TO PROVIDE THAT A CERTIFICATE OF NEED MAY BE EXTENDED FOR UP TO
42 TWELVE MONTHS IN THOSE CASES WHERE THE APPLICANT SHOWS TO THE
43 SATISFACTION OF THE DEPARTMENT THAT A GOOD FAITH EFFORT HAS BEEN
44 MADE TOWARD COMPLETION OF THE PROJECT; TO PROVIDE THAT A
45 CERTIFICATE OF NEED MAY BE EXTENDED UP TO FOUR TIMES FOR NOT MORE
46 THAN TWELVE MONTHS EACH TIME, WHERE CONSTRUCTION HAS NOT COMMENCED
47 OR OTHER PREPARATION IS NOT SUBSTANTIALLY UNDERTAKEN RELATED TO
48 THE CERTIFICATE OF NEED; TO PROVIDE THAT AFTER THE END OF THE
49 PERIOD OF THE FOURTH TWELVE-MONTH EXTENSION, THE CERTIFICATE OF
50 NEED SHALL EXPIRE, AND THE APPLICANT MUST APPLY FOR A NEW
51 CERTIFICATE OF NEED; TO PROVIDE THAT A CERTIFICATE OF NEED SHALL
52 BE REVOKED IF COMMENCEMENT OF CONSTRUCTION OR OTHER PREPARATION IS
53 NOT SUBSTANTIALLY UNDERTAKEN DURING A VALID CERTIFICATE OF NEED
54 PERIOD OR THE DEPARTMENT DETERMINES THE APPLICANT IS NOT MAKING A
55 GOOD FAITH EFFORT TOWARD COMPLETION OF THE PROJECT; TO AMEND
56 SECTION 41-7-201, MISSISSIPPI CODE OF 1972, TO REVISE THE
57 PROCEDURE FOR APPEALS OF FINAL ORDERS OF THE STATE DEPARTMENT OF
58 HEALTH PERTAINING TO CERTIFICATES OF NEED; TO PROVIDE THAT SUCH
59 APPEALS SHALL BE HEARD BY A SPECIAL CHANCERY JUDGE APPOINTED BY
60 THE SUPREME COURT; TO PROVIDE THAT THE SUPREME COURT SHALL APPOINT
61 THE SPECIAL CHANCERY JUDGE WITHIN FIFTEEN CALENDAR DAYS AFTER THE
62 DATE THAT THE APPEAL IS FILED; TO PROVIDE THAT THE FINAL ORDER OF
63 THE SPECIAL CHANCERY JUDGE SHALL BE THE FINAL DECISION IN THE
64 CASE, AND NO FURTHER APPEAL SHALL BE ALLOWED FROM THAT FINAL
65 ORDER; TO BRING FORWARD SECTIONS 41-7-190, 41-7-197, 41-7-207 AND
66 41-7-209, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR LIMITATIONS
67 ON OWNERSHIP OF CERTAIN BEDS, PROVIDE FOR HEARINGS DURING THE
68 COURSE OF REVIEW BEFORE A HEARING OFFICER, PROVIDE A REVIEW
69 PROCESS FOR EMERGENCY REPLACEMENT, AND PROVIDE PENALTIES FOR
70 VIOLATIONS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND
71 SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
72 APPOINTMENT OF SPECIAL CHANCERY JUDGES BY THE SUPREME COURT TO
73 HEAR APPEALS OF CERTIFICATE OF NEED ORDERS; TO AMEND SECTIONS
74 41-3-15 AND 41-7-188, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
75 PRECEDING PROVISIONS; TO AMEND SECTIONS 41-77-1, 41-77-5,
76 41-77-21, 41-77-23 AND 41-77-25, MISSISSIPPI CODE OF 1972, TO
77 DELETE ALL REFERENCES TO THE CERTIFICATE OF NEED LAW IN THE
78 LICENSURE LAWS FOR BIRTHING CENTERS; TO CREATE NEW SECTION
79 43-11-10, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY LICENSE
80 ISSUED ON OR AFTER JULY 1, 2025, BY THE DEPARTMENT FOR THE
81 ESTABLISHMENT OF A NEW INTERMEDIATE CARE FACILITY FOR INDIVIDUALS
82 WITH INTELLECTUAL DISABILITIES SHALL NOT AUTHORIZE MORE THAN TEN
83 BEDS FOR THE FACILITY; TO PROVIDE THAT THE DEPARTMENT SHALL NOT
84 AUTHORIZE ANY ADDITIONAL BEDS FOR ANY INTERMEDIATE CARE FACILITY
85 FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT IS OPERATING



86 ON JULY 1, 2025, ABOVE THE NUMBER OF BEDS THAT WERE AUTHORIZED FOR
87 THE FACILITY ON JULY 1, 2025; TO AUTHORIZE THE DEPARTMENT TO ISSUE
88 A LICENSE TO THE OWNER OF ANY SUCH FACILITY FOR THE ESTABLISHMENT
89 OF A NEW INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH
90 INTELLECTUAL DISABILITIES WITH NOT MORE THAN TEN BEDS AUTHORIZED
91 FOR THE FACILITY; TO REPEAL SECTION 41-7-202, MISSISSIPPI CODE OF
92 1972, WHICH PROVIDES FOR A STAY OF PROCEEDINGS OF WRITTEN
93 DECISIONS OF THE STATE DEPARTMENT OF HEALTH PERTAINING TO
94 CERTIFICATES OF NEED FOR CERTAIN HEALTH CARE FACILITIES, AND
95 SECTION 41-4-18, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE
96 DEPARTMENT OF MENTAL HEALTH TO CONTRACT WITH PRIVATE AND/OR PUBLIC
97 ENTITIES TO TRANSFER BEDS OF INTERMEDIATE CARE FACILITIES FOR
98 INDIVIDUALS WITH INTELLECTUAL DISABILITIES OWNED AND OPERATED BY
99 THE DEPARTMENT TO LOCATIONS OWNED AND OPERATED BY PRIVATE AND/OR
100 PUBLIC ENTITIES; AND FOR RELATED PURPOSES.

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

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

104 41-7-173. For the purposes of Section 41-7-171 et seq., the
105 following words shall have the meanings ascribed herein, unless
106 the context otherwise requires:

107 (a) "Affected person" means (i) the applicant; (ii) a
108 person residing within the geographic area to be served by the
109 applicant's proposal; (iii) a person who regularly uses health
110 care facilities or HMOs located in the geographic area of the
111 proposal which provide similar service to that which is proposed;
112 (iv) health care facilities and HMOs which have, prior to receipt
113 of the application under review, formally indicated an intention
114 to provide service similar to that of the proposal being
115 considered at a future date; (v) third-party payers who reimburse
116 health care facilities located in the geographical area of the
117 proposal; or (vi) any agency that establishes rates for health



118 care services or HMOs located in the geographic area of the
119 proposal.

120 (b) "Certificate of need" means a written order of the
121 State Department of Health setting forth the affirmative finding
122 that a proposal in prescribed application form, sufficiently
123 satisfies the plans, standards and criteria prescribed for such
124 service or other project by Section 41-7-171 et seq., and by rules
125 and regulations promulgated thereunder by the State Department of
126 Health.

127 (c) (i) "Capital expenditure," when pertaining to
128 defined major medical equipment, * * *~~shall~~ means an expenditure
129 which, under generally accepted accounting principles consistently
130 applied, is not properly chargeable as an expense of operation and
131 maintenance and which exceeds * * *~~One Million Five Hundred~~
132 ~~Thousand Dollars (\$1,500,000.00)~~ Three Million Dollars
133 (\$3,000,000.00). Each fiscal year, this amount shall be increased
134 by the annual rate of inflation for the State of Mississippi as
135 determined by the State Economist.

136 (ii) "Capital expenditure," when pertaining to
137 other than major medical equipment, * * *~~shall~~ means any
138 expenditure which under generally accepted accounting principles
139 consistently applied is not properly chargeable as an expense of
140 operation and maintenance and which exceeds, for clinical health
141 services, as defined in paragraph (k) below, * * *~~Five Million~~
142 ~~Dollars (\$5,000,000.00)~~ Ten Million Dollars



143 (\$10,000,000.00), * * *adjusted for inflation as published by the
144 State Department of Health or which exceeds, for nonclinical
145 health services, as defined in paragraph (k) below, * * *Ten
146 Million Dollars (\$10,000,000.00) Twenty Million Dollars
147 (\$20,000,000.00),adjusted for inflation as published by the State
148 Department of Health. Each fiscal year, the amounts in this
149 subparagraph (ii) shall be increased by the annual rate of
150 inflation for the State of Mississippi as determined by the State
151 Economist.

152 (iii) A "capital expenditure" * * *~~shall~~ includes
153 the acquisition, whether by lease, sufferance, gift, devise,
154 legacy, settlement of a trust or other means, of any facility or
155 part thereof, or equipment for a facility, the expenditure for
156 which would have been considered a capital expenditure if acquired
157 by purchase. Transactions which are separated in time but are
158 planned to be undertaken within twelve (12) months of each other
159 and are components of an overall plan for meeting patient care
160 objectives shall, for purposes of this definition, be viewed in
161 their entirety without regard to their timing.

162 (iv) In those instances where a health care
163 facility or other provider of health services proposes to provide
164 a service in which the capital expenditure for major medical
165 equipment or other than major medical equipment or a combination
166 of the two (2) may have been split between separate parties, the
167 total capital expenditure required to provide the proposed service



168 shall be considered in determining the necessity of certificate of
169 need review and in determining the appropriate certificate of need
170 review fee to be paid. The capital expenditure associated with
171 facilities and equipment to provide services in Mississippi shall
172 be considered regardless of where the capital expenditure was
173 made, in state or out of state, and regardless of the domicile of
174 the party making the capital expenditure, in state or out of
175 state.

176 (d) "Change of ownership" includes, but is not limited
177 to, inter vivos gifts, purchases, transfers, lease arrangements,
178 cash and/or stock transactions or other comparable arrangements
179 whenever any person or entity acquires or controls a majority
180 interest of an existing health care facility, and/or the change of
181 ownership of major medical equipment, a health service, or an
182 institutional health service. Changes of ownership from
183 partnerships, single proprietorships or corporations to another
184 form of ownership are specifically included. However, "change of
185 ownership" shall not include any inherited interest acquired as a
186 result of a testamentary instrument or under the laws of descent
187 and distribution of the State of Mississippi.

188 (e) "Commencement of construction" means that all of
189 the following have been completed with respect to a proposal or
190 project proposing construction, renovating, remodeling or
191 alteration:



192 (i) A legally binding written contract has been
193 consummated by the proponent and a lawfully licensed contractor to
194 construct and/or complete the intent of the proposal within a
195 specified period of time in accordance with final architectural
196 plans which have been approved by the licensing authority of the
197 State Department of Health;

198 (ii) Any and all permits and/or approvals deemed
199 lawfully necessary by all authorities with responsibility for such
200 have been secured; and

201 (iii) Actual bona fide undertaking of the subject
202 proposal has commenced, and a progress payment of at least one
203 percent (1%) of the total cost price of the contract has been paid
204 to the contractor by the proponent, and the requirements of this
205 paragraph (e) have been certified to in writing by the State
206 Department of Health.

207 Force account expenditures, such as deposits, securities,
208 bonds, et cetera, may, in the discretion of the State Department
209 of Health, be excluded from any or all of the provisions of
210 defined commencement of construction.

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

214 (g) "Develop," when used in connection with health
215 services, means to undertake those activities which, on their
216 completion, will result in the offering of a new institutional



217 health service or the incurring of a financial obligation as
218 defined under applicable state law in relation to the offering of
219 such services.

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

239 (i) "Hospital" means an institution which is
240 primarily engaged in providing to inpatients, by or under the
241 supervision of physicians, diagnostic services and therapeutic



242 services for medical diagnosis, treatment and care of injured,
243 disabled or sick persons, or rehabilitation services for the
244 rehabilitation of injured, disabled or sick persons. Such term
245 does not include psychiatric hospitals.

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

250 (iii) * * *~~"Chemical dependency hospital" means an~~
251 ~~institution which is primarily engaged in providing to inpatients,~~
252 ~~by or under the supervision of a physician, medical and related~~
253 ~~services for the diagnosis and treatment of chemical dependency~~
254 ~~such as alcohol and drug abuse. [Deleted]~~

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

261 (v) "End-stage renal disease (ESRD) facilities"
262 means kidney disease treatment centers, which includes
263 freestanding hemodialysis units and limited care facilities. From
264 and after July 1, 2029, the term "end-stage renal disease (ESRD)
265 facilities" does not include hospital-based facilities.



266 The term "limited care facility" generally refers to ~~an~~
267 ~~off-hospital-premises~~ a facility, regardless of whether it is
268 provider or nonprovider operated, which is engaged primarily in
269 furnishing maintenance hemodialysis services to stabilized
270 patients. The term "hospital-based facility" has the meaning as
271 described in 42 CFR Section 413.174 at the time of application and
272 also includes facilities contracting with or operating jointly
273 with a hospital to provide hemodialysis services, provided that
274 the hospital is the entity responsible for billing for such
275 services.

276 (vi) * * *~~"Intermediate care facility" means an~~
277 ~~institution which provides, on a regular basis, health-related~~
278 ~~care and services to individuals who do not require the degree of~~
279 ~~care and treatment which a hospital or skilled nursing facility is~~
280 ~~designed to provide, but who, because of their mental or physical~~
281 ~~condition, require health-related care and services (above the~~
282 ~~level of room and board).~~ [Deleted]

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



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

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

- 306 1. Physical, occupational or speech therapy;
- 307 2. Medical social services;
- 308 3. Part-time or intermittent services of a
309 home health aide;
- 310 4. Other services as approved by the
311 licensing agency for home health agencies;
- 312 5. Medical supplies, other than drugs and
313 biologicals, and the use of medical appliances; or



314 6. Medical services provided by an intern or
315 resident-in-training at a hospital under a teaching program of
316 such hospital.

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

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

326 (x) * * *~~"Psychiatric residential treatment~~
327 ~~facility" means any nonhospital establishment with permanent~~
328 ~~licensed facilities which provides a twenty-four-hour program of~~
329 ~~care by qualified therapists, including, but not limited to, duly~~
330 ~~licensed mental health professionals, psychiatrists,~~
331 ~~psychologists, psychotherapists and licensed certified social~~
332 ~~workers, for emotionally disturbed children and adolescents~~
333 ~~referred to such facility by a court, local school district or by~~
334 ~~the Department of Human Services, who are not in an acute phase of~~
335 ~~illness requiring the services of a psychiatric hospital, and are~~
336 ~~in need of such restorative treatment services. For purposes of~~
337 ~~this subparagraph, the term "emotionally disturbed" means a~~
338 ~~condition exhibiting one or more of the following characteristics~~



339 ~~over a long period of time and to a marked degree, which adversely~~
340 ~~affects educational performance:~~

341 ~~_____ 1. An inability to learn which cannot be~~
342 ~~explained by intellectual, sensory or health factors;~~

343 ~~_____ 2. An inability to build or maintain~~
344 ~~satisfactory relationships with peers and teachers;~~

345 ~~_____ 3. Inappropriate types of behavior or~~
346 ~~feelings under normal circumstances;~~

347 ~~_____ 4. A general pervasive mood of unhappiness or~~
348 ~~depression; or~~

349 ~~_____ 5. A tendency to develop physical symptoms or~~
350 ~~fears associated with personal or school problems. An~~
351 ~~establishment furnishing primarily domiciliary care is not within~~
352 ~~this definition. [Deleted]~~

353 (xi) "Pediatric skilled nursing facility" means an
354 institution or a distinct part of an institution that is primarily
355 engaged in providing to inpatients skilled nursing care and
356 related services for persons under twenty-one (21) years of age
357 who require medical or nursing care or rehabilitation services for
358 the rehabilitation of injured, disabled or sick persons.

359 (xii) "Long-term care hospital" means a
360 freestanding, Medicare-certified hospital that has an average
361 length of inpatient stay greater than twenty-five (25) days, which
362 is primarily engaged in providing chronic or long-term medical
363 care to patients who do not require more than three (3) hours of



364 rehabilitation or comprehensive rehabilitation per day, and has a
365 transfer agreement with an acute care medical center and a
366 comprehensive medical rehabilitation facility. Long-term care
367 hospitals shall not use rehabilitation, comprehensive medical
368 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
369 nursing home, skilled nursing facility or sub-acute care facility
370 in association with its name.

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

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

382 2. Emphasizes education and training of
383 individuals with disabilities;

384 3. Incorporates at least the following core
385 disciplines:

386 a. Physical Therapy;

387 b. Occupational Therapy;

388 c. Speech and Language Therapy;



- 389 d. Rehabilitation Nursing; and
390 4. Incorporates at least three (3) of the
391 following disciplines:
392 a. Psychology;
393 b. Audiology;
394 c. Respiratory Therapy;
395 d. Therapeutic Recreation;
396 e. Orthotics;
397 f. Prosthetics;
398 g. Special Education;
399 h. Vocational Rehabilitation;
400 i. Psychotherapy;
401 j. Social Work;
402 k. Rehabilitation Engineering.

403 These specialized programs include, but are not limited to:
404 spinal cord injury programs, head injury programs and infant and
405 early childhood development programs.

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

409 (i) Provides or otherwise makes available to
410 enrolled participants health care services, including
411 substantially the following basic health care services: usual
412 physician services, hospitalization, laboratory, x-ray, emergency
413 and preventive services, and out-of-area coverage;



414 (ii) Is compensated (except for copayments) for
415 the provision of the basic health care services listed in
416 subparagraph (i) of this paragraph to enrolled participants on a
417 predetermined basis; and

418 (iii) Provides physician services primarily:

419 1. Directly through physicians who are either
420 employees or partners of such organization; or

421 2. Through arrangements with individual
422 physicians or one or more groups of physicians (organized on a
423 group practice or individual practice basis).

424 (j) "Health service area" means a geographic area of
425 the state designated in the State Health Plan as the area to be
426 used in planning for specified health facilities and services and
427 to be used when considering certificate of need applications to
428 provide health facilities and services.

