

By: Representatives Zuber, Creekmore IV

To: Public Health and Human Services; State Affairs

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, HOSPITAL-BASED END STAGE RENAL DISEASE FACILITIES,  
4 INTERMEDIATE CARE FACILITIES, INTERMEDIATE CARE FACILITIES FOR  
5 INDIVIDUALS WITH INTELLECTUAL DISABILITIES, PSYCHIATRIC  
6 RESIDENTIAL TREATMENT FACILITIES, MAGNETIC RESONANCE IMAGING  
7 SERVICES, AND DIAGNOSTIC IMAGING SERVICES OF AN INVASIVE NATURE  
8 FROM THE REQUIREMENTS OF THE HEALTH CARE CERTIFICATE OF NEED LAW;  
9 TO INCREASE THE MINIMUM DOLLAR AMOUNTS OF CAPITAL EXPENDITURES AND  
10 MAJOR MEDICAL EQUIPMENT THAT REQUIRE THE ISSUANCE OF A CERTIFICATE  
11 OF NEED; TO AMEND SECTION 41-7-185, MISSISSIPPI CODE OF 1972, TO  
12 DIRECT THE DEPARTMENT TO PREPARE A STATE HEALTH PLAN ANNUALLY  
13 USING THE MOST RECENT DATA AVAILABLE TO THE DEPARTMENT; TO AMEND  
14 SECTION 41-7-187, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE  
15 DEPARTMENT FROM EXEMPTING ANY PERSON OR ENTITY FROM HAVING TO  
16 OBTAIN A CERTIFICATE OF NEED FOR ANY ACTIVITY THAT WOULD OTHERWISE  
17 REQUIRE THE ISSUANCE OF A CERTIFICATE OF NEED UNDER THE  
18 CERTIFICATE OF NEED LAWS; TO AMEND SECTION 41-7-193, MISSISSIPPI  
19 CODE OF 1972, TO REQUIRE RECIPIENTS OF CERTIFICATES OF NEED TO  
20 MAKE WRITTEN PROGRESS REPORTS OF THEIR PROJECTS AT LEAST EVERY SIX  
21 MONTHS AND AT COMPLETION; TO PROVIDE THAT THE DEPARTMENT SHALL  
22 MONITOR THE PROJECTS TO ASSURE COMPLIANCE WITH STATED POLICIES,  
23 STANDARDS AND APPROVED COSTS; TO PROVIDE THAT THE DEPARTMENT SHALL  
24 PERIODICALLY REVIEW THE HEALTH CARE FACILITY, EQUIPMENT OR SERVICE  
25 AUTHORIZED BY THE CERTIFICATE OF NEED TO ENSURE THAT THE FACILITY,  
26 EQUIPMENT OR SERVICE IS BEING USED OR OPERATED FOR THE PURPOSE  
27 THAT WAS STATED IN THE APPLICATION FOR THE CERTIFICATE OF NEED AND  
28 IN A MANNER CONSISTENT WITH THE INFORMATION PROVIDED IN THE  
29 APPLICATION; TO AMEND SECTION 41-7-195, MISSISSIPPI CODE OF 1972,  
30 TO PROVIDE THAT A CERTIFICATE OF NEED MAY BE EXTENDED FOR UP TO  
31 SIX MONTHS IN THOSE CASES WHERE THE APPLICANT SHOWS TO THE  
32 SATISFACTION OF THE DEPARTMENT THAT A GOOD FAITH EFFORT HAS BEEN  
33 MADE TOWARD COMPLETION OF THE PROJECT; TO PROVIDE THAT A  
34 CERTIFICATE OF NEED MAY BE EXTENDED ONLY ONE TIME FOR NOT MORE



35 THAN SIX MONTHS; TO PROVIDE THAT AFTER THE END OF THE PERIOD OF  
36 THE EXTENSION, THE CERTIFICATE OF NEED SHALL EXPIRE, AND THE  
37 APPLICANT MUST APPLY FOR A NEW CERTIFICATE OF NEED; TO PROVIDE  
38 THAT A CERTIFICATE OF NEED SHALL BE REVOKED IF COMMENCEMENT OF  
39 CONSTRUCTION OR OTHER PREPARATION IS NOT SUBSTANTIALLY UNDERTAKEN  
40 DURING A VALID CERTIFICATE OF NEED PERIOD OR THE DEPARTMENT  
41 DETERMINES THE APPLICANT IS NOT MAKING A GOOD FAITH EFFORT TOWARD  
42 COMPLETION OF THE PROJECT; TO AMEND SECTION 41-7-201, MISSISSIPPI  
43 CODE OF 1972, TO REVISE THE PROCEDURE FOR APPEALS OF FINAL ORDERS  
44 OF THE STATE DEPARTMENT OF HEALTH PERTAINING TO CERTIFICATES OF  
45 NEED; TO PROVIDE THAT SUCH APPEALS SHALL BE HEARD BY A SPECIAL  
46 CHANCERY JUDGE APPOINTED BY THE SUPREME COURT; TO PROVIDE THAT THE  
47 SUPREME COURT SHALL APPOINT THE SPECIAL CHANCERY JUDGE WITHIN  
48 FIFTEEN CALENDAR DAYS AFTER THE DATE THAT THE APPEAL IS FILED; TO  
49 PROVIDE THAT THE FINAL ORDER OF THE SPECIAL CHANCERY JUDGE SHALL  
50 BE THE FINAL DECISION IN THE CASE, AND NO FURTHER APPEAL SHALL BE  
51 ALLOWED FROM THAT FINAL ORDER; TO BRING FORWARD SECTIONS 41-7-190,  
52 41-7-197, 41-7-207 AND 41-7-209, MISSISSIPPI CODE OF 1972, WHICH  
53 PROVIDE FOR LIMITATIONS ON OWNERSHIP OF CERTAIN BEDS, PROVIDE FOR  
54 HEARINGS DURING THE COURSE OF REVIEW BEFORE A HEARING OFFICER,  
55 PROVIDE A REVIEW PROCESS FOR EMERGENCY REPLACEMENT, AND PROVIDE  
56 PENALTIES FOR VIOLATIONS, FOR THE PURPOSE OF POSSIBLE AMENDMENT;  
57 TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
58 THE APPOINTMENT OF SPECIAL CHANCERY JUDGES BY THE SUPREME COURT TO  
59 HEAR APPEALS OF CERTIFICATE OF NEED ORDERS; TO AMEND SECTION  
60 41-3-15, 41-4-18 AND 41-7-188, MISSISSIPPI CODE OF 1972, TO  
61 CONFORM TO THE PRECEDING PROVISIONS; TO AMEND SECTIONS 41-77-1,  
62 41-77-5, 41-77-21, 41-77-23 AND 41-77-25, MISSISSIPPI CODE OF  
63 1972, TO DELETE ALL REFERENCES TO THE CERTIFICATE OF NEED LAW IN  
64 THE LICENSURE LAWS FOR BIRTHING CENTERS; TO REPEAL SECTION  
65 41-7-202, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A STAY OF  
66 PROCEEDINGS OF WRITTEN DECISIONS OF THE STATE DEPARTMENT OF HEALTH  
67 PERTAINING TO CERTIFICATES OF NEED FOR CERTAIN HEALTH CARE  
68 FACILITIES; AND FOR RELATED PURPOSES.