429 (k) "Health services" means clinically related (i.e.,
430 diagnostic, treatment or rehabilitative) services and
431 includes * * *~~alcohol, drug abuse,~~ mental health and home health
432 care services. "Clinical health services" shall only include
433 those activities which contemplate any change in the existing bed
434 complement of any health care facility through the addition or
435 conversion of any beds, under Section 41-7-191(1)(c) or propose to
436 offer any health services if those services have not been provided
437 on a regular basis by the proposed provider of such services
438 within the period of twelve (12) months prior to the time such



439 services would be offered, under Section 41-7-191(1)(d).
440 "Nonclinical health services" shall be all other services which do
441 not involve any change in the existing bed complement or offering
442 health services as described above. "Health services" does not
443 include medical and related services for the diagnosis and
444 treatment of chemical dependency such as alcohol and drug abuse.

445 (l) "Institutional health services" shall mean health
446 services provided in or through health care facilities and shall
447 include the entities in or through which such services are
448 provided.

449 (m) "Major medical equipment" means medical equipment
450 designed for providing medical or any health-related service which
451 costs in excess of * * *~~One Million Five Hundred Thousand Dollars~~
452 ~~(\$1,500,000.00)~~ Three Million Dollars (\$3,000,000.00). Each
453 fiscal year, this amount shall be increased by the annual rate of
454 inflation for the State of Mississippi as determined by the State
455 Economist. However, this definition shall not be applicable to
456 clinical laboratories if they are determined by the State
457 Department of Health to be independent of any physician's office,
458 hospital or other health care facility or otherwise not so defined
459 by federal or state law, or rules and regulations promulgated
460 thereunder.

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



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

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

469 (p) "Person" means an individual, a trust or estate,
470 partnership, corporation (including associations, joint-stock
471 companies and insurance companies), the state or a political
472 subdivision or instrumentality of the state.

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

477 (r) "Radiation therapy services" means the treatment of
478 cancer and other diseases using ionizing radiation of either high
479 energy photons (x-rays or gamma rays) or charged particles
480 (electrons, protons or heavy nuclei). However, for purposes of a
481 certificate of need, radiation therapy services shall not include
482 low energy, superficial, external beam x-ray treatment of
483 superficial skin lesions.

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



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

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

497 **SECTION 2.** Section 41-7-185, Mississippi Code of 1972, is
498 amended as follows:

499 41-7-185. In carrying out its functions under Section
500 41-7-171 et seq., the State Department of Health is * * *~~hereby~~
501 empowered to:

502 (a) Make applications for and accept funds from the
503 secretary and other federal and state agencies and to receive and
504 administer such other funds for the planning or provision of
505 health facilities or health care as are appropriate to the
506 accomplishment of the purposes of Section 41-7-171 et seq. * * *~~;~~
507 and to contract with the secretary to accept funds to administer
508 planning activities on the community, regional or state level;

509 (b) With the approval of the secretary, delegate to or
510 contract with any mutually agreeable department, division or
511 agency of the state, the federal government, or any political
512 subdivision of either, or any private corporation, organization or



513 association chartered by the Secretary of State of Mississippi,
514 authority for administering any programs, duties or functions
515 provided for in Section 41-7-171 * * *~~7~~ et seq.;

516 (c) Prescribe and promulgate such reasonable rules and
517 regulations as may be necessary to the implementation of the
518 purposes of Section 41-7-171 * * *~~7~~ et seq., complying with
519 Section * * *~~25-43-1~~, 25-43-1.101 et seq.;

520 (d) Require providers of institutional health services
521 and home health care services provided through a home health
522 agency and any other provider of health care requiring a
523 certificate of need to submit or make available statistical
524 information or such other information requested by the State
525 Department of Health, but not information that would constitute an
526 unwarranted invasion of the personal privacy of any individual
527 person or place the provider in jeopardy of legal action by a
528 third party;

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

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



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

542 (g) Prepare * * *, ~~review at least triennially,~~
543 annually, and revise * * *, as necessary, a State Health Plan, as
544 defined in Section 41-7-173, using the most recent data available
545 to the department, which shall be approved by the Governor before
546 it becomes effective.

547 **SECTION 3.** Section 41-7-187, Mississippi Code of 1972, is
548 amended as follows:

549 41-7-187. The State Department of Health is hereby
550 authorized to develop and implement a statewide health certificate
551 of need program. The State Department of Health is authorized and
552 empowered to adopt by rule and regulation:

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

555 (b) Effective standards to determine when a person,
556 facility or organization must apply for a certificate of need;
557 however, the department shall not be authorized to exempt any
558 person or entity from having to obtain a certificate of need for
559 any activity that would otherwise require the issuance of a
560 certificate of need under Section 41-7-171 et seq.;

561 (c) Standards to determine when a change of ownership
562 has occurred or will occur; and



563 (d) Review procedures for conducting reviews of
564 applications for certificates of need.

565 **SECTION 4.** Section 41-7-188, Mississippi Code of 1972, is
566 amended as follows:

567 41-7-188. (1) The State Department of Health is hereby
568 authorized and empowered to assess fees for reviewing applications
569 for certificates of need. The State Department of Health shall
570 promulgate such rules and regulations as are necessary to
571 effectuate the intent of this section in keeping with the
572 standards hereinbelow:

573 (a) The fees assessed shall be uniform to all
574 applicants.

575 (b) The fees assessed shall be nonrefundable.

576 (c) The fee shall be five-tenths of one percent (.5 of
577 1%) of the amount of a proposed capital expenditure.

578 (d) The minimum fee shall not be less than Five Hundred
579 Dollars (\$500.00) regardless of the amount of the proposed capital
580 expenditure, and the maximum fee permitted shall not exceed
581 Twenty-five Thousand Dollars (\$25,000.00), regardless of category.

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

585 (f) The required fee shall be paid to the State
586 Department of Health and may be paid by check, draft * * *~~or,~~
587 money order, or electronic payment.



588 (g) There shall be no filing fee requirement for any
589 application submitted by an agency, department, institution or
590 facility which is operated, owned by and/or controlled by the
591 State of Mississippi and which received operating and/or capital
592 expenditure funds solely by appropriations from the Legislature of
593 the state.

594 (h) There shall be no filing fee requirement for any
595 health-care facility submitting an application for repairs or
596 renovations determined by the State Department of Health in
597 writing, to be necessary in order to avoid revocation of license
598 and/or loss of certification for participation in the Medicaid
599 and/or Medicare programs. Any proposed expenditure in excess of
600 the amount determined by the State Department of Health to be
601 necessary to accomplish the stated purposes shall be subject to
602 the fee requirements of this section.

603 (2) The revenue derived from the fees imposed in subsection
604 (1) of this section shall be deposited by the State Department of
605 Health in a special fund * * *, ~~hereby~~ that is created in the
606 State Treasury, which is earmarked for use by the State Department
607 of Health in conducting its health planning and certificate of
608 need review activities. It is the intent of the Legislature that
609 the health planning and certificate of need programs be continued
610 for the protection of the individuals within the state requiring
611 health care.



612 (3) The State Department of Health is authorized and
613 empowered to assess fees for reviewing applications for
614 certificates of authority for health maintenance organizations and
615 for the issuance and renewal of such certificates of authority.
616 The fees assessed shall be uniform to all applicants and to all
617 holders of certificates of authority, and shall be nonrefundable.
618 The fees for applications, original certificates of authority and
619 renewals of certificates of authority shall not exceed Five
620 Thousand Dollars (\$5,000.00) each. The revenues derived from the
621 fees assessed under this subsection shall be deposited by the
622 department in a special fund * * *~~hereby~~ that is created in the
623 State Treasury, which is earmarked for the use of the department
624 in its regulation of the operation of health maintenance
625 organizations.

626 **SECTION 5.** Section 41-7-190, Mississippi Code of 1972, is
627 brought forward as follows:

628 41-7-190. No corporation, foreign or domestic, partnership,
629 individual(s) or association of such entities or of persons
630 whatsoever, or any combination thereof, shall own, possess or
631 exercise control over, in any manner, more than twenty percent
632 (20%) of the beds in health care facilities defined in Section
633 41-7-173(h) (iv) and (vi) in the defined health service area of the
634 State of Mississippi.

635 Health care facilities owned, operated or under control of
636 the United States government, the state government or political



637 subdivision of either are excluded from the limitation of this
638 section.

639 **SECTION 6.** Section 41-7-191, Mississippi Code of 1972, is
640 amended as follows:

641 41-7-191. (1) No person shall engage in any of the
642 following activities without obtaining the required certificate of
643 need:

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

648 (b) The relocation of a health care facility or portion
649 thereof, or major medical equipment, unless such relocation of a
650 health care facility or portion thereof, or major medical
651 equipment, which does not involve a capital expenditure by or on
652 behalf of a health care facility, is within five thousand two
653 hundred eighty (5,280) feet from the main entrance of the health
654 care facility;

655 (c) Any change in the existing bed complement of any
656 health care facility through the addition or conversion of any
657 beds or the alteration, modernizing or refurbishing of any unit or
658 department in which the beds may be located; however, if a health
659 care facility has voluntarily delicensed some of its existing bed
660 complement, it may later relicense some or all of its delicensed
661 beds without the necessity of having to acquire a certificate of



662 need. The State Department of Health shall maintain a record of
663 the delicensing health care facility and its voluntarily
664 delicensed beds and continue counting those beds as part of the
665 state's total bed count for health care planning purposes. If a
666 health care facility that has voluntarily delicensed some of its
667 beds later desires to relicense some or all of its voluntarily
668 delicensed beds, it shall notify the State Department of Health of
669 its intent to increase the number of its licensed beds. The State
670 Department of Health shall survey the health care facility within
671 thirty (30) days of that notice and, if appropriate, issue the
672 health care facility a new license reflecting the new contingent
673 of beds. However, in no event may a health care facility that has
674 voluntarily delicensed some of its beds be reissued a license to
675 operate beds in excess of its bed count before the voluntary
676 delicensure of some of its beds without seeking certificate of
677 need approval;

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

- 682 (i) Open-heart surgery services;
- 683 (ii) Cardiac catheterization services;
- 684 (iii) Comprehensive inpatient rehabilitation
685 services;
- 686 (iv) Licensed psychiatric services;



687 (v) * * *~~Licensed chemical dependency services;~~
688 [Deleted]
689 (vi) Radiation therapy services;
690 (vii) Diagnostic imaging services of an invasive
691 nature, i.e. invasive digital angiography. This subparagraph
692 (vii) shall stand repealed on July 1, 2029;
693 (viii) Nursing home care as defined in
694 subparagraphs (iv), * * *~~(vi)~~ and (viii) of Section 41-7-173(h);
695 (ix) Home health services;
696 (x) Swing-bed services;
697 (xi) Ambulatory surgical services;
698 (xii) Magnetic resonance imaging services. This
699 subparagraph (xii) shall stand repealed on July 1, 2029;
700 (xiii) [Deleted]
701 (xiv) Long-term care hospital services;
702 (xv) Positron emission tomography (PET) services;
703 (e) The relocation of one or more health services from
704 one physical facility or site to another physical facility or
705 site, unless such relocation, which does not involve a capital
706 expenditure by or on behalf of a health care facility, (i) is to a
707 physical facility or site within five thousand two hundred eighty
708 (5,280) feet from the main entrance of the health care facility
709 where the health care service is located, or (ii) is the result of
710 an order of a court of appropriate jurisdiction or a result of
711 pending litigation in such court, or by order of the State



712 Department of Health, or by order of any other agency or legal
713 entity of the state, the federal government, or any political
714 subdivision of either, whose order is also approved by the State
715 Department of Health;

716 (f) The acquisition or otherwise control of any major
717 medical equipment for the provision of medical services; however,
718 (i) the acquisition of any major medical equipment used only for
719 research purposes, and (ii) the acquisition of major medical
720 equipment to replace medical equipment for which a facility is
721 already providing medical services and for which the State
722 Department of Health has been notified before the date of such
723 acquisition shall be exempt from this paragraph; an acquisition
724 for less than fair market value must be reviewed, if the
725 acquisition at fair market value would be subject to review;

726 (g) Changes of ownership of existing health care
727 facilities in which a notice of intent is not filed with the State
728 Department of Health at least thirty (30) days prior to the date
729 such change of ownership occurs, or a change in services or bed
730 capacity as prescribed in paragraph (c) or (d) of this subsection
731 as a result of the change of ownership; an acquisition for less
732 than fair market value must be reviewed, if the acquisition at
733 fair market value would be subject to review;

734 (h) The change of ownership of any health care facility
735 defined in subparagraphs (iv) * * *, ~~(vi)~~ and (viii) of Section
736 41-7-173(h), in which a notice of intent as described in paragraph



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

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

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

749 (k) The contracting of a health care facility as
750 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
751 to establish a home office, subunit, or branch office in the space
752 operated as a health care facility through a formal arrangement
753 with an existing health care facility as defined in subparagraph
754 (ix) of Section 41-7-173(h);

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

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



762 requires a certificate of need for the establishment of a new
763 health care facility.

764 (2) The State Department of Health shall not grant approval
765 for or issue a certificate of need to any person proposing the new
766 construction of, addition to, or expansion of any health care
767 facility defined in * * *~~subparagraphs~~ subparagraph (iv) (skilled
768 nursing facility) * * *~~and (vi) (intermediate care facility)~~ of
769 Section 41-7-173(h) or the conversion of vacant hospital beds to
770 provide skilled * * *~~or intermediate~~ nursing home care, except as
771 hereinafter authorized:

772 (a) The department may issue a certificate of need to
773 any person proposing the new construction of any health care
774 facility defined in subparagraphs (iv) and (vi) of Section
775 41-7-173(h) as part of a life care retirement facility, in any
776 county bordering on the Gulf of Mexico in which is located a
777 National Aeronautics and Space Administration facility, not to
778 exceed forty (40) beds. From and after July 1, 1999, there shall
779 be no prohibition or restrictions on participation in the Medicaid
780 program (Section 43-13-101 et seq.) for the beds in the health
781 care facility that were authorized under this paragraph (a).

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



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

789 (c) The department may issue a certificate of need for
790 the addition to or expansion of any skilled nursing facility that
791 is part of an existing continuing care retirement community
792 located in Madison County, provided that the recipient of the
793 certificate of need agrees in writing that the skilled nursing
794 facility will not at any time participate in the Medicaid program
795 (Section 43-13-101 et seq.) or admit or keep any patients in the
796 skilled nursing facility who are participating in the Medicaid
797 program. This written agreement by the recipient of the
798 certificate of need shall be fully binding on any subsequent owner
799 of the skilled nursing facility, if the ownership of the facility
800 is transferred at any time after the issuance of the certificate
801 of need. Agreement that the skilled nursing facility will not
802 participate in the Medicaid program shall be a condition of the
803 issuance of a certificate of need to any person under this
804 paragraph (c), and if such skilled nursing facility at any time
805 after the issuance of the certificate of need, regardless of the
806 ownership of the facility, participates in the Medicaid program or
807 admits or keeps any patients in the facility who are participating
808 in the Medicaid program, the State Department of Health shall
809 revoke the certificate of need, if it is still outstanding, and
810 shall deny or revoke the license of the skilled nursing facility,
811 at the time that the department determines, after a hearing



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

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

826 (e) The State Department of Health may issue a
827 certificate of need for the construction of a nursing facility or
828 the conversion of beds to nursing facility beds at a personal care
829 facility for the elderly in Lowndes County that is owned and
830 operated by a Mississippi nonprofit corporation, not to exceed
831 sixty (60) beds. From and after July 1, 1999, there shall be no
832 prohibition or restrictions on participation in the Medicaid
833 program (Section 43-13-101 et seq.) for the beds in the nursing
834 facility that were authorized under this paragraph (e).

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



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

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

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

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



862 agrees in writing that the skilled nursing facility will not at
863 any time participate in the Medicaid program (Section 43-13-101 et
864 seq.) or admit or keep any patients in the skilled nursing
865 facility who are participating in the Medicaid program. This
866 written agreement by the recipient of the certificate of need
867 shall be fully binding on any subsequent owner of the skilled
868 nursing facility, if the ownership of the facility is transferred
869 at any time after the issuance of the certificate of need.
870 Agreement that the skilled nursing facility will not participate
871 in the Medicaid program shall be a condition of the issuance of a
872 certificate of need to any person under this paragraph (i), and if
873 such skilled nursing facility at any time after the issuance of
874 the certificate of need, regardless of the ownership of the
875 facility, participates in the Medicaid program or admits or keeps
876 any patients in the facility who are participating in the Medicaid
877 program, the State Department of Health shall revoke the
878 certificate of need, if it is still outstanding, and shall deny or
879 revoke the license of the skilled nursing facility, at the time
880 that the department determines, after a hearing complying with due
881 process, that the facility has failed to comply with any of the
882 conditions upon which the certificate of need was issued, as
883 provided in this paragraph and in the written agreement by the
884 recipient of the certificate of need. The provision of Section
885 41-7-193(1) regarding substantial compliance of the projection of
886 need as reported in the current State Health Plan is waived for



887 the purposes of this paragraph. The total number of nursing
888 facility beds that may be authorized by any certificate of need
889 issued under this paragraph (i) shall not exceed sixty (60) beds.
890 If the skilled nursing facility authorized by the certificate of
891 need issued under this paragraph is not constructed and fully
892 operational within eighteen (18) months after July 1, 1994, the
893 State Department of Health, after a hearing complying with due
894 process, shall revoke the certificate of need, if it is still
895 outstanding, and shall not issue a license for the skilled nursing
896 facility at any time after the expiration of the eighteen-month
897 period.

898 (j) The department may issue certificates of need to
899 allow any existing freestanding long-term care facility in
900 Tishomingo County and Hancock County that on July 1, 1995, is
901 licensed with fewer than sixty (60) beds. For the purposes of
902 this paragraph (j), the provisions of Section 41-7-193(1)
903 requiring substantial compliance with the projection of need as
904 reported in the current State Health Plan are waived. From and
905 after July 1, 1999, there shall be no prohibition or restrictions
906 on participation in the Medicaid program (Section 43-13-101 et
907 seq.) for the beds in the long-term care facilities that were
908 authorized under this paragraph (j).

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



912 that may be authorized under the authority of this paragraph (k)
913 shall not exceed sixty (60) beds. From and after July 1, 2001,
914 the prohibition on the facility participating in the Medicaid
915 program (Section 43-13-101 et seq.) that was a condition of
916 issuance of the certificate of need under this paragraph (k) shall
917 be revised as follows: The nursing facility may participate in
918 the Medicaid program from and after July 1, 2001, if the owner of
919 the facility on July 1, 2001, agrees in writing that no more than
920 thirty (30) of the beds at the facility will be certified for
921 participation in the Medicaid program, and that no claim will be
922 submitted for Medicaid reimbursement for more than thirty (30)
923 patients in the facility in any month or for any patient in the
924 facility who is in a bed that is not Medicaid-certified. This
925 written agreement by the owner of the facility shall be a
926 condition of licensure of the facility, and the agreement shall be
927 fully binding on any subsequent owner of the facility if the
928 ownership of the facility is transferred at any time after July 1,
929 2001. After this written agreement is executed, the Division of
930 Medicaid and the State Department of Health shall not certify more
931 than thirty (30) of the beds in the facility for participation in
932 the Medicaid program. If the facility violates the terms of the
933 written agreement by admitting or keeping in the facility on a
934 regular or continuing basis more than thirty (30) patients who are
935 participating in the Medicaid program, the State Department of
936 Health shall revoke the license of the facility, at the time that



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

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

949 (m) The State Department of Health may issue a
950 certificate of need to a county-owned hospital in the Second
951 Judicial District of Panola County for the conversion of not more
952 than seventy-two (72) hospital beds to nursing facility beds,
953 provided that the recipient of the certificate of need agrees in
954 writing that none of the beds at the nursing facility will be
955 certified for participation in the Medicaid program (Section
956 43-13-101 et seq.), and that no claim will be submitted for
957 Medicaid reimbursement in the nursing facility in any day or for
958 any patient in the nursing facility. This written agreement by
959 the recipient of the certificate of need shall be a condition of
960 the issuance of the certificate of need under this paragraph, and
961 the agreement shall be fully binding on any subsequent owner of



962 the nursing facility if the ownership of the nursing facility is
963 transferred at any time after the issuance of the certificate of
964 need. After this written agreement is executed, the Division of
965 Medicaid and the State Department of Health shall not certify any
966 of the beds in the nursing facility for participation in the
967 Medicaid program. If the nursing facility violates the terms of
968 the written agreement by admitting or keeping in the nursing
969 facility on a regular or continuing basis any patients who are
970 participating in the Medicaid program, the State Department of
971 Health shall revoke the license of the nursing facility, at the
972 time that the department determines, after a hearing complying
973 with due process, that the nursing facility has violated the
974 condition upon which the certificate of need was issued, as
975 provided in this paragraph and in the written agreement. If the
976 certificate of need authorized under this paragraph is not issued
977 within twelve (12) months after July 1, 2001, the department shall
978 deny the application for the certificate of need and shall not
979 issue the certificate of need at any time after the twelve-month
980 period, unless the issuance is contested. If the certificate of
981 need is issued and substantial construction of the nursing
982 facility beds has not commenced within eighteen (18) months after
983 July 1, 2001, the State Department of Health, after a hearing
984 complying with due process, shall revoke the certificate of need
985 if it is still outstanding, and the department shall not issue a
986 license for the nursing facility at any time after the



987 eighteen-month period. However, if the issuance of the
988 certificate of need is contested, the department shall require
989 substantial construction of the nursing facility beds within six
990 (6) months after final adjudication on the issuance of the
991 certificate of need.

992 (n) The department may issue a certificate of need for
993 the new construction, addition or conversion of skilled nursing
994 facility beds in Madison County, provided that the recipient of
995 the certificate of need agrees in writing that the skilled nursing
996 facility will not at any time participate in the Medicaid program
997 (Section 43-13-101 et seq.) or admit or keep any patients in the
998 skilled nursing facility who are participating in the Medicaid
999 program. This written agreement by the recipient of the
1000 certificate of need shall be fully binding on any subsequent owner
1001 of the skilled nursing facility, if the ownership of the facility
1002 is transferred at any time after the issuance of the certificate
1003 of need. Agreement that the skilled nursing facility will not
1004 participate in the Medicaid program shall be a condition of the
1005 issuance of a certificate of need to any person under this
1006 paragraph (n), and if such skilled nursing facility at any time
1007 after the issuance of the certificate of need, regardless of the
1008 ownership of the facility, participates in the Medicaid program or
1009 admits or keeps any patients in the facility who are participating
1010 in the Medicaid program, the State Department of Health shall
1011 revoke the certificate of need, if it is still outstanding, and



1012 shall deny or revoke the license of the skilled nursing facility,
1013 at the time that the department determines, after a hearing
1014 complying with due process, that the facility has failed to comply
1015 with any of the conditions upon which the certificate of need was
1016 issued, as provided in this paragraph and in the written agreement
1017 by the recipient of the certificate of need. The total number of
1018 nursing facility beds that may be authorized by any certificate of
1019 need issued under this paragraph (n) shall not exceed sixty (60)
1020 beds. If the certificate of need authorized under this paragraph
1021 is not issued within twelve (12) months after July 1, 1998, the
1022 department shall deny the application for the certificate of need
1023 and shall not issue the certificate of need at any time after the
1024 twelve-month period, unless the issuance is contested. If the
1025 certificate of need is issued and substantial construction of the
1026 nursing facility beds has not commenced within eighteen (18)
1027 months after July 1, 1998, the State Department of Health, after a
1028 hearing complying with due process, shall revoke the certificate
1029 of need if it is still outstanding, and the department shall not
1030 issue a license for the nursing facility at any time after the
1031 eighteen-month period. However, if the issuance of the
1032 certificate of need is contested, the department shall require
1033 substantial construction of the nursing facility beds within six
1034 (6) months after final adjudication on the issuance of the
1035 certificate of need.



1036 (o) The department may issue a certificate of need for
1037 the new construction, addition or conversion of skilled nursing
1038 facility beds in Leake County, provided that the recipient of the
1039 certificate of need agrees in writing that the skilled nursing
1040 facility will not at any time participate in the Medicaid program
1041 (Section 43-13-101 et seq.) or admit or keep any patients in the
1042 skilled nursing facility who are participating in the Medicaid
1043 program. This written agreement by the recipient of the
1044 certificate of need shall be fully binding on any subsequent owner
1045 of the skilled nursing facility, if the ownership of the facility
1046 is transferred at any time after the issuance of the certificate
1047 of need. Agreement that the skilled nursing facility will not
1048 participate in the Medicaid program shall be a condition of the
1049 issuance of a certificate of need to any person under this
1050 paragraph (o), and if such skilled nursing facility at any time
1051 after the issuance of the certificate of need, regardless of the
1052 ownership of the facility, participates in the Medicaid program or
1053 admits or keeps any patients in the facility who are participating
1054 in the Medicaid program, the State Department of Health shall
1055 revoke the certificate of need, if it is still outstanding, and
1056 shall deny or revoke the license of the skilled nursing facility,
1057 at the time that the department determines, after a hearing
1058 complying with due process, that the facility has failed to comply
1059 with any of the conditions upon which the certificate of need was
1060 issued, as provided in this paragraph and in the written agreement



1061 by the recipient of the certificate of need. The total number of
1062 nursing facility beds that may be authorized by any certificate of
1063 need issued under this paragraph (o) shall not exceed sixty (60)
1064 beds. If the certificate of need authorized under this paragraph
1065 is not issued within twelve (12) months after July 1, 2001, the
1066 department shall deny the application for the certificate of need
1067 and shall not issue the certificate of need at any time after the
1068 twelve-month period, unless the issuance is contested. If the
1069 certificate of need is issued and substantial construction of the
1070 nursing facility beds has not commenced within eighteen (18)
1071 months after July 1, 2001, the State Department of Health, after a
1072 hearing complying with due process, shall revoke the certificate
1073 of need if it is still outstanding, and the department shall not
1074 issue a license for the nursing facility at any time after the
1075 eighteen-month period. However, if the issuance of the
1076 certificate of need is contested, the department shall require
1077 substantial construction of the nursing facility beds within six
1078 (6) months after final adjudication on the issuance of the
1079 certificate of need.

1080 (p) The department may issue a certificate of need for
1081 the construction of a municipally owned nursing facility within
1082 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1083 beds, provided that the recipient of the certificate of need
1084 agrees in writing that the skilled nursing facility will not at
1085 any time participate in the Medicaid program (Section 43-13-101 et



1086 seq.) or admit or keep any patients in the skilled nursing
1087 facility who are participating in the Medicaid program. This
1088 written agreement by the recipient of the certificate of need
1089 shall be fully binding on any subsequent owner of the skilled
1090 nursing facility, if the ownership of the facility is transferred
1091 at any time after the issuance of the certificate of need.
1092 Agreement that the skilled nursing facility will not participate
1093 in the Medicaid program shall be a condition of the issuance of a
1094 certificate of need to any person under this paragraph (p), and if
1095 such skilled nursing facility at any time after the issuance of
1096 the certificate of need, regardless of the ownership of the
1097 facility, participates in the Medicaid program or admits or keeps
1098 any patients in the facility who are participating in the Medicaid
1099 program, the State Department of Health shall revoke the
1100 certificate of need, if it is still outstanding, and shall deny or
1101 revoke the license of the skilled nursing facility, at the time
1102 that the department determines, after a hearing complying with due
1103 process, that the facility has failed to comply with any of the
1104 conditions upon which the certificate of need was issued, as
1105 provided in this paragraph and in the written agreement by the
1106 recipient of the certificate of need. The provision of Section
1107 41-7-193(1) regarding substantial compliance of the projection of
1108 need as reported in the current State Health Plan is waived for
1109 the purposes of this paragraph. If the certificate of need
1110 authorized under this paragraph is not issued within twelve (12)



1111 months after July 1, 1998, the department shall deny the
1112 application for the certificate of need and shall not issue the
1113 certificate of need at any time after the twelve-month period,
1114 unless the issuance is contested. If the certificate of need is
1115 issued and substantial construction of the nursing facility beds
1116 has not commenced within eighteen (18) months after July 1, 1998,
1117 the State Department of Health, after a hearing complying with due
1118 process, shall revoke the certificate of need if it is still
1119 outstanding, and the department shall not issue a license for the
1120 nursing facility at any time after the eighteen-month period.
1121 However, if the issuance of the certificate of need is contested,
1122 the department shall require substantial construction of the
1123 nursing facility beds within six (6) months after final
1124 adjudication on the issuance of the certificate of need.

1125 (q) (i) Beginning on July 1, 1999, the State
1126 Department of Health shall issue certificates of need during each
1127 of the next four (4) fiscal years for the construction or
1128 expansion of nursing facility beds or the conversion of other beds
1129 to nursing facility beds in each county in the state having a need
1130 for fifty (50) or more additional nursing facility beds, as shown
1131 in the fiscal year 1999 State Health Plan, in the manner provided
1132 in this paragraph (q). The total number of nursing facility beds
1133 that may be authorized by any certificate of need authorized under
1134 this paragraph (q) shall not exceed sixty (60) beds.



1135 (ii) Subject to the provisions of subparagraph
1136 (v), during each of the next four (4) fiscal years, the department
1137 shall issue six (6) certificates of need for new nursing facility
1138 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1139 (1) certificate of need shall be issued for new nursing facility
1140 beds in the county in each of the four (4) Long-Term Care Planning
1141 Districts designated in the fiscal year 1999 State Health Plan
1142 that has the highest need in the district for those beds; and two
1143 (2) certificates of need shall be issued for new nursing facility
1144 beds in the two (2) counties from the state at large that have the
1145 highest need in the state for those beds, when considering the
1146 need on a statewide basis and without regard to the Long-Term Care
1147 Planning Districts in which the counties are located. During
1148 fiscal year 2003, one (1) certificate of need shall be issued for
1149 new nursing facility beds in any county having a need for fifty
1150 (50) or more additional nursing facility beds, as shown in the
1151 fiscal year 1999 State Health Plan, that has not received a
1152 certificate of need under this paragraph (q) during the three (3)
1153 previous fiscal years. During fiscal year 2000, in addition to
1154 the six (6) certificates of need authorized in this subparagraph,
1155 the department also shall issue a certificate of need for new
1156 nursing facility beds in Amite County and a certificate of need
1157 for new nursing facility beds in Carroll County.

1158 (iii) Subject to the provisions of subparagraph
1159 (v), the certificate of need issued under subparagraph (ii) for



1160 nursing facility beds in each Long-Term Care Planning District
1161 during each fiscal year shall first be available for nursing
1162 facility beds in the county in the district having the highest
1163 need for those beds, as shown in the fiscal year 1999 State Health
1164 Plan. If there are no applications for a certificate of need for
1165 nursing facility beds in the county having the highest need for
1166 those beds by the date specified by the department, then the
1167 certificate of need shall be available for nursing facility beds
1168 in other counties in the district in descending order of the need
1169 for those beds, from the county with the second highest need to
1170 the county with the lowest need, until an application is received
1171 for nursing facility beds in an eligible county in the district.

1172 (iv) Subject to the provisions of subparagraph
1173 (v), the certificate of need issued under subparagraph (ii) for
1174 nursing facility beds in the two (2) counties from the state at
1175 large during each fiscal year shall first be available for nursing
1176 facility beds in the two (2) counties that have the highest need
1177 in the state for those beds, as shown in the fiscal year 1999
1178 State Health Plan, when considering the need on a statewide basis
1179 and without regard to the Long-Term Care Planning Districts in
1180 which the counties are located. If there are no applications for
1181 a certificate of need for nursing facility beds in either of the
1182 two (2) counties having the highest need for those beds on a
1183 statewide basis by the date specified by the department, then the
1184 certificate of need shall be available for nursing facility beds



1185 in other counties from the state at large in descending order of
1186 the need for those beds on a statewide basis, from the county with
1187 the second highest need to the county with the lowest need, until
1188 an application is received for nursing facility beds in an
1189 eligible county from the state at large.

1190 (v) If a certificate of need is authorized to be
1191 issued under this paragraph (q) for nursing facility beds in a
1192 county on the basis of the need in the Long-Term Care Planning
1193 District during any fiscal year of the four-year period, a
1194 certificate of need shall not also be available under this
1195 paragraph (q) for additional nursing facility beds in that county
1196 on the basis of the need in the state at large, and that county
1197 shall be excluded in determining which counties have the highest
1198 need for nursing facility beds in the state at large for that
1199 fiscal year. After a certificate of need has been issued under
1200 this paragraph (q) for nursing facility beds in a county during
1201 any fiscal year of the four-year period, a certificate of need
1202 shall not be available again under this paragraph (q) for
1203 additional nursing facility beds in that county during the
1204 four-year period, and that county shall be excluded in determining
1205 which counties have the highest need for nursing facility beds in
1206 succeeding fiscal years.

1207 (vi) If more than one (1) application is made for
1208 a certificate of need for nursing home facility beds available
1209 under this paragraph (q), in Yalobusha, Newton or Tallahatchie



1210 County, and one (1) of the applicants is a county-owned hospital
1211 located in the county where the nursing facility beds are
1212 available, the department shall give priority to the county-owned
1213 hospital in granting the certificate of need if the following
1214 conditions are met:

1215 1. The county-owned hospital fully meets all
1216 applicable criteria and standards required to obtain a certificate
1217 of need for the nursing facility beds; and

1218 2. The county-owned hospital's qualifications
1219 for the certificate of need, as shown in its application and as
1220 determined by the department, are at least equal to the
1221 qualifications of the other applicants for the certificate of
1222 need.

1223 (r) (i) Beginning on July 1, 1999, the State
1224 Department of Health shall issue certificates of need during each
1225 of the next two (2) fiscal years for the construction or expansion
1226 of nursing facility beds or the conversion of other beds to
1227 nursing facility beds in each of the four (4) Long-Term Care
1228 Planning Districts designated in the fiscal year 1999 State Health
1229 Plan, to provide care exclusively to patients with Alzheimer's
1230 disease.

1231 (ii) Not more than twenty (20) beds may be
1232 authorized by any certificate of need issued under this paragraph
1233 (r), and not more than a total of sixty (60) beds may be
1234 authorized in any Long-Term Care Planning District by all



1235 certificates of need issued under this paragraph (r). However,
1236 the total number of beds that may be authorized by all
1237 certificates of need issued under this paragraph (r) during any
1238 fiscal year shall not exceed one hundred twenty (120) beds, and
1239 the total number of beds that may be authorized in any Long-Term
1240 Care Planning District during any fiscal year shall not exceed
1241 forty (40) beds. Of the certificates of need that are issued for
1242 each Long-Term Care Planning District during the next two (2)
1243 fiscal years, at least one (1) shall be issued for beds in the
1244 northern part of the district, at least one (1) shall be issued
1245 for beds in the central part of the district, and at least one (1)
1246 shall be issued for beds in the southern part of the district.

1247 (iii) The State Department of Health, in
1248 consultation with the Department of Mental Health and the Division
1249 of Medicaid, shall develop and prescribe the staffing levels,
1250 space requirements and other standards and requirements that must
1251 be met with regard to the nursing facility beds authorized under
1252 this paragraph (r) to provide care exclusively to patients with
1253 Alzheimer's disease.

1254 (s) The State Department of Health may issue a
1255 certificate of need to a nonprofit skilled nursing facility using
1256 the Green House model of skilled nursing care and located in Yazoo
1257 City, Yazoo County, Mississippi, for the construction, expansion
1258 or conversion of not more than nineteen (19) nursing facility
1259 beds. For purposes of this paragraph (s), the provisions of



1260 Section 41-7-193(1) requiring substantial compliance with the
1261 projection of need as reported in the current State Health Plan
1262 and the provisions of Section 41-7-197 requiring a formal
1263 certificate of need hearing process are waived. There shall be no
1264 prohibition or restrictions on participation in the Medicaid
1265 program for the person receiving the certificate of need
1266 authorized under this paragraph (s).