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

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

72 41-7-173. For the purposes of Section 41-7-171 et seq., the  
73 following words shall have the meanings ascribed herein, unless  
74 the context otherwise requires:

75 (a) "Affected person" means (i) the applicant; (ii) a  
76 person residing within the geographic area to be served by the



77 applicant's proposal; (iii) a person who regularly uses health  
78 care facilities or HMOs located in the geographic area of the  
79 proposal which provide similar service to that which is proposed;  
80 (iv) health care facilities and HMOs which have, prior to receipt  
81 of the application under review, formally indicated an intention  
82 to provide service similar to that of the proposal being  
83 considered at a future date; (v) third-party payers who reimburse  
84 health care facilities located in the geographical area of the  
85 proposal; or (vi) any agency that establishes rates for health  
86 care services or HMOs located in the geographic area of the  
87 proposal.

88 (b) "Certificate of need" means a written order of the  
89 State Department of Health setting forth the affirmative finding  
90 that a proposal in prescribed application form, sufficiently  
91 satisfies the plans, standards and criteria prescribed for such  
92 service or other project by Section 41-7-171 et seq., and by rules  
93 and regulations promulgated thereunder by the State Department of  
94 Health.

95 (c) (i) "Capital expenditure," when pertaining to  
96 defined major medical equipment, \* \* \* means an expenditure which,  
97 under generally accepted accounting principles consistently  
98 applied, is not properly chargeable as an expense of operation and  
99 maintenance and which exceeds \* \* \* Three Million Dollars  
100 (\$3,000,000.00). Each fiscal year, this amount shall be increased



101 by the annual rate of inflation for the State of Mississippi as  
102 determined by the State Economist.

103 (ii) "Capital expenditure," when pertaining to  
104 other than major medical equipment, \* \* \* means any expenditure  
105 which under generally accepted accounting principles consistently  
106 applied is not properly chargeable as an expense of operation and  
107 maintenance and which exceeds, for clinical health services, as  
108 defined in paragraph (k) below, \* \* \* Ten Million Dollars  
109 (\$10,000,000.00), \* \* \* or which exceeds, for nonclinical health  
110 services, as defined in paragraph (k) below, \* \* \* Twenty Million  
111 Dollars (\$20,000,000.00). Each fiscal year, the amounts in this  
112 subparagraph (ii) shall be increased by the annual rate of  
113 inflation for the State of Mississippi as determined by the State  
114 Economist.

115 (iii) A "capital expenditure" \* \* \* includes the  
116 acquisition, whether by lease, sufferance, gift, devise, legacy,  
117 settlement of a trust or other means, of any facility or part  
118 thereof, or equipment for a facility, the expenditure for which  
119 would have been considered a capital expenditure if acquired by  
120 purchase. Transactions which are separated in time but are  
121 planned to be undertaken within twelve (12) months of each other  
122 and are components of an overall plan for meeting patient care  
123 objectives shall, for purposes of this definition, be viewed in  
124 their entirety without regard to their timing.



125                   (iv) In those instances where a health care  
126 facility or other provider of health services proposes to provide  
127 a service in which the capital expenditure for major medical  
128 equipment or other than major medical equipment or a combination  
129 of the two (2) may have been split between separate parties, the  
130 total capital expenditure required to provide the proposed service  
131 shall be considered in determining the necessity of certificate of  
132 need review and in determining the appropriate certificate of need  
133 review fee to be paid. The capital expenditure associated with  
134 facilities and equipment to provide services in Mississippi shall  
135 be considered regardless of where the capital expenditure was  
136 made, in state or out of state, and regardless of the domicile of  
137 the party making the capital expenditure, in state or out of  
138 state.

139                   (d) "Change of ownership" includes, but is not limited  
140 to, inter vivos gifts, purchases, transfers, lease arrangements,  
141 cash and/or stock transactions or other comparable arrangements  
142 whenever any person or entity acquires or controls a majority  
143 interest of an existing health care facility, and/or the change of  
144 ownership of major medical equipment, a health service, or an  
145 institutional health service. Changes of ownership from  
146 partnerships, single proprietorships or corporations to another  
147 form of ownership are specifically included. However, "change of  
148 ownership" shall not include any inherited interest acquired as a



149 result of a testamentary instrument or under the laws of descent  
150 and distribution of the State of Mississippi.

151 (e) "Commencement of construction" means that all of  
152 the following have been completed with respect to a proposal or  
153 project proposing construction, renovating, remodeling or  
154 alteration:

155 (i) A legally binding written contract has been  
156 consummated by the proponent and a lawfully licensed contractor to  
157 construct and/or complete the intent of the proposal within a  
158 specified period of time in accordance with final architectural  
159 plans which have been approved by the licensing authority of the  
160 State Department of Health;

161 (ii) Any and all permits and/or approvals deemed  
162 lawfully necessary by all authorities with responsibility for such  
163 have been secured; and

164 (iii) Actual bona fide undertaking of the subject  
165 proposal has commenced, and a progress payment of at least one  
166 percent (1%) of the total cost price of the contract has been paid  
167 to the contractor by the proponent, and the requirements of this  
168 paragraph (e) have been certified to in writing by the State  
169 Department of Health.