1267 (t) The State Department of Health shall issue
1268 certificates of need to the owner of a nursing facility in
1269 operation at the time of Hurricane Katrina in Hancock County that
1270 was not operational on December 31, 2005, because of damage
1271 sustained from Hurricane Katrina to authorize the following: (i)
1272 the construction of a new nursing facility in Harrison County;
1273 (ii) the relocation of forty-nine (49) nursing facility beds from
1274 the Hancock County facility to the new Harrison County facility;
1275 (iii) the establishment of not more than twenty (20) non-Medicaid
1276 nursing facility beds at the Hancock County facility; and (iv) the
1277 establishment of not more than twenty (20) non-Medicaid beds at
1278 the new Harrison County facility. The certificates of need that
1279 authorize the non-Medicaid nursing facility beds under
1280 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1281 subject to the following conditions: The owner of the Hancock
1282 County facility and the new Harrison County facility must agree in
1283 writing that no more than fifty (50) of the beds at the Hancock
1284 County facility and no more than forty-nine (49) of the beds at



1285 the Harrison County facility will be certified for participation
1286 in the Medicaid program, and that no claim will be submitted for
1287 Medicaid reimbursement for more than fifty (50) patients in the
1288 Hancock County facility in any month, or for more than forty-nine
1289 (49) patients in the Harrison County facility in any month, or for
1290 any patient in either facility who is in a bed that is not
1291 Medicaid-certified. This written agreement by the owner of the
1292 nursing facilities shall be a condition of the issuance of the
1293 certificates of need under this paragraph (t), and the agreement
1294 shall be fully binding on any later owner or owners of either
1295 facility if the ownership of either facility is transferred at any
1296 time after the certificates of need are issued. After this
1297 written agreement is executed, the Division of Medicaid and the
1298 State Department of Health shall not certify more than fifty (50)
1299 of the beds at the Hancock County facility or more than forty-nine
1300 (49) of the beds at the Harrison County facility for participation
1301 in the Medicaid program. If the Hancock County facility violates
1302 the terms of the written agreement by admitting or keeping in the
1303 facility on a regular or continuing basis more than fifty (50)
1304 patients who are participating in the Medicaid program, or if the
1305 Harrison County facility violates the terms of the written
1306 agreement by admitting or keeping in the facility on a regular or
1307 continuing basis more than forty-nine (49) patients who are
1308 participating in the Medicaid program, the State Department of
1309 Health shall revoke the license of the facility that is in



1310 violation of the agreement, at the time that the department
1311 determines, after a hearing complying with due process, that the
1312 facility has violated the agreement.

1313 (u) The State Department of Health shall issue a
1314 certificate of need to a nonprofit venture for the establishment,
1315 construction and operation of a skilled nursing facility of not
1316 more than sixty (60) beds to provide skilled nursing care for
1317 ventilator dependent or otherwise medically dependent pediatric
1318 patients who require medical and nursing care or rehabilitation
1319 services to be located in a county in which an academic medical
1320 center and a children's hospital are located, and for any
1321 construction and for the acquisition of equipment related to those
1322 beds. The facility shall be authorized to keep such ventilator
1323 dependent or otherwise medically dependent pediatric patients
1324 beyond age twenty-one (21) in accordance with regulations of the
1325 State Board of Health. For purposes of this paragraph (u), the
1326 provisions of Section 41-7-193(1) requiring substantial compliance
1327 with the projection of need as reported in the current State
1328 Health Plan are waived, and the provisions of Section 41-7-197
1329 requiring a formal certificate of need hearing process are waived.
1330 The beds authorized by this paragraph shall be counted as
1331 pediatric skilled nursing facility beds for health planning
1332 purposes under Section 41-7-171 et seq. There shall be no
1333 prohibition of or restrictions on participation in the Medicaid



1334 program for the person receiving the certificate of need
1335 authorized by this paragraph.

1336 (3) * * *~~The State Department of Health may grant approval~~
1337 ~~for and issue certificates of need to any person proposing the new~~
1338 ~~construction of, addition to, conversion of beds of or expansion~~
1339 ~~of any health care facility defined in subparagraph (x)~~
1340 ~~(psychiatric residential treatment facility) of Section~~
1341 ~~41-7-173(h). The total number of beds which may be authorized by~~
1342 ~~such certificates of need shall not exceed three hundred~~
1343 ~~thirty-four (334) beds for the entire state.~~

1344 ~~———— (a) Of the total number of beds authorized under this~~
1345 ~~subsection, the department shall issue a certificate of need to a~~
1346 ~~privately owned psychiatric residential treatment facility in~~
1347 ~~Simpson County for the conversion of sixteen (16) intermediate~~
1348 ~~care facility for individuals with intellectual disabilities~~
1349 ~~(ICF-IID) beds to psychiatric residential treatment facility beds,~~
1350 ~~provided that facility agrees in writing that the facility shall~~
1351 ~~give priority for the use of those sixteen (16) beds to~~
1352 ~~Mississippi residents who are presently being treated in~~
1353 ~~out-of-state facilities.~~

1354 ~~———— (b) Of the total number of beds authorized under this~~
1355 ~~subsection, the department may issue a certificate or certificates~~
1356 ~~of need for the construction or expansion of psychiatric~~
1357 ~~residential treatment facility beds or the conversion of other~~
1358 ~~beds to psychiatric residential treatment facility beds in Warren~~



1359 ~~County, not to exceed sixty (60) psychiatric residential treatment~~
1360 ~~facility beds, provided that the facility agrees in writing that~~
1361 ~~no more than thirty (30) of the beds at the psychiatric~~
1362 ~~residential treatment facility will be certified for participation~~
1363 ~~in the Medicaid program (Section 43-13-101 et seq.) for the use of~~
1364 ~~any patients other than those who are participating only in the~~
1365 ~~Medicaid program of another state, and that no claim will be~~
1366 ~~submitted to the Division of Medicaid for Medicaid reimbursement~~
1367 ~~for more than thirty (30) patients in the psychiatric residential~~
1368 ~~treatment facility in any day or for any patient in the~~
1369 ~~psychiatric residential treatment facility who is in a bed that is~~
1370 ~~not Medicaid-certified. This written agreement by the recipient~~
1371 ~~of the certificate of need shall be a condition of the issuance of~~
1372 ~~the certificate of need under this paragraph, and the agreement~~
1373 ~~shall be fully binding on any subsequent owner of the psychiatric~~
1374 ~~residential treatment facility if the ownership of the facility is~~
1375 ~~transferred at any time after the issuance of the certificate of~~
1376 ~~need. After this written agreement is executed, the Division of~~
1377 ~~Medicaid and the State Department of Health shall not certify more~~
1378 ~~than thirty (30) of the beds in the psychiatric residential~~
1379 ~~treatment facility for participation in the Medicaid program for~~
1380 ~~the use of any patients other than those who are participating~~
1381 ~~only in the Medicaid program of another state. If the psychiatric~~
1382 ~~residential treatment facility violates the terms of the written~~
1383 ~~agreement by admitting or keeping in the facility on a regular or~~



1384 continuing basis more than thirty (30) patients who are
1385 participating in the Mississippi Medicaid program, the State
1386 Department of Health shall revoke the license of the facility, at
1387 the time that the department determines, after a hearing complying
1388 with due process, that the facility has violated the condition
1389 upon which the certificate of need was issued, as provided in this
1390 paragraph and in the written agreement.

1391 ~~— The State Department of Health, on or before July 1, 2002,~~
1392 ~~shall transfer the certificate of need authorized under the~~
1393 ~~authority of this paragraph (b), or reissue the certificate of~~
1394 ~~need if it has expired, to River Region Health System.~~

1395 ~~— (c) Of the total number of beds authorized under this~~
1396 ~~subsection, the department shall issue a certificate of need to a~~
1397 ~~hospital currently operating Medicaid-certified acute psychiatric~~
1398 ~~beds for adolescents in DeSoto County, for the establishment of a~~
1399 ~~forty-bed psychiatric residential treatment facility in DeSoto~~
1400 ~~County, provided that the hospital agrees in writing (i) that the~~
1401 ~~hospital shall give priority for the use of those forty (40) beds~~
1402 ~~to Mississippi residents who are presently being treated in~~
1403 ~~out-of-state facilities, and (ii) that no more than fifteen (15)~~
1404 ~~of the beds at the psychiatric residential treatment facility will~~
1405 ~~be certified for participation in the Medicaid program (Section~~
1406 ~~43-13-101 et seq.), and that no claim will be submitted for~~
1407 ~~Medicaid reimbursement for more than fifteen (15) patients in the~~
1408 ~~psychiatric residential treatment facility in any day or for any~~



1409 ~~patient in the psychiatric residential treatment facility who is~~
1410 ~~in a bed that is not Medicaid-certified. This written agreement~~
1411 ~~by the recipient of the certificate of need shall be a condition~~
1412 ~~of the issuance of the certificate of need under this paragraph,~~
1413 ~~and the agreement shall be fully binding on any subsequent owner~~
1414 ~~of the psychiatric residential treatment facility if the ownership~~
1415 ~~of the facility is transferred at any time after the issuance of~~
1416 ~~the certificate of need. After this written agreement is~~
1417 ~~executed, the Division of Medicaid and the State Department of~~
1418 ~~Health shall not certify more than fifteen (15) of the beds in the~~
1419 ~~psychiatric residential treatment facility for participation in~~
1420 ~~the Medicaid program. If the psychiatric residential treatment~~
1421 ~~facility violates the terms of the written agreement by admitting~~
1422 ~~or keeping in the facility on a regular or continuing basis more~~
1423 ~~than fifteen (15) patients who are participating in the Medicaid~~
1424 ~~program, the State Department of Health shall revoke the license~~
1425 ~~of the facility, at the time that the department determines, after~~
1426 ~~a hearing complying with due process, that the facility has~~
1427 ~~violated the condition upon which the certificate of need was~~
1428 ~~issued, as provided in this paragraph and in the written~~
1429 ~~agreement.~~

1430 ~~_____ (d) Of the total number of beds authorized under this~~
1431 ~~subsection, the department may issue a certificate or certificates~~
1432 ~~of need for the construction or expansion of psychiatric~~
1433 ~~residential treatment facility beds or the conversion of other~~



1434 ~~beds to psychiatric treatment facility beds, not to exceed thirty~~
1435 ~~(30) psychiatric residential treatment facility beds, in either~~
1436 ~~Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,~~
1437 ~~Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.~~

1438 ~~————— (e) Of the total number of beds authorized under this~~
1439 ~~subsection (3) the department shall issue a certificate of need to~~
1440 ~~a privately owned, nonprofit psychiatric residential treatment~~
1441 ~~facility in Hinds County for an eight-bed expansion of the~~
1442 ~~facility, provided that the facility agrees in writing that the~~
1443 ~~facility shall give priority for the use of those eight (8) beds~~
1444 ~~to Mississippi residents who are presently being treated in~~
1445 ~~out-of-state facilities.~~

1446 ~~————— (f) The department shall issue a certificate of need to~~
1447 ~~a one-hundred-thirty-four-bed specialty hospital located on~~
1448 ~~twenty-nine and forty-four one-hundredths (29.44) commercial acres~~
1449 ~~at 5900 Highway 39 North in Meridian (Lauderdale County),~~
1450 ~~Mississippi, for the addition, construction or expansion of~~
1451 ~~child/adolescent psychiatric residential treatment facility beds~~
1452 ~~in Lauderdale County. As a condition of issuance of the~~
1453 ~~certificate of need under this paragraph, the facility shall give~~
1454 ~~priority in admissions to the child/adolescent psychiatric~~
1455 ~~residential treatment facility beds authorized under this~~
1456 ~~paragraph to patients who otherwise would require out-of-state~~
1457 ~~placement. The Division of Medicaid, in conjunction with the~~
1458 ~~Department of Human Services, shall furnish the facility a list of~~



1459 ~~all out-of-state patients on a quarterly basis. Furthermore,~~
1460 ~~notice shall also be provided to the parent, custodial parent or~~
1461 ~~guardian of each out-of-state patient notifying them of the~~
1462 ~~priority status granted by this paragraph. For purposes of this~~
1463 ~~paragraph, the provisions of Section 41-7-193(1) requiring~~
1464 ~~substantial compliance with the projection of need as reported in~~
1465 ~~the current State Health Plan are waived. The total number of~~
1466 ~~child/adolescent psychiatric residential treatment facility beds~~
1467 ~~that may be authorized under the authority of this paragraph shall~~
1468 ~~be sixty (60) beds. There shall be no prohibition or restrictions~~
1469 ~~on participation in the Medicaid program (Section 43-13-101 et~~
1470 ~~seq.) for the person receiving the certificate of need authorized~~
1471 ~~under this paragraph or for the beds converted pursuant to the~~
1472 ~~authority of that certificate of need. [Deleted]~~

1473 (4) (a) From and after * * *~~March 25, 2021~~ July 1, 2025,
1474 the department may issue a certificate of need to any person for
1475 the new construction of any hospital * * *~~7~~ or psychiatric
1476 hospital * * *~~or~~ chemical dependency hospital that will contain
1477 any child/adolescent psychiatric * * *~~or~~ child/adolescent chemical
1478 dependency beds, or for the conversion of any other health care
1479 facility to a hospital * * *~~7~~ or psychiatric hospital * * *~~or~~
1480 chemical dependency hospital that will contain any
1481 child/adolescent psychiatric * * *~~or~~ child/adolescent chemical
1482 dependency beds. There shall be no prohibition or restrictions on
1483 participation in the Medicaid program (Section 43-13-101 et seq.)



1484 for the person(s) receiving the certificate(s) of need authorized
1485 under this paragraph (a) or for the beds converted pursuant to the
1486 authority of that certificate of need. In issuing any new
1487 certificate of need for any child/adolescent psychiatric * * * ~~or~~
1488 ~~child/adolescent chemical dependency~~ beds, either by new
1489 construction or conversion of beds of another category, the
1490 department shall give preference to beds which will be located in
1491 an area of the state which does not have such beds located in it,
1492 and to a location more than sixty-five (65) miles from existing
1493 beds. Upon receiving 2020 census data, the department may amend
1494 the State Health Plan regarding child/adolescent
1495 psychiatric * * * ~~and child/adolescent chemical dependency~~ beds to
1496 reflect the need based on new census data.

1497 (i) [Deleted]

1498 (ii) * * * ~~The department may issue a certificate~~
1499 ~~of need for the conversion of existing beds in a county hospital~~
1500 ~~in Choctaw County from acute care beds to child/adolescent~~
1501 ~~chemical dependency beds. For purposes of this subparagraph (ii),~~
1502 ~~the provisions of Section 41-7-193(1) requiring substantial~~
1503 ~~compliance with the projection of need as reported in the current~~
1504 ~~State Health Plan are waived. The total number of beds that may~~
1505 ~~be authorized under authority of this subparagraph shall not~~
1506 ~~exceed twenty (20) beds. There shall be no prohibition or~~
1507 ~~restrictions on participation in the Medicaid program (Section~~
1508 ~~43-13-101 et seq.) for the hospital receiving the certificate of~~



1509 ~~need authorized under this subparagraph or for the beds converted~~
1510 ~~pursuant to the authority of that certificate of need. [Deleted]~~

1511 (iii) The department may issue a certificate or
1512 certificates of need for the construction or expansion of
1513 child/adolescent psychiatric beds or the conversion of other beds
1514 to child/adolescent psychiatric beds in Warren County. For
1515 purposes of this subparagraph (iii), the provisions of Section
1516 41-7-193(1) requiring substantial compliance with the projection
1517 of need as reported in the current State Health Plan are waived.
1518 The total number of beds that may be authorized under the
1519 authority of this subparagraph shall not exceed twenty (20) beds.
1520 There shall be no prohibition or restrictions on participation in
1521 the Medicaid program (Section 43-13-101 et seq.) for the person
1522 receiving the certificate of need authorized under this
1523 subparagraph or for the beds converted pursuant to the authority
1524 of that certificate of need.

1525 If by January 1, 2002, there has been no significant
1526 commencement of construction of the beds authorized under this
1527 subparagraph (iii), or no significant action taken to convert
1528 existing beds to the beds authorized under this subparagraph, then
1529 the certificate of need that was previously issued under this
1530 subparagraph shall expire. If the previously issued certificate
1531 of need expires, the department may accept applications for
1532 issuance of another certificate of need for the beds authorized
1533 under this subparagraph, and may issue a certificate of need to



1534 authorize the construction, expansion or conversion of the beds
1535 authorized under this subparagraph.

1536 (iv) The department shall issue a certificate of
1537 need to the Region 7 Mental Health/Retardation Commission for the
1538 construction or expansion of child/adolescent psychiatric beds or
1539 the conversion of other beds to child/adolescent psychiatric beds
1540 in any of the counties served by the commission. For purposes of
1541 this subparagraph (iv), the provisions of Section 41-7-193(1)
1542 requiring substantial compliance with the projection of need as
1543 reported in the current State Health Plan are waived. The total
1544 number of beds that may be authorized under the authority of this
1545 subparagraph shall not exceed twenty (20) beds. There shall be no
1546 prohibition or restrictions on participation in the Medicaid
1547 program (Section 43-13-101 et seq.) for the person receiving the
1548 certificate of need authorized under this subparagraph or for the
1549 beds converted pursuant to the authority of that certificate of
1550 need.

1551 (v) The department may issue a certificate of need
1552 to any county hospital located in Leflore County for the
1553 construction or expansion of adult psychiatric beds or the
1554 conversion of other beds to adult psychiatric beds, not to exceed
1555 twenty (20) beds, provided that the recipient of the certificate
1556 of need agrees in writing that the adult psychiatric beds will not
1557 at any time be certified for participation in the Medicaid program
1558 and that the hospital will not admit or keep any patients who are



1559 participating in the Medicaid program in any of such adult
1560 psychiatric beds. This written agreement by the recipient of the
1561 certificate of need shall be fully binding on any subsequent owner
1562 of the hospital if the ownership of the hospital is transferred at
1563 any time after the issuance of the certificate of need. Agreement
1564 that the adult psychiatric beds will not be certified for
1565 participation in the Medicaid program shall be a condition of the
1566 issuance of a certificate of need to any person under this
1567 subparagraph (v), and if such hospital at any time after the
1568 issuance of the certificate of need, regardless of the ownership
1569 of the hospital, has any of such adult psychiatric beds certified
1570 for participation in the Medicaid program or admits or keeps any
1571 Medicaid patients in such adult psychiatric beds, the State
1572 Department of Health shall revoke the certificate of need, if it
1573 is still outstanding, and shall deny or revoke the license of the
1574 hospital at the time that the department determines, after a
1575 hearing complying with due process, that the hospital has failed
1576 to comply with any of the conditions upon which the certificate of
1577 need was issued, as provided in this subparagraph and in the
1578 written agreement by the recipient of the certificate of need.

1579 (vi) The department may issue a certificate or
1580 certificates of need for the expansion of child psychiatric beds
1581 or the conversion of other beds to child psychiatric beds at the
1582 University of Mississippi Medical Center. For purposes of this
1583 subparagraph (vi), the provisions of Section 41-7-193(1) requiring



1584 substantial compliance with the projection of need as reported in
1585 the current State Health Plan are waived. The total number of
1586 beds that may be authorized under the authority of this
1587 subparagraph shall not exceed fifteen (15) beds. There shall be
1588 no prohibition or restrictions on participation in the Medicaid
1589 program (Section 43-13-101 et seq.) for the hospital receiving the
1590 certificate of need authorized under this subparagraph or for the
1591 beds converted pursuant to the authority of that certificate of
1592 need.

1593 (b) From and after July 1, * * *~~1990~~ 2025, no
1594 hospital * * *~~, or~~ or psychiatric hospital * * *~~or chemical~~
1595 ~~dependency hospital~~ shall be authorized to add any
1596 child/adolescent psychiatric * * *~~or child/adolescent chemical~~
1597 ~~dependency~~ beds or convert any beds of another category to
1598 child/adolescent psychiatric * * *~~or child/adolescent chemical~~
1599 ~~dependency~~ beds without a certificate of need under the authority
1600 of subsection (1)(c) and subsection (4)(a) of this section.

1601 (5) The department may issue a certificate of need to a
1602 county hospital in Winston County for the conversion of fifteen
1603 (15) acute care beds to geriatric psychiatric care beds.

1604 (6) The State Department of Health shall issue a certificate
1605 of need to a Mississippi corporation qualified to manage a
1606 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1607 Harrison County, not to exceed eighty (80) beds, including any
1608 necessary renovation or construction required for licensure and



1609 certification, provided that the recipient of the certificate of
1610 need agrees in writing that the long-term care hospital will not
1611 at any time participate in the Medicaid program (Section 43-13-101
1612 et seq.) or admit or keep any patients in the long-term care
1613 hospital who are participating in the Medicaid program. This
1614 written agreement by the recipient of the certificate of need
1615 shall be fully binding on any subsequent owner of the long-term
1616 care hospital, if the ownership of the facility is transferred at
1617 any time after the issuance of the certificate of need. Agreement
1618 that the long-term care hospital will not participate in the
1619 Medicaid program shall be a condition of the issuance of a
1620 certificate of need to any person under this subsection (6), and
1621 if such long-term care hospital at any time after the issuance of
1622 the certificate of need, regardless of the ownership of the
1623 facility, participates in the Medicaid program or admits or keeps
1624 any patients in the facility who are participating in the Medicaid
1625 program, the State Department of Health shall revoke the
1626 certificate of need, if it is still outstanding, and shall deny or
1627 revoke the license of the long-term care hospital, at the time
1628 that the department determines, after a hearing complying with due
1629 process, that the facility has failed to comply with any of the
1630 conditions upon which the certificate of need was issued, as
1631 provided in this subsection and in the written agreement by the
1632 recipient of the certificate of need. For purposes of this
1633 subsection, the provisions of Section 41-7-193(1) requiring



1634 substantial compliance with the projection of need as reported in
1635 the current State Health Plan are waived.

1636 (7) The State Department of Health may issue a certificate
1637 of need to any hospital in the state to utilize a portion of its
1638 beds for the "swing-bed" concept. Any such hospital must be in
1639 conformance with the federal regulations regarding such swing-bed
1640 concept at the time it submits its application for a certificate
1641 of need to the State Department of Health, except that such
1642 hospital may have more licensed beds or a higher average daily
1643 census (ADC) than the maximum number specified in federal
1644 regulations for participation in the swing-bed program. Any
1645 hospital meeting all federal requirements for participation in the
1646 swing-bed program which receives such certificate of need shall
1647 render services provided under the swing-bed concept to any
1648 patient eligible for Medicare (Title XVIII of the Social Security
1649 Act) who is certified by a physician to be in need of such
1650 services, and no such hospital shall permit any patient who is
1651 eligible for both Medicaid and Medicare or eligible only for
1652 Medicaid to stay in the swing beds of the hospital for more than
1653 thirty (30) days per admission unless the hospital receives prior
1654 approval for such patient from the Division of Medicaid, Office of
1655 the Governor. Any hospital having more licensed beds or a higher
1656 average daily census (ADC) than the maximum number specified in
1657 federal regulations for participation in the swing-bed program
1658 which receives such certificate of need shall develop a procedure



1659 to ensure that before a patient is allowed to stay in the swing
1660 beds of the hospital, there are no vacant nursing home beds
1661 available for that patient located within a fifty-mile radius of
1662 the hospital. When any such hospital has a patient staying in the
1663 swing beds of the hospital and the hospital receives notice from a
1664 nursing home located within such radius that there is a vacant bed
1665 available for that patient, the hospital shall transfer the
1666 patient to the nursing home within a reasonable time after receipt
1667 of the notice. Any hospital which is subject to the requirements
1668 of the two (2) preceding sentences of this subsection may be
1669 suspended from participation in the swing-bed program for a
1670 reasonable period of time by the State Department of Health if the
1671 department, after a hearing complying with due process, determines
1672 that the hospital has failed to comply with any of those
1673 requirements.

1674 (8) The Department of Health shall not grant approval for or
1675 issue a certificate of need to any person proposing the new
1676 construction of, addition to or expansion of a health care
1677 facility as defined in subparagraph (viii) of Section 41-7-173(h)
1678 (intermediate care facility for individuals with intellectual
1679 disabilities), except as hereinafter provided:

1680 (a) Effective July 1, 2025, the department * * *~~may~~
1681 shall issue a certificate of need to a nonprofit corporation
1682 located in Madison County, Mississippi, for the construction,
1683 expansion or conversion of not more than * * *~~twenty (20)~~ forty



1684 (40) beds in a community living program for developmentally
1685 disabled adults in * * *a facility as defined in subparagraph
1686 (viii) of Section 41-7-173(h) an intermediate care facility for
1687 individuals with intellectual disabilities.

1688 (b) The department may issue a certificate or
1689 certificates of need to any person or persons for the new
1690 construction of an intermediate care facility for individuals with
1691 intellectual disabilities, with not more than ten (10) beds
1692 authorized by any certificate of need. The total number of beds
1693 that may be authorized under all certificates of need issued under
1694 this paragraph (b) shall not be more than eighty (80) beds.

1695 (c) For purposes of this subsection (8), the provisions
1696 of Section 41-7-193(1) requiring substantial compliance with the
1697 projection of need as reported in the current State Health Plan
1698 and the provisions of Section 41-7-197 requiring a formal
1699 certificate of need hearing process are waived. There shall be no
1700 prohibition or restrictions on participation in the Medicaid
1701 program for the person receiving * * *the any certificate of need
1702 authorized under this subsection (8).

1703 (9) The Department of Health shall not grant approval for or
1704 issue a certificate of need to any person proposing the
1705 establishment of, or expansion of the currently approved territory
1706 of, or the contracting to establish a home office, subunit or
1707 branch office within the space operated as a health care facility
1708 as defined in Section 41-7-173(h) (i) through (viii) by a health



1709 care facility as defined in subparagraph (ix) of Section
1710 41-7-173(h).

1711 (10) Health care facilities owned and/or operated by the
1712 state or its agencies are exempt from the restraints in this
1713 section against issuance of a certificate of need if such addition
1714 or expansion consists of repairing or renovation necessary to
1715 comply with the state licensure law. This exception shall not
1716 apply to the new construction of any building by such state
1717 facility. This exception shall not apply to any health care
1718 facilities owned and/or operated by counties, municipalities,
1719 districts, unincorporated areas, other defined persons, or any
1720 combination thereof.

1721 (11) The new construction, renovation or expansion of or
1722 addition to any health care facility defined in subparagraph (ii)
1723 (psychiatric hospital), subparagraph (iv) (skilled nursing
1724 facility) * * *, ~~subparagraph (vi) (intermediate care facility),~~
1725 and subparagraph (viii) (intermediate care facility for
1726 individuals with intellectual disabilities) * * * ~~and subparagraph~~
1727 ~~(x) (psychiatric residential treatment facility)~~ of Section
1728 41-7-173(h) which is owned by the State of Mississippi and under
1729 the direction and control of the State Department of Mental
1730 Health, and the addition of new beds or the conversion of beds
1731 from one category to another in any such defined health care
1732 facility which is owned by the State of Mississippi and under the
1733 direction and control of the State Department of Mental Health,



1734 shall not require the issuance of a certificate of need under
1735 Section 41-7-171 et seq., notwithstanding any provision in Section
1736 41-7-171 et seq. to the contrary.

1737 (12) The new construction, renovation or expansion of or
1738 addition to any veterans homes or domiciliaries for eligible
1739 veterans of the State of Mississippi as authorized under Section
1740 35-1-19 shall not require the issuance of a certificate of need,
1741 notwithstanding any provision in Section 41-7-171 et seq. to the
1742 contrary.

1743 (13) The repair or the rebuilding of an existing, operating
1744 health care facility that sustained significant damage from a
1745 natural disaster that occurred after April 15, 2014, in an area
1746 that is proclaimed a disaster area or subject to a state of
1747 emergency by the Governor or by the President of the United States
1748 shall be exempt from all of the requirements of the Mississippi
1749 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1750 rules and regulations promulgated under that law, subject to the
1751 following conditions:

1752 (a) The repair or the rebuilding of any such damaged
1753 health care facility must be within one (1) mile of the
1754 pre-disaster location of the campus of the damaged health care
1755 facility, except that any temporary post-disaster health care
1756 facility operating location may be within five (5) miles of the
1757 pre-disaster location of the damaged health care facility;



1758 (b) The repair or the rebuilding of the damaged health
1759 care facility (i) does not increase or change the complement of
1760 its bed capacity that it had before the Governor's or the
1761 President's proclamation, (ii) does not increase or change its
1762 levels and types of health care services that it provided before
1763 the Governor's or the President's proclamation, and (iii) does not
1764 rebuild in a different county; however, this paragraph does not
1765 restrict or prevent a health care facility from decreasing its bed
1766 capacity that it had before the Governor's or the President's
1767 proclamation, or from decreasing the levels of or decreasing or
1768 eliminating the types of health care services that it provided
1769 before the Governor's or the President's proclamation, when the
1770 damaged health care facility is repaired or rebuilt;

1771 (c) The exemption from Certificate of Need Law provided
1772 under this subsection (13) is valid for only five (5) years from
1773 the date of the Governor's or the President's proclamation. If
1774 actual construction has not begun within that five-year period,
1775 the exemption provided under this subsection is inapplicable; and

1776 (d) The Division of Health Facilities Licensure and
1777 Certification of the State Department of Health shall provide the
1778 same oversight for the repair or the rebuilding of the damaged
1779 health care facility that it provides to all health care facility
1780 construction projects in the state.

1781 For the purposes of this subsection (13), "significant
1782 damage" to a health care facility means damage to the health care



1783 facility requiring an expenditure of at least One Million Dollars
1784 (\$1,000,000.00).

1785 (14) The State Department of Health shall issue a
1786 certificate of need to any hospital which is currently licensed
1787 for two hundred fifty (250) or more acute care beds and is located
1788 in any general hospital service area not having a comprehensive
1789 cancer center, for the establishment and equipping of such a
1790 center which provides facilities and services for outpatient
1791 radiation oncology therapy, outpatient medical oncology therapy,
1792 and appropriate support services including the provision of
1793 radiation therapy services. The provisions of Section 41-7-193(1)
1794 regarding substantial compliance with the projection of need as
1795 reported in the current State Health Plan are waived for the
1796 purpose of this subsection.

1797 (15) The State Department of Health may authorize the
1798 transfer of hospital beds, not to exceed sixty (60) beds, from the
1799 North Panola Community Hospital to the South Panola Community
1800 Hospital. The authorization for the transfer of those beds shall
1801 be exempt from the certificate of need review process.

1802 (16) The State Department of Health shall issue any
1803 certificates of need necessary for Mississippi State University
1804 and a public or private health care provider to jointly acquire
1805 and operate a linear accelerator and a magnetic resonance imaging
1806 unit. Those certificates of need shall cover all capital
1807 expenditures related to the project between Mississippi State



1808 University and the health care provider, including, but not
1809 limited to, the acquisition of the linear accelerator, the
1810 magnetic resonance imaging unit and other radiological modalities;
1811 the offering of linear accelerator and magnetic resonance imaging
1812 services; and the cost of construction of facilities in which to
1813 locate these services. The linear accelerator and the magnetic
1814 resonance imaging unit shall be (a) located in the City of
1815 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1816 Mississippi State University and the public or private health care
1817 provider selected by Mississippi State University through a
1818 request for proposals (RFP) process in which Mississippi State
1819 University selects, and the Board of Trustees of State
1820 Institutions of Higher Learning approves, the health care provider
1821 that makes the best overall proposal; (c) available to Mississippi
1822 State University for research purposes two-thirds (2/3) of the
1823 time that the linear accelerator and magnetic resonance imaging
1824 unit are operational; and (d) available to the public or private
1825 health care provider selected by Mississippi State University and
1826 approved by the Board of Trustees of State Institutions of Higher
1827 Learning one-third (1/3) of the time for clinical, diagnostic and
1828 treatment purposes. For purposes of this subsection, the
1829 provisions of Section 41-7-193(1) requiring substantial compliance
1830 with the projection of need as reported in the current State
1831 Health Plan are waived.



1832 (17) The State Department of Health shall issue a
1833 certificate of need for the construction of an acute care hospital
1834 in Kemper County, not to exceed twenty-five (25) beds, which shall
1835 be named the "John C. Stennis Memorial Hospital." In issuing the
1836 certificate of need under this subsection, the department shall
1837 give priority to a hospital located in Lauderdale County that has
1838 two hundred fifteen (215) beds. For purposes of this subsection,
1839 the provisions of Section 41-7-193(1) requiring substantial
1840 compliance with the projection of need as reported in the current
1841 State Health Plan and the provisions of Section 41-7-197 requiring
1842 a formal certificate of need hearing process are waived. There
1843 shall be no prohibition or restrictions on participation in the
1844 Medicaid program (Section 43-13-101 et seq.) for the person or
1845 entity receiving the certificate of need authorized under this
1846 subsection or for the beds constructed under the authority of that
1847 certificate of need.

1848 (18) The planning, design, construction, renovation,
1849 addition, furnishing and equipping of a clinical research unit at
1850 any health care facility defined in Section 41-7-173(h) that is
1851 under the direction and control of the University of Mississippi
1852 Medical Center and located in Jackson, Mississippi, and the
1853 addition of new beds or the conversion of beds from one (1)
1854 category to another in any such clinical research unit, shall not
1855 require the issuance of a certificate of need under Section



1856 41-7-171 et seq., notwithstanding any provision in Section
1857 41-7-171 et seq. to the contrary.

1858 (19) [Repealed]

1859 (20) Nothing in this section or in any other provision of
1860 Section 41-7-171 et seq. shall prevent any nursing facility from
1861 designating an appropriate number of existing beds in the facility
1862 as beds for providing care exclusively to patients with
1863 Alzheimer's disease.

1864 (21) Nothing in this section or any other provision of
1865 Section 41-7-171 et seq. shall prevent any health care facility
1866 from the new construction, renovation, conversion or expansion of
1867 new beds in the facility designated as intensive care units,
1868 negative pressure rooms, or isolation rooms pursuant to the
1869 provisions of Sections 41-14-1 through 41-14-11, or Section
1870 41-14-31. For purposes of this subsection, the provisions of
1871 Section 41-7-193(1) requiring substantial compliance with the
1872 projection of need as reported in the current State Health Plan
1873 and the provisions of Section 41-7-197 requiring a formal
1874 certificate of need hearing process are waived.

1875 **SECTION 7.** Section 41-7-193, Mississippi Code of 1972, is
1876 amended as follows:

1877 41-7-193. (1) No person may enter into any financing
1878 arrangement or commitment for financing a new institutional health
1879 service or any other project requiring a certificate of need
1880 unless such certificate has been granted for such purpose. A



1881 certificate of need shall not be granted or issued to any person
1882 for any proposal, cause or reason, unless the proposal has been
1883 reviewed for consistency with the specifications and the criteria
1884 established by the State Department of Health and substantially
1885 complies with the projection of need as reported in the state
1886 health plan in effect at the time the application for the proposal
1887 was submitted.

1888 (2) An application for a certificate of need for an
1889 institutional health service, medical equipment or any proposal
1890 requiring a certificate of need shall specify the time, within
1891 that granted, such shall be functional or operational according to
1892 a time schedule submitted with the application. Each certificate
1893 of need shall specify the maximum amount of capital expenditure
1894 that may be obligated. The State Department of Health shall
1895 periodically review the progress and time schedule of any person
1896 issued or granted a certificate of need for any purpose.

1897 Recipients of certificates of need shall make written progress
1898 reports of their projects at least every six (6) months and at
1899 completion. The department shall monitor the projects to assure
1900 compliance with stated policies, standards (including life safety,
1901 construction and licensure), and approved costs. The department
1902 shall also periodically review the health care facility, equipment
1903 or service authorized by the certificate of need to ensure that
1904 the facility, equipment or service is being used or operated for
1905 the purpose that was stated in the application for the certificate



1906 of need and in a manner consistent with the information provided
1907 in the application. The recipient of the certificate of need
1908 shall provide the department with such information as necessary to
1909 enable the department to properly conduct such reviews.

1910 (3) An application for a certificate of need may be filed at
1911 any time with the department after the applicant has given the
1912 department fifteen (15) days' written notice of its intent to
1913 apply for a certificate of need. The department shall not delay
1914 review of an application. The department shall make its
1915 recommendation approving or disapproving a complete application
1916 within forty-five (45) days of the date the application was filed
1917 or within fifteen (15) days of receipt of any requested
1918 information, whichever is later, * * *~~said~~ the request to be made
1919 by the department within fifteen (15) days of the filing of the
1920 application.