170 Force account expenditures, such as deposits, securities,  
171 bonds, et cetera, may, in the discretion of the State Department  
172 of Health, be excluded from any or all of the provisions of  
173 defined commencement of construction.



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

177 (g) "Develop," when used in connection with health  
178 services, means to undertake those activities which, on their  
179 completion, will result in the offering of a new institutional  
180 health service or the incurring of a financial obligation as  
181 defined under applicable state law in relation to the offering of  
182 such services.

183 (h) "Health care facility" includes hospitals,  
184 psychiatric hospitals, \* \* \* skilled nursing facilities, end-stage  
185 renal disease (ESRD) facilities, ambulatory surgical  
186 facilities, \* \* \* home health agencies, \* \* \* pediatric skilled  
187 nursing facilities, long-term care hospitals, comprehensive  
188 medical rehabilitation facilities, including facilities owned or  
189 operated by the state or a political subdivision or  
190 instrumentality of the state, but does not include Christian  
191 Science sanatoriums operated or listed and certified by the First  
192 Church of Christ, Scientist, Boston, Massachusetts. This  
193 definition shall not apply to facilities for the private practice,  
194 either independently or by incorporated medical groups, of  
195 physicians, dentists or health care professionals except where  
196 such facilities are an integral part of an institutional health  
197 service. The various health care facilities listed in this  
198 paragraph shall be defined as follows:



199 (i) "Hospital" means an institution which is  
200 primarily engaged in providing to inpatients, by or under the  
201 supervision of physicians, diagnostic services and therapeutic  
202 services for medical diagnosis, treatment and care of injured,  
203 disabled or sick persons, or rehabilitation services for the  
204 rehabilitation of injured, disabled or sick persons. Such term  
205 does not include psychiatric hospitals.

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

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

211 (iv) "Skilled nursing facility" means an  
212 institution or a distinct part of an institution which is  
213 primarily engaged in providing to inpatients skilled nursing care  
214 and related services for patients who require medical or nursing  
215 care or rehabilitation services for the rehabilitation of injured,  
216 disabled or sick persons.

217 (v) "End-stage renal disease (ESRD) facilities"  
218 means kidney disease treatment centers that are not hospital-based  
219 facilities, which includes freestanding hemodialysis units and  
220 limited care facilities.

221 The term "limited care facility" generally refers to a  
222 facility, regardless of whether it is provider or nonprovider  
223 operated, which is engaged primarily in furnishing maintenance





224 hemodialysis services to stabilized patients. The term  
225 "hospital-based facility," unless otherwise defined in federal  
226 regulations for the Medicare program, means that the:

227 (i) Facility and hospital are subject to the  
228 bylaws and operating decisions of a common governing board that  
229 has final administrative responsibility;

230 (ii) Facility's director or administrator is  
231 under the supervision of the hospital's chief executive officer  
232 and reports through him or her to the governing board;

233 (iii) Facility personnel policies and  
234 practice conform to those of the governing board;

235 (iv) Administrative functions of the facility  
236 are integrated with those of the hospital; and

237 (v) Facility and hospital are financially  
238 integrated, as evidenced by the cost report.

239 If the definition of "hospital-based facility" in federal  
240 regulations for the Medicare program differs from this definition,  
241 the term has the meaning as defined in federal regulations.

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

243 (vii) "Ambulatory surgical facility" means a  
244 facility primarily organized or established for the purpose of  
245 performing surgery for outpatients and is a separate identifiable  
246 legal entity from any other health care facility. Such term does  
247 not include the offices of private physicians or dentists, whether



248 for individual or group practice, and does not include any  
249 abortion facility as defined in Section 41-75-1(f).

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

251 (ix) "Home health agency" means a public or  
252 privately owned agency or organization, or a subdivision of such  
253 an agency or organization, properly authorized to conduct business  
254 in Mississippi, which is primarily engaged in providing to  
255 individuals at the written direction of a licensed physician, in  
256 the individual's place of residence, skilled nursing services  
257 provided by or under the supervision of a registered nurse  
258 licensed to practice in Mississippi, and one or more of the  
259 following services or items:

- 260 1. Physical, occupational or speech therapy;
- 261 2. Medical social services;
- 262 3. Part-time or intermittent services of a  
263 home health aide;
- 264 4. Other services as approved by the  
265 licensing agency for home health agencies;
- 266 5. Medical supplies, other than drugs and  
267 biologicals, and the use of medical appliances; or
- 268 6. Medical services provided by an intern or  
269 resident-in-training at a hospital under a teaching program of  
270 such hospital.

271 Further, all skilled nursing services and those services  
272 listed in items 1 through 4 of this subparagraph (ix) must be



273 provided directly by the licensed home health agency. For  
274 purposes of this subparagraph, "directly" means either through an  
275 agency employee or by an arrangement with another individual not  
276 defined as a health care facility.

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

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

281 (xi) "Pediatric skilled nursing facility" means an  
282 institution or a distinct part of an institution that is primarily  
283 engaged in providing to inpatients skilled nursing care and  
284 related services for persons under twenty-one (21) years of age  
285 who require medical or nursing care or rehabilitation services for  
286 the rehabilitation of injured, disabled or sick persons.