1921 **SECTION 8.** Section 41-7-195, Mississippi Code of 1972, is
1922 amended as follows:

1923 41-7-195. (1) A certificate of need shall be valid only for
1924 the defined scope, physical location and person named in the
1925 application. A certificate of need shall not be transferable or
1926 assignable nor shall a project or capital expenditure project be
1927 transferred from one person to another, except with the approval
1928 of the State Department of Health. A certificate of need shall be
1929 valid for the period of time specified therein.



1930 (2) A certificate of need shall be issued for a period of
1931 twelve (12) months, or such other lesser period as specified by
1932 the State Department of Health.

1933 (3) The State Department of Health may define by regulation,
1934 not to exceed * * *~~six~~ (6) twelve (12) months, the time for which
1935 a certificate of need may be extended in those cases where the
1936 applicant shows to the satisfaction of the department that a good
1937 faith effort has been made toward completion of the project. A
1938 certificate of need may be extended up to four (4) times for not
1939 more than twelve (12) months each time, where construction has not
1940 commenced or other preparation is not substantially undertaken
1941 related to the certificate of need. After the end of the period
1942 of the fourth twelve-month extension, the certificate of need
1943 shall expire, and the applicant must apply for a new certificate
1944 of need.

1945 (4) If commencement of construction or other preparation is
1946 not substantially undertaken during a valid certificate of need
1947 period or the State Department of Health determines the applicant
1948 is not making a good faith effort * * *~~to obligate such approved~~
1949 ~~expenditure, the State Department of Health shall have the right~~
1950 ~~to withdraw, revoke or rescind~~ toward completion of the project,
1951 the certificate of need shall be revoked.

1952 (5) The State Department of Health may approve or disapprove
1953 a proposal for a certificate of need as originally presented in
1954 final form, or it may approve a certificate of need by a



1955 modification, by reduction only, of such proposal provided the
1956 proponent agrees to such modification.

1957 **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is
1958 brought forward as follows:

1959 41-7-197. (1) The State Department of Health shall adopt
1960 and utilize procedures for conducting certificate of need reviews.
1961 Such procedures shall include, inter alia, the following: (a)
1962 written notification to the applicant; (b) written notification to
1963 health care facilities in the same health service area as the
1964 proposed service; (c) written notification to other persons who
1965 prior to the receipt of the application have filed a formal notice
1966 of intent to provide the proposed services in the same service
1967 area; and (d) notification to members of the public who reside in
1968 the service area where the service is proposed, which may be
1969 provided through newspapers or public information channels.

1970 (2) All notices provided shall include, inter alia, the
1971 following: (a) the proposed schedule for the review; (b) written
1972 notification of the period within which a public hearing during
1973 the course of the review may be requested in writing by one or
1974 more affected persons, such request to be made within ten (10)
1975 days of the department's staff recommendation for approval or
1976 disapproval of an application; and (c) the manner in which
1977 notification will be provided of the time and place of any hearing
1978 so requested. Any such hearing shall be commenced by an
1979 independent hearing officer designated by the State Department of



1980 Health within sixty (60) days of the filing of the hearing request
1981 unless all parties to the hearing agree to extend the time for the
1982 commencement of the hearing. At such hearing, the hearing officer
1983 and any person affected by the proposal being reviewed may conduct
1984 reasonable questioning of persons who make relevant factual
1985 allegations concerning the proposal. The hearing officer shall
1986 require that all persons be sworn before they may offer any
1987 testimony at the hearing, and the hearing officer is authorized to
1988 administer oaths. Any person so choosing may be represented by
1989 counsel at the hearing. A record of the hearing shall be made,
1990 which shall consist of a transcript of all testimony received, all
1991 documents and other material introduced by any interested person,
1992 the staff report and recommendation and such other material as the
1993 hearing officer considers relevant, including his own
1994 recommendation, which he shall make, after reviewing, studying and
1995 analyzing the evidence presented during the hearing, within a
1996 reasonable period of time after the hearing is closed, which in no
1997 event shall exceed forty-five (45) days. The completed record
1998 shall be certified to the State Health Officer, who shall consider
1999 only the record in making his decision, and shall not consider any
2000 evidence or material which is not included therein. All final
2001 decisions regarding the issuance of a certificate of need shall be
2002 made by the State Health Officer. The State Health Officer shall
2003 make his or her written findings and issue his or her order after



2004 reviewing said record. The findings and decision of the State
2005 Health Officer shall not be deferred to any later date.

2006 (3) Unless a hearing is held, if review by the State
2007 Department of Health concerning the issuance of a certificate of
2008 need is not complete with a final decision issued by the State
2009 Health Officer within the time specified by rule or regulation,
2010 which shall not exceed ninety (90) days from the filing of the
2011 application for a certificate of need, the proponent of the
2012 proposal may, within thirty (30) days after the expiration of the
2013 specified time for review, commence such legal action as is
2014 necessary, in the Chancery Court of the First Judicial District of
2015 Hinds County or in the chancery court of the county in which the
2016 service or facility is proposed to be provided, to compel the
2017 State Health Officer to issue written findings and written order
2018 approving or disapproving the proposal in question.

2019 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is
2020 amended as follows:

2021 41-7-201. * * * ~~(1) The provisions of this subsection (1)~~
2022 ~~shall apply to any party appealing any final order of the State~~
2023 ~~Department of Health pertaining to a certificate of need for a~~
2024 ~~home health agency, as defined in Section 41-7-173(h)(ix):~~

2025 ~~————— (a) In addition to other remedies now available at law~~
2026 ~~or in equity, any party aggrieved by any such final order of the~~
2027 ~~State Department of Health shall have the right of appeal to the~~
2028 ~~Chancery Court of the First Judicial District of Hinds County,~~



2029 ~~Mississippi, which appeal must be filed within thirty (30) days~~
2030 ~~after the date of the final order. Provided, however, that any~~
2031 ~~appeal of an order disapproving an application for such a~~
2032 ~~certificate of need may be made to the chancery court of the~~
2033 ~~county where the proposed construction, expansion or alteration~~
2034 ~~was to be located or the new service or purpose of the capital~~
2035 ~~expenditure was to be located. Such appeal must be filed in~~
2036 ~~accordance with the thirty (30) days for filing as heretofore~~
2037 ~~provided. Any appeal shall state briefly the nature of the~~
2038 ~~proceedings before the State Department of Health and shall~~
2039 ~~specify the order complained of. Any appeal shall state briefly~~
2040 ~~the nature of the proceedings before the State Department of~~
2041 ~~Health and shall specify the order complained of. Any person~~
2042 ~~whose rights may be materially affected by the action of the State~~
2043 ~~Department of Health may appear and become a party or the court~~
2044 ~~may, upon motion, order that any such person, organization or~~
2045 ~~entity be joined as a necessary party.~~

2046 ~~———— (b) Upon the filing of such an appeal, the clerk of the~~
2047 ~~chancery court shall serve notice thereof upon the State~~
2048 ~~Department of Health, whereupon the State Department of Health~~
2049 ~~shall, within thirty (30) days or within such additional time as~~
2050 ~~the court may by order for cause allow from the service of such~~
2051 ~~notice, certify to the chancery court the record in the case,~~
2052 ~~which records shall include a transcript of all testimony,~~
2053 ~~together with all exhibits or copies thereof, all pleadings,~~



2054 ~~proceedings, orders, findings and opinions entered in the case;~~
2055 ~~provided, however, that the parties and the State Department of~~
2056 ~~Health may stipulate that a specified portion only of the record~~
2057 ~~shall be certified to the court as the record on appeal.~~

2058 ~~————— (c) The court may dispose of the appeal in termtime or~~
2059 ~~vacation and may sustain or dismiss the appeal, modify or vacate~~
2060 ~~the order complained of, in whole or in part, as the case may be;~~
2061 ~~but in case the order is wholly or partly vacated, the court may~~
2062 ~~also, in its discretion, remand the matter to the State Department~~
2063 ~~of Health for such further proceedings, not inconsistent with the~~
2064 ~~court's order, as, in the opinion of the court, justice may~~
2065 ~~require. The order shall not be vacated or set aside, either in~~
2066 ~~whole or in part, except for errors of law, unless the court finds~~
2067 ~~that the order of the State Department of Health is not supported~~
2068 ~~by substantial evidence, is contrary to the manifest weight of the~~
2069 ~~evidence, is in excess of the statutory authority or jurisdiction~~
2070 ~~of the State Department of Health, or violates any vested~~
2071 ~~constitutional rights of any party involved in the appeal.~~

2072 ~~Provided, however, an order of the chancery court reversing the~~
2073 ~~denial of a certificate of need by the State Department of Health~~
2074 ~~shall not entitle the applicant to effectuate the certificate of~~
2075 ~~need until either:~~

2076 ~~————— (i) Such order of the chancery court has become~~
2077 ~~final and has not been appealed to the Supreme Court; or~~



2078 ~~_____ (ii) The Supreme Court has entered a final order~~
2079 ~~affirming the chancery court.~~

2080 ~~_____ (d) Appeals in accordance with law may be had to the~~
2081 ~~Supreme Court of the State of Mississippi from any final judgment~~
2082 ~~of the chancery court.~~

2083 (* * * 21) The provisions of this * * * ~~subsection (2)~~
2084 section shall apply to any party appealing any final order of the
2085 State Department of Health pertaining to a certificate of
2086 need * * * ~~for any health care facility as defined in Section~~
2087 ~~41-7-173(h), with the exception of any home health agency as~~
2088 ~~defined in Section 41-7-173(h) (ix):.~~

2089 (* * * a2) There shall be a "stay of proceedings" of any
2090 final order issued by the State Department of Health pertaining to
2091 the issuance of a certificate of need for the establishment,
2092 construction, expansion or replacement of a health care facility
2093 for a period of thirty (30) calendar days from the date of the
2094 order, if an existing provider located in the same service area
2095 where the health care facility is or will be located has requested
2096 a hearing during the course of review in opposition to the
2097 issuance of the certificate of need. The stay of proceedings
2098 shall expire at the termination of thirty (30) calendar days;
2099 however, no construction, renovation or other capital expenditure
2100 that is the subject of the order shall be undertaken, no license
2101 to operate any facility that is the subject of the order shall be
2102 issued by the licensing agency, and no certification to



2103 participate in the Title XVII or Title XIX programs of the Social
2104 Security Act shall be granted, until all statutory appeals have
2105 been exhausted or the time for such appeals has expired.

2106 Notwithstanding the foregoing, the filing of an appeal from a
2107 final order of the State Department of Health * * *~~or the chancery~~
2108 ~~court~~ for the issuance of a certificate of need shall not prevent
2109 the purchase of medical equipment or development or offering of
2110 institutional health services granted in a certificate of need
2111 issued by the State Department of Health.

2112 (* * *~~b~~3) In addition to other remedies now available at
2113 law or in equity, any party aggrieved by such final order of the
2114 State Department of Health shall have the right of appeal
2115 to * * *~~the Chancery Court of the First Judicial District of Hinds~~
2116 ~~County, Mississippi~~ a special chancery judge appointed by the
2117 Supreme Court, which appeal must be filed with the Supreme Court
2118 within twenty (20) calendar days after the date of the final
2119 order. * * *~~Provided, however, that any appeal of an order~~
2120 ~~disapproving an application for such a certificate of need may be~~
2121 ~~made to the chancery court of the county where the proposed~~
2122 ~~construction, expansion or alteration was to be located or the new~~
2123 ~~service or purpose of the capital expenditure was to be located.~~
2124 ~~Such appeal must be filed in accordance with the twenty (20) days~~
2125 ~~for filing as heretofore provided.~~ Any appeal shall state briefly
2126 the nature of the proceedings before the State Department of
2127 Health and shall specify the order complained of. The Supreme



2128 Court shall appoint the special chancery judge in accordance with
2129 the provisions of Section 9-1-105 within fifteen (15) calendar
2130 days after the date that the appeal is filed. The appeal shall be
2131 held in one (1) of the courtrooms of the Chancery Court of the
2132 First Judicial District of Hinds County, Mississippi.

2133 (* * *e4) Upon the filing of such an appeal, the Clerk of
2134 the * * *chancery Supreme Court shall serve notice thereof upon
2135 the State Department of Health, * * *whereupon after which the
2136 State Department of Health shall * * *certify the record in the
2137 case to the special chancery judge within thirty (30) calendar
2138 days of the date of the filing of the appeal * * *certify to the
2139 chancery court or within such time as the special chancery judge
2140 may, by order for cause, allow from the service of such notice.
2141 The certified record in the case * * *which records shall
2142 include a transcript of all testimony, together with all exhibits
2143 or copies thereof, all proceedings, orders, findings and opinions
2144 entered in the case; * * *provided, however, * * *that the parties
2145 and the State Department of Health may stipulate that a specified
2146 portion only of the record shall be certified to the * * *court
2147 special chancery judge as the record on appeal. The * * *chancery
2148 court shall give preference to any such appeal from a final order
2149 by the State Department of Health in a certificate of need
2150 proceeding, and special chancery judge shall render a final order
2151 regarding such appeal no later than one hundred twenty (120)
2152 calendar days from the date of the final order by the State



2153 Department of Health. If the * * *~~chancery court~~ special chancery
2154 judge has not rendered a final order within this
2155 one-hundred-twenty-day period, then the final order of the State
2156 Department of Health shall be deemed to have been affirmed by
2157 the * * *~~chancery court~~ special chancery judge * * *, ~~and any~~
2158 ~~party to the appeal shall have the right to appeal from the~~
2159 ~~chancery court to the Supreme Court on the record certified by the~~
2160 ~~State Department of Health as otherwise provided in paragraph (g)~~
2161 ~~of this subsection. In the event the chancery court has not~~
2162 ~~rendered a final order within the one-hundred-twenty-day period~~
2163 ~~and an appeal is made to the Supreme Court as provided herein, the~~
2164 ~~Supreme Court shall remand the case to the chancery court to make~~
2165 ~~an award of costs, fees, reasonable expenses and attorney's fees~~
2166 ~~incurred in favor of appellee payable by the appellant(s) should~~
2167 ~~the Supreme Court affirm the order of the State Department of~~
2168 ~~Health. The final order of the special chancery judge, or the~~
2169 deemed affirmation of the final order of the State Department of
2170 Health, shall be the final decision in the case, and no further
2171 appeal shall be allowed from that final order or deemed
2172 affirmation.

2173 (* * *~~45~~) Any appeal of a final order by the State
2174 Department of Health in a certificate of need proceeding shall
2175 require the giving of a bond by the appellant(s) sufficient to
2176 secure the appellee against the loss of costs, fees, expenses and
2177 attorney's fees incurred in defense of the appeal, approved by



2178 the * * *~~chancery~~ Supreme Court within five (5) calendar days of
2179 the date of filing the appeal.

2180 (* * *~~e~~6) No new or additional evidence shall be introduced
2181 in the appeal to the * * *~~chancery court~~ special chancery judge
2182 but the case shall be determined upon the record certified to
2183 the * * *~~court~~ special chancery judge.

2184 (* * *~~f~~7) The * * *~~court~~ may dispose of the appeal in
2185 ~~termtime or vacation and~~ special chancery judge may sustain or
2186 dismiss the appeal, modify or vacate the order complained of in
2187 whole or in part and may make an award of costs, fees, expenses
2188 and attorney's fees, as the case may be * * *~~;~~ but In case the
2189 order is wholly or partly vacated, the * * *~~court~~ special chancery
2190 judge may also, in * * *~~its~~ his or her discretion, remand the
2191 matter to the State Department of Health for such further
2192 proceedings, not inconsistent with the * * *~~court's~~ judge's order,
2193 as, in the opinion of the * * *~~court~~ judge, justice may require.
2194 The * * *~~court~~ special chancery judge, as part of the final order,
2195 shall make an award of costs, fees, reasonable expenses and
2196 attorney's fees incurred in favor of appellee payable by the
2197 appellant(s) * * *~~should~~ if the court affirms the order of the
2198 State Department of Health. The order shall not be vacated or set
2199 aside, either in whole or in part, except for errors of law,
2200 unless the * * *~~court~~ special chancery judge finds that the order
2201 of the State Department of Health is not supported by substantial
2202 evidence, is contrary to the manifest weight of the evidence, is



2203 in excess of the statutory authority or jurisdiction of the State
2204 Department of Health, or violates any vested constitutional rights
2205 of any party involved in the appeal. * * *~~Provided, however, an~~
2206 ~~order of the chancery court reversing the denial of a certificate~~
2207 ~~of need by the State Department of Health shall not entitle the~~
2208 ~~applicant to effectuate the certificate of need until either:~~

2209 * * * ~~————— (i) Such order of the chancery court has become~~
2210 ~~final and has not been appealed to the Supreme Court; or~~

2211 ~~————— (ii) The Supreme Court has entered a final order~~
2212 ~~affirming the chancery court.~~

2213 ~~————— (g) Appeals in accordance with law may be had to the~~
2214 ~~Supreme Court of the State of Mississippi from any final judgment~~
2215 ~~of the chancery court. The Supreme Court must give preference and~~
2216 ~~conduct an expedited judicial review of an appeal of a final order~~
2217 ~~of the chancery court relating to a certificate of need proceeding~~
2218 ~~and must render a final order regarding the appeal no later than~~
2219 ~~one hundred twenty (120) days from the date the final order by the~~
2220 ~~chancery court is certified to the Supreme Court. The Supreme~~
2221 ~~Court shall consider such appeals in an expeditious manner without~~
2222 ~~regard to position on the court docket.~~

2223 (* * *~~h8~~) Within thirty (30) calendar days from the date
2224 of * * *~~a final order by the Supreme Court or a final order of~~
2225 the * * *~~chancery court not appealed to the Supreme Court~~ special
2226 chancery judge that modifies or wholly or partly vacates the final
2227 order of the State Department of Health granting a certificate of



2228 need, the State Department of Health shall issue another order in
2229 conformity with the final order of the * * *~~Supreme Court, or the~~
2230 ~~final order of the chancery court not appealed to the Supreme~~
2231 ~~Court~~ special chancery judge.