287 (xii) "Long-term care hospital" means a  
288 freestanding, Medicare-certified hospital that has an average  
289 length of inpatient stay greater than twenty-five (25) days, which  
290 is primarily engaged in providing chronic or long-term medical  
291 care to patients who do not require more than three (3) hours of  
292 rehabilitation or comprehensive rehabilitation per day, and has a  
293 transfer agreement with an acute care medical center and a  
294 comprehensive medical rehabilitation facility. Long-term care  
295 hospitals shall not use rehabilitation, comprehensive medical  
296 rehabilitation, medical rehabilitation, sub-acute rehabilitation,



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

299 (xiii) "Comprehensive medical rehabilitation  
300 facility" means a hospital or hospital unit that is licensed  
301 and/or certified as a comprehensive medical rehabilitation  
302 facility which provides specialized programs that are accredited  
303 by the Commission on Accreditation of Rehabilitation Facilities  
304 and supervised by a physician board certified or board eligible in  
305 physiatry or other doctor of medicine or osteopathy with at least  
306 two (2) years of training in the medical direction of a  
307 comprehensive rehabilitation program that:

308 1. Includes evaluation and treatment of  
309 individuals with physical disabilities;

310 2. Emphasizes education and training of  
311 individuals with disabilities;

312 3. Incorporates at least the following core  
313 disciplines:

314 a. Physical Therapy;

315 b. Occupational Therapy;

316 c. Speech and Language Therapy;

317 d. Rehabilitation Nursing; and

318 4. Incorporates at least three (3) of the  
319 following disciplines:

320 a. Psychology;

321 b. Audiology;



- 322 c. Respiratory Therapy;
- 323 d. Therapeutic Recreation;
- 324 e. Orthotics;
- 325 f. Prosthetics;
- 326 g. Special Education;
- 327 h. Vocational Rehabilitation;
- 328 i. Psychotherapy;
- 329 j. Social Work;
- 330 k. Rehabilitation Engineering.

331 These specialized programs include, but are not limited to:  
332 spinal cord injury programs, head injury programs and infant and  
333 early childhood development programs.

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

337 (i) Provides or otherwise makes available to  
338 enrolled participants health care services, including  
339 substantially the following basic health care services: usual  
340 physician services, hospitalization, laboratory, x-ray, emergency  
341 and preventive services, and out-of-area coverage;

342 (ii) Is compensated (except for copayments) for  
343 the provision of the basic health care services listed in  
344 subparagraph (i) of this paragraph to enrolled participants on a  
345 predetermined basis; and

346 (iii) Provides physician services primarily:



347                   1. Directly through physicians who are either  
348 employees or partners of such organization; or

349                   2. Through arrangements with individual  
350 physicians or one or more groups of physicians (organized on a  
351 group practice or individual practice basis).

352                   (j) "Health service area" means a geographic area of  
353 the state designated in the State Health Plan as the area to be  
354 used in planning for specified health facilities and services and  
355 to be used when considering certificate of need applications to  
356 provide health facilities and services.

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

360 "Clinical health services" shall only include those activities  
361 which contemplate any change in the existing bed complement of any  
362 health care facility through the addition or conversion of any  
363 beds, under Section 41-7-191(1)(c) or propose to offer any health  
364 services if those services have not been provided on a regular  
365 basis by the proposed provider of such services within the period  
366 of twelve (12) months prior to the time such services would be  
367 offered, under Section 41-7-191(1)(d). "Nonclinical health  
368 services" shall be all other services which do not involve any  
369 change in the existing bed complement or offering health services  
370 as described above. "Health services" does not include medical



371 and related services for the diagnosis and treatment of chemical  
372 dependency such as alcohol and drug abuse.

373 (l) "Institutional health services" shall mean health  
374 services provided in or through health care facilities and shall  
375 include the entities in or through which such services are  
376 provided.

377 (m) "Major medical equipment" means medical equipment  
378 designed for providing medical or any health-related service which  
379 costs in excess of \* \* \* Three Million Dollars (\$3,000,000.00).  
380 Each fiscal year, this amount shall be increased by the annual  
381 rate of inflation for the State of Mississippi as determined by  
382 the State Economist. However, this definition shall not be  
383 applicable to clinical laboratories if they are determined by the  
384 State Department of Health to be independent of any physician's  
385 office, hospital or other health care facility or otherwise not so  
386 defined by federal or state law, or rules and regulations  
387 promulgated thereunder.

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

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



396 (p) "Person" means an individual, a trust or estate,  
397 partnership, corporation (including associations, joint-stock  
398 companies and insurance companies), the state or a political  
399 subdivision or instrumentality of the state.

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

404 (r) "Radiation therapy services" means the treatment of  
405 cancer and other diseases using ionizing radiation of either high  
406 energy photons (x-rays or gamma rays) or charged particles  
407 (electrons, protons or heavy nuclei). However, for purposes of a  
408 certificate of need, radiation therapy services shall not include  
409 low energy, superficial, external beam x-ray treatment of  
410 superficial skin lesions.

411 (s) "Secretary" means the Secretary of Health and Human  
412 Services, and any officer or employee of the Department of Health  
413 and Human Services to whom the authority involved has been  
414 delegated.

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





420 (u) "State Health Planning and Development Agency"  
421 means the agency of state government designated to perform health  
422 planning and resource development programs for the State of  
423 Mississippi.

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

426 41-7-185. In carrying out its functions under Section  
427 41-7-171 et seq., the State Department of Health is \* \* \*  
428 empowered to:

429 (a) Make applications for and accept funds from the  
430 secretary and other federal and state agencies and to receive and  
431 administer such other funds for the planning or provision of  
432 health facilities or health care as are appropriate to the  
433 accomplishment of the purposes of Section 41-7-171 et seq. \* \* \*  
434 and to contract with the secretary to accept funds to administer  
435 planning activities on the community, regional or state level;

436 (b) With the approval of the secretary, delegate to or  
437 contract with any mutually agreeable department, division or  
438 agency of the state, the federal government, or any political  
439 subdivision of either, or any private corporation, organization or  
440 association chartered by the Secretary of State of Mississippi,  
441 authority for administering any programs, duties or functions  
442 provided for in Section 41-7-171 \* \* \* et seq.;

443 (c) Prescribe and promulgate such reasonable rules and  
444 regulations as may be necessary to the implementation of the



445 purposes of Section 41-7-171 \* \* \* et seq., complying with  
446 Section \* \* \* 25-43-1.101 et seq.;

447 (d) Require providers of institutional health services  
448 and home health care services provided through a home health  
449 agency and any other provider of health care requiring a  
450 certificate of need to submit or make available statistical  
451 information or such other information requested by the State  
452 Department of Health, but not information that would constitute an  
453 unwarranted invasion of the personal privacy of any individual  
454 person or place the provider in jeopardy of legal action by a  
455 third party;

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

462 (f) In its discretion, contract with the secretary, or  
463 terminate any such contract, for the administration of the  
464 provisions, programs, duties and functions of Section 1122 of  
465 Public Law 92-603; but the State Department of Health shall not be  
466 relieved of matters of accountability, obligation or  
467 responsibility that accrued to the department by virtue of prior  
468 contracts and/or statutes;



469 (g) Prepare \* \* \* annually, and revise \* \* \* as  
470 necessary, a State Health Plan, as defined in Section 41-7-173,  
471 using the most recent data available to the department, which  
472 shall be approved by the Governor before it becomes effective.

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

475 41-7-187. The State Department of Health is hereby  
476 authorized to develop and implement a statewide health certificate  
477 of need program. The State Department of Health is authorized and  
478 empowered to adopt by rule and regulation:

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

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

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

489 (d) Review procedures for conducting reviews of  
490 applications for certificates of need.

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



493 41-7-188. (1) The State Department of Health is hereby  
494 authorized and empowered to assess fees for reviewing applications  
495 for certificates of need. The State Department of Health shall  
496 promulgate such rules and regulations as are necessary to  
497 effectuate the intent of this section in keeping with the  
498 standards hereinbelow:

499 (a) The fees assessed shall be uniform to all  
500 applicants.

501 (b) The fees assessed shall be nonrefundable.

502 (c) The fee shall be five-tenths of one percent (.5 of  
503 1%) of the amount of a proposed capital expenditure.

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

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

511 (f) The required fee shall be paid to the State  
512 Department of Health and may be paid by check, draft \* \* \*,  
513 money order, or electronic payment.

514 (g) There shall be no filing fee requirement for any  
515 application submitted by an agency, department, institution or  
516 facility which is operated, owned by and/or controlled by the  
517 State of Mississippi and which received operating and/or capital



518 expenditure funds solely by appropriations from the Legislature of  
519 the state.

520 (h) There shall be no filing fee requirement for any  
521 health-care facility submitting an application for repairs or  
522 renovations determined by the State Department of Health in  
523 writing, to be necessary in order to avoid revocation of license  
524 and/or loss of certification for participation in the Medicaid  
525 and/or Medicare programs. Any proposed expenditure in excess of  
526 the amount determined by the State Department of Health to be  
527 necessary to accomplish the stated purposes shall be subject to  
528 the fee requirements of this section.

529 (2) The revenue derived from the fees imposed in subsection  
530 (1) of this section shall be deposited by the State Department of  
531 Health in a special fund, hereby which is created in the State  
532 Treasury, which is earmarked for use by the State Department of  
533 Health in conducting its health planning and certificate of need  
534 review activities. It is the intent of the Legislature that the  
535 health planning and certificate of need programs be continued for  
536 the protection of the individuals within the state requiring  
537 health care.

538 (3) The State Department of Health is authorized and  
539 empowered to assess fees for reviewing applications for  
540 certificates of authority for health maintenance organizations and  
541 for the issuance and renewal of such certificates of authority.  
542 The fees assessed shall be uniform to all applicants and to all



543 holders of certificates of authority, and shall be nonrefundable.  
544 The fees for applications, original certificates of authority and  
545 renewals of certificates of authority shall not exceed Five  
546 Thousand Dollars (\$5,000.00) each. The revenues derived from the  
547 fees assessed under this subsection shall be deposited by the  
548 department in a special fund hereby created in the State Treasury,  
549 which is earmarked for the use of the department in its regulation  
550 of the operation of health maintenance organizations.

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

553         41-7-190. No corporation, foreign or domestic, partnership,  
554 individual(s) or association of such entities or of persons  
555 whatsoever, or any combination thereof, shall own, possess or  
556 exercise control over, in any manner, more than twenty percent  
557 (20%) of the beds in health care facilities defined in Section  
558 41-7-173(h) (iv) and (vi) in the defined health service area of the  
559 State of Mississippi.

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

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



566 41-7-191. (1) No person shall engage in any of the  
567 following activities without obtaining the required certificate of  
568 need:

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

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

580 (c) Any change in the existing bed complement of any  
581 health care facility through the addition or conversion of any  
582 beds or the alteration, modernizing or refurbishing of any unit or  
583 department in which the beds may be located; however, if a health  
584 care facility has voluntarily delicensed some of its existing bed  
585 complement, it may later relicense some or all of its delicensed  
586 beds without the necessity of having to acquire a certificate of  
587 need. The State Department of Health shall maintain a record of  
588 the delicensing health care facility and its voluntarily  
589 delicensed beds and continue counting those beds as part of the  
590 state's total bed count for health care planning purposes. If a



591 health care facility that has voluntarily delicensed some of its  
592 beds later desires to relicense some or all of its voluntarily  
593 delicensed beds, it shall notify the State Department of Health of  
594 its intent to increase the number of its licensed beds. The State  
595 Department of Health shall survey the health care facility within  
596 thirty (30) days of that notice and, if appropriate, issue the  
597 health care facility a new license reflecting the new contingent  
598 of beds. However, in no event may a health care facility that has  
599 voluntarily delicensed some of its beds be reissued a license to  
600 operate beds in excess of its bed count before the voluntary  
601 delicensure of some of its beds without seeking certificate of  
602 need approval;

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

- 607 (i) Open-heart surgery services;
- 608 (ii) Cardiac catheterization services;
- 609 (iii) Comprehensive inpatient rehabilitation  
610 services;
- 611 (iv) Licensed psychiatric services;
- 612 (v) \* \* \* [Deleted]
- 613 (vi) Radiation therapy services;
- 614 (vii) \* \* \* [Deleted]