2232 **SECTION 11.** Section 41-7-207, Mississippi Code of 1972, is
2233 brought forward as follows:

2234 41-7-207. Notwithstanding any other provisions of Sections
2235 41-7-171 through 41-7-209, except when the owner of a damaged
2236 health care facility applies to repair or rebuild the facility in
2237 accordance with the provisions of Section 41-7-191(13), when the
2238 need for any emergency replacement occurs, the certificate of need
2239 review process shall be expedited by promulgation of
2240 administrative procedures for expenditures necessary to alleviate
2241 an emergency condition and restore health care access. Emergency
2242 replacement means the replacement, and/or a necessary relocation,
2243 of all or the damaged part of the facilities or equipment the
2244 replacement of which is not exempt from certificate of need review
2245 under the medical equipment replacement exemption provided in
2246 Section 41-7-191(1)(f), without which the operation of the
2247 facility and the health and safety of patients would be
2248 immediately jeopardized and health care access would be denied to
2249 such patients. Expenditures under this section shall be limited
2250 to the replacement of those necessary facilities or equipment, the
2251 loss of which constitutes an emergency; however, in the case of
2252 the destruction or major damage to a health care facility, the



2253 department shall be authorized to issue a certificate of need to
2254 address the current and future health care needs of the community,
2255 including, but not limited to, the expansion of the health care
2256 facility and/or the relocation of the health care facility. In
2257 exercising the authority granted in this section, the department
2258 may waive all or part of the required certificate of need
2259 application fee for any application filed under this section if
2260 the expenditure would create a further hardship or undue burden on
2261 the health care facility.

2262 **SECTION 12.** Section 41-7-209, Mississippi Code of 1972, is
2263 brought forward as follows:

2264 41-7-209. (1) Any person or entity violating the provisions
2265 of Sections 41-7-171 through 41-7-209, or regulations promulgated
2266 thereunder, by not obtaining a certificate of need, by deviating
2267 from the provisions of a certificate of need, or by refusing or
2268 failing to cooperate with the State Department of Health in its
2269 exercise or execution of its functions, responsibilities and
2270 powers shall be subject to the following:

2271 (a) Revocation of the license of a health care facility
2272 or a designated section, component or bed service thereof, or
2273 revocation of the license of any other person for which the State
2274 Department of Health is the licensing agency. If the State
2275 Department of Health lacks jurisdiction to revoke the license of
2276 such person, the State Health Officer shall recommend and show



2277 cause to the appropriate licensing agency that such license should
2278 be revoked;

2279 (b) Nonlicensure by the State Department of Health of a
2280 specific or designated bed service offered by the entity or
2281 person;

2282 (c) Nonlicensure by the State Department of Health
2283 where infractions occur concerning the acquisition or control of
2284 major medical equipment;

2285 (d) Revoking, rescinding or withdrawing a certificate
2286 of need previously issued.

2287 (2) Violations of Sections 41-7-171 through 41-7-209, or any
2288 rules or regulations promulgated in furtherance thereof by intent,
2289 fraud, deceit, unlawful design, willful and/or deliberate
2290 misrepresentation, or by careless, negligent or incautious
2291 disregard for such statutes or rules and regulations, either by
2292 persons acting individually or in concert with others, shall
2293 constitute a misdemeanor and shall be punishable by a fine not to
2294 exceed One Thousand Dollars (\$1,000.00) for each such offense.
2295 Each day of continuing violation shall be considered a separate
2296 offense. The venue for prosecution of any such violation shall be
2297 in any county of the state wherein any such violation, or portion
2298 thereof, occurred.

2299 (3) The Attorney General, upon certification by the State
2300 Health Officer, shall seek injunctive relief in a court of proper
2301 jurisdiction to prevent violations of Sections 41-7-171 through



2302 41-7-209 or any rules or regulations promulgated in furtherance of
2303 Sections 41-7-171 through 41-7-209 in cases where other
2304 administrative penalties and legal sanctions imposed have failed
2305 to prevent or cause a discontinuance of any such violation.

2306 (4) Major third party payers, public or private, shall be
2307 notified of any violation or infraction under this section and
2308 shall be requested to take such appropriate punitive action as is
2309 provided by law.

2310 **SECTION 13.** Section 9-1-105, Mississippi Code of 1972, is
2311 amended as follows:

2312 9-1-105. (1) Whenever any judicial officer is unwilling or
2313 unable to hear a case or unable to hold or attend any of the
2314 courts at the time and place required by law by reason of the
2315 physical disability or sickness of such judicial officer, by
2316 reason of the absence of such judicial officer from the state, by
2317 reason of the disqualification of such judicial officer pursuant
2318 to the provision of Section 165, Mississippi Constitution of 1890,
2319 or any provision of the Code of Judicial Conduct, or for any other
2320 reason, the Chief Justice of the Mississippi Supreme Court, with
2321 the advice and consent of a majority of the justices of the
2322 Mississippi Supreme Court, may appoint a person as a special judge
2323 to hear the case or attend and hold a court.

2324 (2) Upon the request of the Chief Judge of the Court of
2325 Appeals, the senior judge of a chancery or circuit court district,
2326 the senior judge of a county court, or upon his own motion, the



2327 Chief Justice of the Mississippi Supreme Court, with the advice
2328 and consent of a majority of the justices of the Mississippi
2329 Supreme Court, shall have the authority to appoint a special judge
2330 to serve on a temporary basis in a circuit, chancery or county
2331 court in the event of an emergency or overcrowded docket. It
2332 shall be the duty of any special judge so appointed to assist the
2333 court to which he is assigned in the disposition of causes so
2334 pending in such court for whatever period of time is designated by
2335 the Chief Justice. The Chief Justice, in his discretion, may
2336 appoint the special judge to hear particular cases, a particular
2337 type of case, or a particular portion of the court's docket.

2338 (3) When an appeal is taken from a final order of the State
2339 Department of Health pertaining to a certificate of need under
2340 Section 41-7-201, the Chief Justice of the Supreme Court, with the
2341 advice and consent of a majority of the justices of the Supreme
2342 Court, shall appoint a person as a special chancery judge to hear
2343 the appeal within fifteen (15) calendar days after the date that
2344 the appeal is filed with the Supreme Court, as provided in Section
2345 41-7-201. The Supreme Court shall not appoint a person as the
2346 special chancery judge (a) if the person is a resident of the
2347 county of any of the parties to the appeal, or (b) if the person
2348 is a currently sitting judge or retired judge and the health care
2349 facility, equipment, or service or capital expenditure that is the
2350 subject of the certificate of need is located or to be located in



2351 the county or judicial district in which the judge serves or in
2352 which the retired judge previously served.

2353 (4) When a vacancy exists for any of the reasons enumerated
2354 in Section 9-1-103, the vacancy has not been filled within seven
2355 (7) days by an appointment by the Governor, and there is a pending
2356 cause or are pending causes in the court where the vacancy exists
2357 that in the interests of justice and in the orderly dispatch of
2358 the court's business require the appointment of a special judge,
2359 the Chief Justice of the Supreme Court, with the advice and
2360 consent of a majority of the justices of the Mississippi Supreme
2361 Court, may appoint a qualified person as a special judge to fill
2362 the vacancy until the Governor makes his appointment and such
2363 appointee has taken the oath of office.

2364 (* * *45) If the Chief Justice pursuant to this section
2365 shall make an appointment within the authority vested in the
2366 Governor by reason of Section 165, Mississippi Constitution of
2367 1890, the Governor may at his election appoint a person to so
2368 serve. In the event that the Governor makes such an appointment,
2369 any appointment made by the Chief Justice pursuant to this section
2370 shall be void and of no further force or effect from the date of
2371 the Governor's appointment.

2372 (* * *56) When a judicial officer is unwilling or unable to
2373 hear a case or unable or unwilling to hold court for a period of
2374 time not to exceed two (2) weeks, the trial judge or judges of the
2375 affected district or county and other trial judges may agree among



2376 themselves regarding the appointment of a person for such case or
2377 such limited period of time. The trial judges shall submit a
2378 notice to the Chief Justice of the Supreme Court informing him of
2379 their appointment. If the Chief Justice does not appoint another
2380 person to serve as special judge within seven (7) days after
2381 receipt of such notice, the person designated in such order shall
2382 be deemed appointed.

2383 (* * *67) A person appointed to serve as a special judge
2384 may be any currently sitting or retired chancery, circuit or
2385 county court judge, Court of Appeals judge or Supreme Court
2386 Justice, or any other person possessing the qualifications of the
2387 judicial office for which the appointment is made; however, a
2388 judge or justice who was retired from service at the polls shall
2389 not be eligible for appointment as a special judge in the district
2390 in which he served prior to his defeat.

2391 (* * *78) Except as otherwise provided in subsection (2) of
2392 this section, the need for an appointment pursuant to this section
2393 may be certified to the Chief Justice of the Mississippi Supreme
2394 Court by any attorney in good standing or other officer of the
2395 court.

2396 (* * *89) The order appointing a person as a special judge
2397 pursuant to this section shall describe as specifically as
2398 possible the duration of the appointment.

2399 (* * *910) A special judge appointed pursuant to this
2400 section shall take the oath of office, if necessary, and shall,



2401 for the duration of his appointment, enjoy the full power and
2402 authority of the office to which he is appointed.

2403 (* * *1011) Any currently sitting justice or judge
2404 appointed as a special judge under this section shall receive no
2405 additional compensation for his or her service as special judge.
2406 Any other person appointed as a special judge hereunder shall, for
2407 the period of his service, receive compensation from the state for
2408 each day's service a sum equal to 1/260ths of the current salary
2409 in effect for the judicial office; however, no retired chancery,
2410 circuit or county court judge, retired Court of Appeals judge or
2411 any retired Supreme Court Justice appointed as a special judge
2412 pursuant to this section may, during any fiscal year, receive
2413 compensation in excess of fifty percent (50%) of the current
2414 salary in effect for a chancery or circuit court judge. Any
2415 person appointed as a special judge shall be reimbursed for travel
2416 expenses incurred in the performance of the official duties to
2417 which he may be appointed hereunder in the same manner as other
2418 public officials and employees as provided by Section 25-3-41,
2419 Mississippi Code of 1972.

2420 (* * *1112) If any person appointed as such special judge
2421 is receiving retirement benefits by virtue of the provisions of
2422 the Public Employees' Retirement Law of 1952, appearing as
2423 Sections 25-11-1 through 25-11-139, * * *~~Mississippi Code of 1972,~~
2424 such benefits shall not be reduced in any sum whatsoever because



2425 of such service, nor shall any sum be deducted as contributions
2426 toward retirement under * * *~~said~~ that law.

2427 (* * *~~12~~13) The Supreme Court shall have authority to
2428 prescribe rules and regulations reasonably necessary to implement
2429 and give effect to the provisions of this section.

2430 (* * *~~13~~14) Nothing in this section shall abrogate the
2431 right of attorneys engaged in a case to agree upon a member of the
2432 bar to preside in a case pursuant to Section 165 of the
2433 Mississippi Constitution of 1890.

2434 (* * *~~14~~15) The Supreme Court shall prepare the necessary
2435 payroll for special judges appointed pursuant to this section and
2436 shall submit such payroll to the Department of Finance and
2437 Administration.

2438 (* * *~~15~~16) Special judges appointed pursuant to this
2439 section shall direct requests for reimbursement for travel
2440 expenses authorized pursuant to this section to the Supreme Court
2441 and the Supreme Court shall submit such requests to the Department
2442 of Finance and Administration. The Supreme Court shall have the
2443 power to adopt rules and regulations regarding the administration
2444 of travel expenses authorized pursuant to this section.

2445 **SECTION 14.** Section 41-3-15, Mississippi Code of 1972, is
2446 amended as follows:

2447 41-3-15. (1) (a) There shall be a State Department of
2448 Health.



2449 (b) The State Board of Health shall have the following
2450 powers and duties:

2451 (i) To formulate the policy of the State
2452 Department of Health regarding public health matters within the
2453 jurisdiction of the department;

2454 (ii) To adopt, modify, repeal and promulgate,
2455 after due notice and hearing, and enforce rules and regulations
2456 implementing or effectuating the powers and duties of the
2457 department under any and all statutes within the department's
2458 jurisdiction, and as the board may deem necessary;

2459 (iii) To apply for, receive, accept and expend any
2460 federal or state funds or contributions, gifts, trusts, devises,
2461 bequests, grants, endowments or funds from any other source or
2462 transfers of property of any kind;

2463 (iv) To enter into, and to authorize the executive
2464 officer to execute contracts, grants and cooperative agreements
2465 with any federal or state agency or subdivision thereof, or any
2466 public or private institution located inside or outside the State
2467 of Mississippi, or any person, corporation or association in
2468 connection with carrying out the provisions of this chapter, if it
2469 finds those actions to be in the public interest and the contracts
2470 or agreements do not have a financial cost that exceeds the
2471 amounts appropriated for those purposes by the Legislature;

2472 (v) To appoint, upon recommendation of the
2473 Executive Officer of the State Department of Health, a Director of



2474 Internal Audit who shall be either a Certified Public Accountant
2475 or Certified Internal Auditor, and whose employment shall be
2476 continued at the discretion of the board, and who shall report
2477 directly to the board, or its designee; and

2478 (vi) To discharge such other duties,
2479 responsibilities and powers as are necessary to implement the
2480 provisions of this chapter.

2481 (c) The Executive Officer of the State Department of
2482 Health shall have the following powers and duties:

2483 (i) To administer the policies of the State Board
2484 of Health within the authority granted by the board;

2485 (ii) To supervise and direct all administrative
2486 and technical activities of the department, except that the
2487 department's internal auditor shall be subject to the sole
2488 supervision and direction of the board;

2489 (iii) To organize the administrative units of the
2490 department in accordance with the plan adopted by the board and,
2491 with board approval, alter the organizational plan and reassign
2492 responsibilities as he or she may deem necessary to carry out the
2493 policies of the board;

2494 (iv) To coordinate the activities of the various
2495 offices of the department;

2496 (v) To employ, subject to regulations of the State
2497 Personnel Board, qualified professional personnel in the subject
2498 matter or fields of each office, and such other technical and



2499 clerical staff as may be required for the operation of the
2500 department. The executive officer shall be the appointing
2501 authority for the department, and shall have the power to delegate
2502 the authority to appoint or dismiss employees to appropriate
2503 subordinates, subject to the rules and regulations of the State
2504 Personnel Board;

2505 (vi) To recommend to the board such studies and
2506 investigations as he or she may deem appropriate, and to carry out
2507 the approved recommendations in conjunction with the various
2508 offices;

2509 (vii) To prepare and deliver to the Legislature
2510 and the Governor on or before January 1 of each year, and at such
2511 other times as may be required by the Legislature or Governor, a
2512 full report of the work of the department and the offices thereof,
2513 including a detailed statement of expenditures of the department
2514 and any recommendations the board may have;

2515 (viii) To prepare and deliver to the Chairmen of
2516 the Public Health and Welfare/Human Services Committees of the
2517 Senate and House on or before January 1 of each year, a plan for
2518 monitoring infant mortality in Mississippi and a full report of
2519 the work of the department on reducing Mississippi's infant
2520 mortality and morbidity rates and improving the status of maternal
2521 and infant health; and

2522 (ix) To enter into contracts, grants and
2523 cooperative agreements with any federal or state agency or



2524 subdivision thereof, or any public or private institution located
2525 inside or outside the State of Mississippi, or any person,
2526 corporation or association in connection with carrying out the
2527 provisions of this chapter, if he or she finds those actions to be
2528 in the public interest and the contracts or agreements do not have
2529 a financial cost that exceeds the amounts appropriated for those
2530 purposes by the Legislature. Each contract or agreement entered
2531 into by the executive officer shall be submitted to the board
2532 before its next meeting.

2533 (2) The State Board of Health shall have the authority to
2534 establish an Office of Rural Health within the department. The
2535 duties and responsibilities of this office shall include the
2536 following:

2537 (a) To collect and evaluate data on rural health
2538 conditions and needs;

2539 (b) To engage in policy analysis, policy development
2540 and economic impact studies with regard to rural health issues;

2541 (c) To develop and implement plans and provide
2542 technical assistance to enable community health systems to respond
2543 to various changes in their circumstances;

2544 (d) To plan and assist in professional recruitment and
2545 retention of medical professionals and assistants; and

2546 (e) To establish information clearinghouses to improve
2547 access to and sharing of rural health care information.



2548 (3) The State Board of Health shall have general supervision
2549 of the health interests of the people of the state and to exercise
2550 the rights, powers and duties of those acts which it is authorized
2551 by law to enforce.

2552 (4) The State Board of Health shall have authority:

2553 (a) To make investigations and inquiries with respect
2554 to the causes of disease and death, and to investigate the effect
2555 of environment, including conditions of employment and other
2556 conditions that may affect health, and to make such other
2557 investigations as it may deem necessary for the preservation and
2558 improvement of health.

2559 (b) To make such sanitary investigations as it may,
2560 from time to time, deem necessary for the protection and
2561 improvement of health and to investigate nuisance questions that
2562 affect the security of life and health within the state.

2563 (c) To direct and control sanitary and quarantine
2564 measures for dealing with all diseases within the state possible
2565 to suppress same and prevent their spread.

2566 (d) To obtain, collect and preserve such information
2567 relative to mortality, morbidity, disease and health as may be
2568 useful in the discharge of its duties or may contribute to the
2569 prevention of disease or the promotion of health in this state.

2570 (e) To charge and collect reasonable fees for health
2571 services, including immunizations, inspections and related
2572 activities, and the board shall charge fees for those services;



2573 however, if it is determined that a person receiving services is
2574 unable to pay the total fee, the board shall collect any amount
2575 that the person is able to pay. Any increase in the fees charged
2576 by the board under this paragraph shall be in accordance with the
2577 provisions of Section 41-3-65.