615 (viii) Nursing home care as defined in \* \* \*  
616 subparagraph (iv) \* \* \* of Section 41-7-173(h);  
617 (ix) Home health services;  
618 (x) Swing-bed services;  
619 (xi) Ambulatory surgical services;  
620 (xii) \* \* \* [Deleted]  
621 (xiii) [Deleted]  
622 (xiv) Long-term care hospital services;  
623 (xv) Positron emission tomography (PET) services;  
624 (e) The relocation of one or more health services from  
625 one physical facility or site to another physical facility or  
626 site, unless such relocation, which does not involve a capital  
627 expenditure by or on behalf of a health care facility, (i) is to a  
628 physical facility or site within five thousand two hundred eighty  
629 (5,280) feet from the main entrance of the health care facility  
630 where the health care service is located, or (ii) is the result of  
631 an order of a court of appropriate jurisdiction or a result of  
632 pending litigation in such court, or by order of the State  
633 Department of Health, or by order of any other agency or legal  
634 entity of the state, the federal government, or any political  
635 subdivision of either, whose order is also approved by the State  
636 Department of Health;  
637 (f) The acquisition or otherwise control of any major  
638 medical equipment for the provision of medical services; however,  
639 (i) the acquisition of any major medical equipment used only for



640 research purposes, and (ii) the acquisition of major medical  
641 equipment to replace medical equipment for which a facility is  
642 already providing medical services and for which the State  
643 Department of Health has been notified before the date of such  
644 acquisition shall be exempt from this paragraph; an acquisition  
645 for less than fair market value must be reviewed, if the  
646 acquisition at fair market value would be subject to review;

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

655 (h) The change of ownership of any health care facility  
656 defined in \* \* \* subparagraph (iv) \* \* \* of Section 41-7-173(h),  
657 in which a notice of intent as described in paragraph (g) has not  
658 been filed and if the Executive Director, Division of Medicaid,  
659 Office of the Governor, has not certified in writing that there  
660 will be no increase in allowable costs to Medicaid from  
661 revaluation of the assets or from increased interest and  
662 depreciation as a result of the proposed change of ownership;

663 (i) Any activity described in paragraphs (a) through  
664 (h) if undertaken by any person if that same activity would



665 require certificate of need approval if undertaken by a health  
666 care facility;

667 (j) Any capital expenditure or deferred capital  
668 expenditure by or on behalf of a health care facility not covered  
669 by paragraphs (a) through (h);

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

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

681 (m) Reopening a health care facility that has ceased to  
682 operate for a period of sixty (60) months or more, which reopening  
683 requires a certificate of need for the establishment of a new  
684 health care facility.

685 (2) The State Department of Health shall not grant approval  
686 for or issue a certificate of need to any person proposing the new  
687 construction of, addition to, or expansion of any health care  
688 facility defined in \* \* \* subparagraph (iv) (skilled nursing  
689 facility) \* \* \* of Section 41-7-173(h) or the conversion of vacant



690 hospital beds to provide skilled \* \* \* nursing home care, except  
691 as hereinafter authorized:

692 (a) The department may issue a certificate of need to  
693 any person proposing the new construction of any health care  
694 facility defined in subparagraphs (iv) and (vi) of Section  
695 41-7-173(h) as part of a life care retirement facility, in any  
696 county bordering on the Gulf of Mexico in which is located a  
697 National Aeronautics and Space Administration facility, not to  
698 exceed forty (40) beds. From and after July 1, 1999, there shall  
699 be no prohibition or restrictions on participation in the Medicaid  
700 program (Section 43-13-101 et seq.) for the beds in the health  
701 care facility that were authorized under this paragraph (a).

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

709 (c) The department may issue a certificate of need for  
710 the addition to or expansion of any skilled nursing facility that  
711 is part of an existing continuing care retirement community  
712 located in Madison County, provided that the recipient of the  
713 certificate of need agrees in writing that the skilled nursing  
714 facility will not at any time participate in the Medicaid program



715 (Section 43-13-101 et seq.) or admit or keep any patients in the  
716 skilled nursing facility who are participating in the Medicaid  
717 program. This written agreement by the recipient of the  
718 certificate of need shall be fully binding on any subsequent owner  
719 of the skilled nursing facility, if the ownership of the facility  
720 is transferred at any time after the issuance of the certificate  
721 of need. Agreement that the skilled nursing facility will not  
722 participate in the Medicaid program shall be a condition of the  
723 issuance of a certificate of need to any person under this  
724 paragraph (c), and if such skilled nursing facility at any time  
725 after the issuance of the certificate of need, regardless of the  
726 ownership of the facility, participates in the Medicaid program or  
727 admits or keeps any patients in the facility who are participating  
728 in the Medicaid program, the State Department of Health shall  
729 revoke the certificate of need, if it is still outstanding, and  
730 shall deny or revoke the license of the skilled nursing facility,  
731 at the time that the department determines, after a hearing  
732 complying with due process, that the facility has failed to comply  
733 with any of the conditions upon which the certificate of need was  
734 issued, as provided in this paragraph and in the written agreement  
735 by the recipient of the certificate of need. The total number of  
736 beds that may be authorized under the authority of this paragraph  
737 (c) shall not exceed sixty (60) beds.

738 (d) The State Department of Health may issue a  
739 certificate of need to any hospital located in DeSoto County for



740 the new construction of a skilled nursing facility, not to exceed  
741 one hundred twenty (120) beds, in DeSoto County. From and after  
742 July 1, 1999, there shall be no prohibition or restrictions on  
743 participation in the Medicaid program (Section 43-13-101 et seq.)  
744 for the beds in the nursing facility that were authorized under  
745 this paragraph (d).

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

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

763 (g) The State Department of Health may issue a  
764 certificate of need for the construction or expansion of nursing



765 facility beds or the conversion of other beds to nursing facility  
766 beds in either Hinds, Madison or Rankin County, not to exceed  
767 sixty (60) beds. From and after July 1, 1999, there shall be no  
768 prohibition or restrictions on participation in the Medicaid  
769 program (Section 43-13-101 et seq.) for the beds in the nursing  
770 facility that were authorized under this paragraph (g).

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

779 (i) The department may issue a certificate of need for  
780 the new construction of a skilled nursing facility in Leake  
781 County, provided that the recipient of the certificate of need  
782 agrees in writing that the skilled nursing facility will not at  
783 any time participate in the Medicaid program (Section 43-13-101 et  
784 seq.) or admit or keep any patients in the skilled nursing  
785 facility who are participating in the Medicaid program. This  
786 written agreement by the recipient of the certificate of need  
787 shall be fully binding on any subsequent owner of the skilled  
788 nursing facility, if the ownership of the facility is transferred  
789 at any time after the issuance of the certificate of need.