2578 (f) (i) To establish standards for, issue permits and
2579 exercise control over, any cafes, restaurants, food or drink
2580 stands, sandwich manufacturing establishments, and all other
2581 establishments, other than churches, church-related and private
2582 schools, and other nonprofit or charitable organizations, where
2583 food or drink is regularly prepared, handled and served for pay;
2584 and

2585 (ii) To require that a permit be obtained from the
2586 Department of Health before those persons begin operation. If any
2587 such person fails to obtain the permit required in this
2588 subparagraph (ii), the State Board of Health, after due notice and
2589 opportunity for a hearing, may impose a monetary penalty not to
2590 exceed One Thousand Dollars (\$1,000.00) for each violation.
2591 However, the department is not authorized to impose a monetary
2592 penalty against any person whose gross annual prepared food sales
2593 are less than Five Thousand Dollars (\$5,000.00). Money collected
2594 by the board under this subparagraph (ii) shall be deposited to
2595 the credit of the State General Fund of the State Treasury.



2596 (g) To promulgate rules and regulations and exercise
2597 control over the production and sale of milk pursuant to the
2598 provisions of Sections 75-31-41 through 75-31-49.

2599 (h) On presentation of proper authority, to enter into
2600 and inspect any public place or building where the State Health
2601 Officer or his representative deems it necessary and proper to
2602 enter for the discovery and suppression of disease and for the
2603 enforcement of any health or sanitary laws and regulations in the
2604 state.

2605 (i) To conduct investigations, inquiries and hearings,
2606 and to issue subpoenas for the attendance of witnesses and the
2607 production of books and records at any hearing when authorized and
2608 required by statute to be conducted by the State Health Officer or
2609 the State Board of Health.

2610 (j) To promulgate rules and regulations, and to collect
2611 data and information, on (i) the delivery of services through the
2612 practice of telemedicine; and (ii) the use of electronic records
2613 for the delivery of telemedicine services.

2614 (k) To enforce and regulate domestic and imported fish
2615 as authorized under Section 69-7-601 et seq.

2616 (5) (a) The State Board of Health shall have the authority,
2617 in its discretion, to establish programs to promote the public
2618 health, to be administered by the State Department of Health.
2619 Specifically, those programs may include, but shall not be limited
2620 to, programs in the following areas:



2621 (i) Maternal and child health;
2622 (ii) Family planning;
2623 (iii) Pediatric services;
2624 (iv) Services to crippled and disabled children;
2625 (v) Control of communicable and noncommunicable
2626 disease;
2627 (vi) Chronic disease;
2628 (vii) Accidental deaths and injuries;
2629 (viii) Child care licensure;
2630 (ix) Radiological health;
2631 (x) Dental health;
2632 (xi) Milk sanitation;
2633 (xii) Occupational safety and health;
2634 (xiii) Food, vector control and general
2635 sanitation;
2636 (xiv) Protection of drinking water;
2637 (xv) Sanitation in food handling establishments
2638 open to the public;
2639 (xvi) Registration of births and deaths and other
2640 vital events;
2641 (xvii) Such public health programs and services as
2642 may be assigned to the State Board of Health by the Legislature or
2643 by executive order; and
2644 (xviii) Regulation of domestic and imported fish
2645 for human consumption.



2646 (b) [Deleted]

2647 (c) The State Department of Health may undertake such
2648 technical programs and activities as may be required for the
2649 support and operation of those programs, including maintaining
2650 physical, chemical, bacteriological and radiological laboratories,
2651 and may make such diagnostic tests for diseases and tests for the
2652 evaluation of health hazards as may be deemed necessary for the
2653 protection of the people of the state.

2654 (6) (a) The State Board of Health shall administer the
2655 local governments and rural water systems improvements loan
2656 program in accordance with the provisions of Section 41-3-16.

2657 (b) The State Board of Health shall have authority:

2658 (i) To enter into capitalization grant agreements
2659 with the United States Environmental Protection Agency, or any
2660 successor agency thereto;

2661 (ii) To accept capitalization grant awards made
2662 under the federal Safe Drinking Water Act, as amended;

2663 (iii) To provide annual reports and audits to the
2664 United States Environmental Protection Agency, as may be required
2665 by federal capitalization grant agreements; and

2666 (iv) To establish and collect fees to defray the
2667 reasonable costs of administering the revolving fund or emergency
2668 fund if the State Board of Health determines that those costs will
2669 exceed the limitations established in the federal Safe Drinking
2670 Water Act, as amended. The administration fees may be included in



2671 loan amounts to loan recipients for the purpose of facilitating
2672 payment to the board; however, those fees may not exceed five
2673 percent (5%) of the loan amount.

2674 (7) [Deleted]

2675 (8) Notwithstanding any other provision to the contrary, the
2676 State Department of Health shall have the following specific
2677 powers: The State Department of Health is authorized to issue a
2678 license to an existing home health agency for the transfer of a
2679 county from that agency to another existing home health agency,
2680 and to charge a fee for reviewing and making a determination on
2681 the application for such transfer not to exceed one-half (1/2) of
2682 the authorized fee assessed for the original application for the
2683 home health agency, with the revenue to be deposited by the State
2684 Department of Health into the special fund created under Section
2685 41-7-188.

2686 (9) [Deleted]

2687 (10) * * *~~Notwithstanding any other provision to the~~
2688 ~~contrary, the State Department of Health shall have the following~~
2689 ~~specific powers: The State Department of Health is authorized to~~
2690 ~~extend and renew any certificate of need that has expired, and to~~
2691 ~~charge a fee for reviewing and making a determination on the~~
2692 ~~application for such action not to exceed one-half (1/2) of the~~
2693 ~~authorized fee assessed for the original application for the~~
2694 ~~certificate of need, with the revenue to be deposited by the State~~



2695 ~~Department of Health into the special fund created under Section~~
2696 ~~41-7-188.~~ [Deleted]

2697 (11) Notwithstanding any other provision to the contrary,
2698 the State Department of Health shall have the following specific
2699 powers: The State Department of Health is authorized and
2700 empowered, to revoke, immediately, the license and require closure
2701 of any institution for the aged or infirm, including any other
2702 remedy less than closure to protect the health and safety of the
2703 residents of said institution or the health and safety of the
2704 general public.

2705 (12) Notwithstanding any other provision to the contrary,
2706 the State Department of Health shall have the following specific
2707 powers: The State Department of Health is authorized and
2708 empowered, to require the temporary detainment of individuals for
2709 disease control purposes based upon violation of any order of the
2710 State Health Officer, as provided in Section 41-23-5. For the
2711 purpose of enforcing such orders of the State Health Officer,
2712 persons employed by the department as investigators shall have
2713 general arrest powers. All law enforcement officers are
2714 authorized and directed to assist in the enforcement of such
2715 orders of the State Health Officer.

2716 (13) Additionally, the State Board of Health and the State
2717 Health Officer each are authorized and directed to study the
2718 status of health care, in its broadest sense, throughout the
2719 state. The study should include challenges such as access to



2720 care; the cost of care; indigent care; providing health care to
2721 the incarcerated; the availability of health care workers,
2722 paraprofessionals, and professionals; the effects of unhealthy
2723 lifestyle choices; the consequences of health care facilities
2724 locating in affluent and urban areas to the detriment of less
2725 affluent areas, small towns, and rural areas; and negative trends
2726 which may cause ill effects if they continue. The study shall
2727 also include opportunities to improve health care, such as greater
2728 coordination among state agencies, local governments, and other
2729 entities which provide various types of health care; methods of
2730 increasing the health care workforce; and methods to increase the
2731 location of health care facilities in distressed areas, rural
2732 areas, and small towns. All state agencies, the Legislative
2733 Budget Office and the Joint Legislative Committee on Performance
2734 Evaluation and Expenditure Review (PEER) are directed to assist
2735 the department in developing this study. This provision does not
2736 by itself grant any additional power to the State Board of Health
2737 or the State Health Officer to require any entity to operate
2738 differently. It does, however, empower and direct them to obtain
2739 information and make recommendations, and it does require all
2740 entities to cooperate with the board and health officer as they
2741 seek information.

2742 **SECTION 15.** Section 41-77-1, Mississippi Code of 1972, is
2743 amended as follows:

2744 41-77-1. For purposes of this chapter:



2745 (a) "Birthing center" * * *~~shall~~ means a publicly or
2746 privately owned facility, place or institution constructed,
2747 renovated, leased or otherwise established where nonemergency
2748 births are planned to occur away from the mother's usual residence
2749 following a documented period of prenatal care for a normal
2750 uncomplicated pregnancy which has been determined to be low risk
2751 through a formal risk scoring examination. Care provided in a
2752 birthing center shall be provided by a licensed physician, or
2753 certified nurse midwife, and a registered nurse. Services
2754 provided in a birthing center shall be limited in the following
2755 manner: (i) surgical services shall be limited to those normally
2756 performed during uncomplicated childbirth, such as episiotomy and
2757 repair, and shall not include operative obstetrics or caesarean
2758 sections; (ii) labor shall not be inhibited, stimulated or
2759 augmented with chemical agents during the first or second stage of
2760 labor; (iii) systemic analgesia may be administered and local
2761 anesthesia for pudental block and episiotomy repair may be
2762 performed. General and conductive anesthesia shall not be
2763 administered at birthing centers; (iv) patients shall not remain
2764 in the facility in excess of twenty-four (24) hours.

2765 Hospitals are excluded from the definition of a "birthing
2766 center" unless they choose to and are qualified to designate a
2767 portion or part of the hospital as a birthing center, and nothing
2768 herein shall be construed as referring to the usual service
2769 provided the pregnant female in the obstetric-gynecology service



2770 of an acute care hospital. Such facility or center, as heretofore
2771 stated, shall include the offices of physicians in private
2772 practice alone or in groups of two (2) or more; and such facility
2773 or center rendering service to pregnant female persons, as stated
2774 heretofore and by the rules and regulations promulgated by the
2775 licensing agency in furtherance thereof, shall be deemed to be a
2776 "birthing center" whether using a similar or different name. Such
2777 center or facility if in any manner is deemed to be or considered
2778 to be operated or owned by a hospital or a hospital holding
2779 leasing or management company, for profit or not for profit, is
2780 required to comply with all birthing center standards governing a
2781 "hospital affiliated" birthing center as adopted by the licensing
2782 authority.

2783 (b) "Hospital affiliated" birthing center * * *~~shall~~
2784 means a separate and distinct unit of a hospital or a building
2785 owned, leased, rented or utilized by a hospital and located in the
2786 same county as the hospital for the purpose of providing the
2787 service of a "birthing center." Such center or facility is not
2788 required to be licensed separately, and may operate under the
2789 license issued to the hospital if it is in compliance with Section
2790 41-9-1 et seq., where applicable, and the rules and regulations
2791 promulgated by the licensing agency in furtherance thereof.

2792 (c) "Freestanding" birthing center * * *~~shall~~ means a
2793 separate and distinct facility or center or a separate and
2794 distinct organized unit of a hospital or other * * *~~defined~~



2795 ~~persons (Section 41-7-173(q))~~ entity for the purpose of performing
2796 the service of a "birthing center." Such facility or center must
2797 be separately licensed and must comply with all licensing
2798 standards promulgated by the licensing agency by virtue of this
2799 chapter. Further, such facility or center must be a separate,
2800 identifiable entity and must be physically, administratively and
2801 financially independent from other operations of any hospital or
2802 other health care facility or service and shall maintain a
2803 separate and required staff, including administrative staff. * * *
2804 ~~Further, any "birthing center" licensed as a "freestanding" center~~
2805 ~~shall not become a component of any hospital or other health care~~
2806 ~~facility without securing a "certificate of need."~~

2807 (d) "Licensing agency" * * * ~~shall~~ means the State
2808 Department of Health.

2809 **SECTION 16.** Section 41-77-5, Mississippi Code of 1972, is
2810 amended as follows:

2811 41-77-5. No person * * * ~~as defined in Section 41-7-173(q),~~
2812 ~~Mississippi Code of 1972~~ or other entity, acting severally or
2813 jointly with any other person or entity, shall establish, conduct
2814 or maintain a "birthing center" in this state without a license
2815 under this chapter.

2816 **SECTION 17.** Section 41-77-21, Mississippi Code of 1972, is
2817 amended as follows:

2818 41-77-21. Any applicant or licensee aggrieved by the
2819 decision of the licensing agency after a hearing may, within



2820 thirty (30) days after the mailing or serving of notice of the
2821 decision as provided in Section 43-11-11, * * *~~Mississippi Code of~~
2822 ~~1972,~~ file a notice of appeal to the Chancery Court of the First
2823 Judicial District of Hinds County or in the chancery court of the
2824 county in which the institution is located or proposed to be
2825 located. * * *~~If such notice of appeal is filed, it shall comply~~
2826 ~~with Section 41-7-201(2), (3) and (4), Mississippi Code of 1972.~~
2827 Thereupon, the licensing agency shall * * *,~~within the time and~~
2828 ~~in the manner prescribed in Section 41-7-201(2),~~ certify and file
2829 with the court a copy of the record and decision, including the
2830 transcript of the hearings in which the decision is based. No new
2831 or additional evidence shall be introduced in court; the case
2832 shall be determined upon the record certified to the court. The
2833 court may sustain or dismiss the appeal, modify or vacate the
2834 order complained of in whole or in part, as the case may be; but
2835 in case the order is wholly or partly vacated, the court may also,
2836 in its discretion, remand the matter to the licensing agency for
2837 such further proceedings, not inconsistent with the court's order,
2838 as, in the opinion of the court, justice may require. The order
2839 may not be vacated or set aside, either in whole or in part,
2840 except for errors of law, unless the court finds that the order of
2841 the licensing agency is not supported by substantial evidence, is
2842 contrary to the manifest weight of the evidence, is in excess of
2843 the statutory authority or jurisdiction of the licensing agency,
2844 or violates any vested constitutional rights of any party involved



2845 in the appeal. Pending final disposition of the matter, the
2846 status quo of the applicant or licensee shall be preserved, except
2847 as the court otherwise orders in the public interest. Rules with
2848 respect to court costs in other cases in chancery shall apply
2849 equally to cases hereunder. Appeals in accordance with law may be
2850 had to the Supreme Court of the State of Mississippi from any
2851 final judgment of the chancery court.

2852 **SECTION 18.** Section 41-77-23, Mississippi Code of 1972, is
2853 amended as follows:

2854 41-77-23. Any person or persons or other entity or entities
2855 establishing, managing or operating a "birthing center" or
2856 conducting the business of a "birthing center" without the
2857 required license, or which otherwise violate any of the provisions
2858 of this chapter * * * ~~or the Mississippi Health Care Commission~~
2859 ~~Law of 1979, as amended,~~ or the rules, regulations or standards
2860 promulgated in furtherance of any law in which the * * * ~~commission~~
2861 licensing agency has authority therefor, shall be subject to the
2862 following penalties and sanctions * * * of Section 41-7-209,
2863 Mississippi Code of 1972.:

2864 (a) Revocation of the license of the birthing center or
2865 a designated section, component or service thereof; or

2866 (b) Nonlicensure of a specific or designated service
2867 offered by the birthing center.

2868 In addition, any violation of any provision of this chapter
2869 or any rules or regulations promulgated in furtherance thereof by



2870 intent, fraud, deceit, unlawful design, willful and/or deliberate
2871 misrepresentation, or by careless, negligent or incautious
2872 disregard for such statutes or rules and regulations, either by
2873 persons acting individually or in concert with others, shall
2874 constitute a misdemeanor and shall be punishable by a fine not to
2875 exceed One Thousand Dollars (\$1,000.00) for each such offense.
2876 Each day of continuing violation shall be considered a separate
2877 offense. The venue for prosecution of any such violation shall be
2878 in any county of the state in which any such violation, or portion
2879 thereof, occurred.

2880 **SECTION 19.** Section 41-77-25, Mississippi Code of 1972, is
2881 amended as follows:

2882 41-77-25. Upon receipt of an application for license and the
2883 license fee, the licensing agency shall issue a license if the
2884 applicant and the institutional facilities meet the requirements
2885 established under this chapter * * * ~~and the requirements of~~
2886 ~~Section 41-7-173 et seq., where determined by the licensing agency~~
2887 ~~to be applicable.~~ A license, unless suspended or revoked, shall
2888 be renewable annually upon payment of a renewal fee of Three
2889 Hundred Dollars (\$300.00), which shall be paid to the licensing
2890 agency, and upon filing by the licensee and approval by the
2891 licensing agency of an annual report upon such uniform dates and
2892 containing such information in such form as the licensing agency
2893 requires. Any increase in the fee charged by the licensing agency
2894 under this section shall be in accordance with the provisions of



2895 Section 41-3-65. Each license shall be issued only for the
2896 premises and person or persons named in the application and shall
2897 not be transferable or assignable. Licenses shall be posted in a
2898 conspicuous place on the licensed premises.

2899 **SECTION 20.** Section 41-7-202, Mississippi Code of 1972,
2900 which provides for a stay of proceedings of written decisions of
2901 the State Department of Health pertaining to certificates of need
2902 for certain health care facilities, and Section 41-4-18,
2903 Mississippi Code of 1972, which authorizes the Department of
2904 Mental Health to contract with private and/or public entities to
2905 transfer beds of intermediate care facilities for individuals with
2906 intellectual disabilities owned and operated by the department to
2907 locations owned and operated by private and/or public entities,
2908 are repealed.

2909 **SECTION 21.** The following shall be codified as Section
2910 43-11-10, Mississippi Code of 1972:

2911 43-11-10. (1) Any license issued on or after July 1, 2025,
2912 by the licensing agency for the establishment of a new
2913 intermediate care facility for individuals with intellectual
2914 disabilities shall not authorize more than ten (10) beds for the
2915 facility.

2916 (2) The licensing agency shall not authorize any additional
2917 beds for any intermediate care facility for individuals with
2918 intellectual disabilities that is operating on July 1, 2025, above



2919 the number of beds that were authorized for the facility in its
2920 license on July 1, 2025. However, the licensing agency may:

2921 (a) Issue a license to the owner of any such facility
2922 for the establishment of a new intermediate care facility for
2923 individuals with intellectual disabilities with not more than ten
2924 (10) beds authorized for the facility; and

2925 (b) Revise the license of the facility described in
2926 Section 41-7-191(8) (a) for the additional beds authorized by
2927 Section 41-7-191(8) (a).

2928 **SECTION 22.** This act shall take effect and be in force from
2929 and after July 1, 2025.