790 Agreement that the skilled nursing facility will not participate  
791 in the Medicaid program shall be a condition of the issuance of a  
792 certificate of need to any person under this paragraph (i), and if  
793 such skilled nursing facility at any time after the issuance of  
794 the certificate of need, regardless of the ownership of the  
795 facility, participates in the Medicaid program or admits or keeps  
796 any patients in the facility who are participating in the Medicaid  
797 program, the State Department of Health shall revoke the  
798 certificate of need, if it is still outstanding, and shall deny or  
799 revoke the license of the skilled nursing facility, at the time  
800 that the department determines, after a hearing complying with due  
801 process, that the facility has failed to comply with any of the  
802 conditions upon which the certificate of need was issued, as  
803 provided in this paragraph and in the written agreement by the  
804 recipient of the certificate of need. The provision of Section  
805 41-7-193(1) regarding substantial compliance of the projection of  
806 need as reported in the current State Health Plan is waived for  
807 the purposes of this paragraph. The total number of nursing  
808 facility beds that may be authorized by any certificate of need  
809 issued under this paragraph (i) shall not exceed sixty (60) beds.  
810 If the skilled nursing facility authorized by the certificate of  
811 need issued under this paragraph is not constructed and fully  
812 operational within eighteen (18) months after July 1, 1994, the  
813 State Department of Health, after a hearing complying with due  
814 process, shall revoke the certificate of need, if it is still





815 outstanding, and shall not issue a license for the skilled nursing  
816 facility at any time after the expiration of the eighteen-month  
817 period.

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

829           (k) The department may issue a certificate of need for  
830 the construction of a nursing facility at a continuing care  
831 retirement community in Lowndes County. The total number of beds  
832 that may be authorized under the authority of this paragraph (k)  
833 shall not exceed sixty (60) beds. From and after July 1, 2001,  
834 the prohibition on the facility participating in the Medicaid  
835 program (Section 43-13-101 et seq.) that was a condition of  
836 issuance of the certificate of need under this paragraph (k) shall  
837 be revised as follows: The nursing facility may participate in  
838 the Medicaid program from and after July 1, 2001, if the owner of  
839 the facility on July 1, 2001, agrees in writing that no more than



840 thirty (30) of the beds at the facility will be certified for  
841 participation in the Medicaid program, and that no claim will be  
842 submitted for Medicaid reimbursement for more than thirty (30)  
843 patients in the facility in any month or for any patient in the  
844 facility who is in a bed that is not Medicaid-certified. This  
845 written agreement by the owner of the facility shall be a  
846 condition of licensure of the facility, and the agreement shall be  
847 fully binding on any subsequent owner of the facility if the  
848 ownership of the facility is transferred at any time after July 1,  
849 2001. After this written agreement is executed, the Division of  
850 Medicaid and the State Department of Health shall not certify more  
851 than thirty (30) of the beds in the facility for participation in  
852 the Medicaid program. If the facility violates the terms of the  
853 written agreement by admitting or keeping in the facility on a  
854 regular or continuing basis more than thirty (30) patients who are  
855 participating in the Medicaid program, the State Department of  
856 Health shall revoke the license of the facility, at the time that  
857 the department determines, after a hearing complying with due  
858 process, that the facility has violated the written agreement.

859 (1) Provided that funds are specifically appropriated  
860 therefor by the Legislature, the department may issue a  
861 certificate of need to a rehabilitation hospital in Hinds County  
862 for the construction of a sixty-bed long-term care nursing  
863 facility dedicated to the care and treatment of persons with  
864 severe disabilities including persons with spinal cord and



865 closed-head injuries and ventilator dependent patients. The  
866 provisions of Section 41-7-193(1) regarding substantial compliance  
867 with projection of need as reported in the current State Health  
868 Plan are waived for the purpose of this paragraph.

869 (m) The State Department of Health may issue a  
870 certificate of need to a county-owned hospital in the Second  
871 Judicial District of Panola County for the conversion of not more  
872 than seventy-two (72) hospital beds to nursing facility beds,  
873 provided that the recipient of the certificate of need agrees in  
874 writing that none of the beds at the nursing facility will be  
875 certified for participation in the Medicaid program (Section  
876 43-13-101 et seq.), and that no claim will be submitted for  
877 Medicaid reimbursement in the nursing facility in any day or for  
878 any patient in the nursing facility. This written agreement by  
879 the recipient of the certificate of need shall be a condition of  
880 the issuance of the certificate of need under this paragraph, and  
881 the agreement shall be fully binding on any subsequent owner of  
882 the nursing facility if the ownership of the nursing facility is  
883 transferred at any time after the issuance of the certificate of  
884 need. After this written agreement is executed, the Division of  
885 Medicaid and the State Department of Health shall not certify any  
886 of the beds in the nursing facility for participation in the  
887 Medicaid program. If the nursing facility violates the terms of  
888 the written agreement by admitting or keeping in the nursing  
889 facility on a regular or continuing basis any patients who are



890 participating in the Medicaid program, the State Department of  
891 Health shall revoke the license of the nursing facility, at the  
892 time that the department determines, after a hearing complying  
893 with due process, that the nursing facility has violated the  
894 condition upon which the certificate of need was issued, as  
895 provided in this paragraph and in the written agreement. If the  
896 certificate of need authorized under this paragraph is not issued  
897 within twelve (12) months after July 1, 2001, the department shall  
898 deny the application for the certificate of need and shall not  
899 issue the certificate of need at any time after the twelve-month  
900 period, unless the issuance is contested. If the certificate of  
901 need is issued and substantial construction of the nursing  
902 facility beds has not commenced within eighteen (18) months after  
903 July 1, 2001, the State Department of Health, after a hearing  
904 complying with due process, shall revoke the certificate of need  
905 if it is still outstanding, and the department shall not issue a  
906 license for the nursing facility at any time after the  
907 eighteen-month period. However, if the issuance of the  
908 certificate of need is contested, the department shall require  
909 substantial construction of the nursing facility beds within six  
910 (6) months after final adjudication on the issuance of the  
911 certificate of need.

912 (n) The department may issue a certificate of need for  
913 the new construction, addition or conversion of skilled nursing  
914 facility beds in Madison County, provided that the recipient of



915 the certificate of need agrees in writing that the skilled nursing  
916 facility will not at any time participate in the Medicaid program  
917 (Section 43-13-101 et seq.) or admit or keep any patients in the  
918 skilled nursing facility who are participating in the Medicaid  
919 program. This written agreement by the recipient of the  
920 certificate of need shall be fully binding on any subsequent owner  
921 of the skilled nursing facility, if the ownership of the facility  
922 is transferred at any time after the issuance of the certificate  
923 of need. Agreement that the skilled nursing facility will not  
924 participate in the Medicaid program shall be a condition of the  
925 issuance of a certificate of need to any person under this  
926 paragraph (n), and if such skilled nursing facility at any time  
927 after the issuance of the certificate of need, regardless of the  
928 ownership of the facility, participates in the Medicaid program or  
929 admits or keeps any patients in the facility who are participating  
930 in the Medicaid program, the State Department of Health shall  
931 revoke the certificate of need, if it is still outstanding, and  
932 shall deny or revoke the license of the skilled nursing facility,  
933 at the time that the department determines, after a hearing  
934 complying with due process, that the facility has failed to comply  
935 with any of the conditions upon which the certificate of need was  
936 issued, as provided in this paragraph and in the written agreement  
937 by the recipient of the certificate of need. The total number of  
938 nursing facility beds that may be authorized by any certificate of  
939 need issued under this paragraph (n) shall not exceed sixty (60)



940 beds. If the certificate of need authorized under this paragraph  
941 is not issued within twelve (12) months after July 1, 1998, the  
942 department shall deny the application for the certificate of need  
943 and shall not issue the certificate of need at any time after the  
944 twelve-month period, unless the issuance is contested. If the  
945 certificate of need is issued and substantial construction of the  
946 nursing facility beds has not commenced within eighteen (18)  
947 months after July 1, 1998, the State Department of Health, after a  
948 hearing complying with due process, shall revoke the certificate  
949 of need if it is still outstanding, and the department shall not  
950 issue a license for the nursing facility at any time after the  
951 eighteen-month period. However, if the issuance of the  
952 certificate of need is contested, the department shall require  
953 substantial construction of the nursing facility beds within six  
954 (6) months after final adjudication on the issuance of the  
955 certificate of need.

956 (o) The department may issue a certificate of need for  
957 the new construction, addition or conversion of skilled nursing  
958 facility beds in Leake County, provided that the recipient of the  
959 certificate of need agrees in writing that the skilled nursing  
960 facility will not at any time participate in the Medicaid program  
961 (Section 43-13-101 et seq.) or admit or keep any patients in the  
962 skilled nursing facility who are participating in the Medicaid  
963 program. This written agreement by the recipient of the  
964 certificate of need shall be fully binding on any subsequent owner



965 of the skilled nursing facility, if the ownership of the facility  
966 is transferred at any time after the issuance of the certificate  
967 of need. Agreement that the skilled nursing facility will not  
968 participate in the Medicaid program shall be a condition of the  
969 issuance of a certificate of need to any person under this  
970 paragraph (o), and if such skilled nursing facility at any time  
971 after the issuance of the certificate of need, regardless of the  
972 ownership of the facility, participates in the Medicaid program or  
973 admits or keeps any patients in the facility who are participating  
974 in the Medicaid program, the State Department of Health shall  
975 revoke the certificate of need, if it is still outstanding, and  
976 shall deny or revoke the license of the skilled nursing facility,  
977 at the time that the department determines, after a hearing  
978 complying with due process, that the facility has failed to comply  
979 with any of the conditions upon which the certificate of need was  
980 issued, as provided in this paragraph and in the written agreement  
981 by the recipient of the certificate of need. The total number of  
982 nursing facility beds that may be authorized by any certificate of  
983 need issued under this paragraph (o) shall not exceed sixty (60)  
984 beds. If the certificate of need authorized under this paragraph  
985 is not issued within twelve (12) months after July 1, 2001, the  
986 department shall deny the application for the certificate of need  
987 and shall not issue the certificate of need at any time after the  
988 twelve-month period, unless the issuance is contested. If the  
989 certificate of need is issued and substantial construction of the



990 nursing facility beds has not commenced within eighteen (18)  
991 months after July 1, 2001, the State Department of Health, after a  
992 hearing complying with due process, shall revoke the certificate  
993 of need if it is still outstanding, and the department shall not  
994 issue a license for the nursing facility at any time after the  
995 eighteen-month period. However, if the issuance of the  
996 certificate of need is contested, the department shall require  
997 substantial construction of the nursing facility beds within six  
998 (6) months after final adjudication on the issuance of the  
999 certificate of need.

1000 (p) The department may issue a certificate of need for  
1001 the construction of a municipally owned nursing facility within  
1002 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
1003 beds, provided that the recipient of the certificate of need  
1004 agrees in writing that the skilled nursing facility will not at  
1005 any time participate in the Medicaid program (Section 43-13-101 et  
1006 seq.) or admit or keep any patients in the skilled nursing  
1007 facility who are participating in the Medicaid program. This  
1008 written agreement by the recipient of the certificate of need  
1009 shall be fully binding on any subsequent owner of the skilled  
1010 nursing facility, if the ownership of the facility is transferred  
1011 at any time after the issuance of the certificate of need.  
1012 Agreement that the skilled nursing facility will not participate  
1013 in the Medicaid program shall be a condition of the issuance of a  
1014 certificate of need to any person under this paragraph (p), and if





1015 such skilled nursing facility at any time after the issuance of  
1016 the certificate of need, regardless of the ownership of the  
1017 facility, participates in the Medicaid program or admits or keeps  
1018 any patients in the facility who are participating in the Medicaid  
1019 program, the State Department of Health shall revoke the  
1020 certificate of need, if it is still outstanding, and shall deny or  
1021 revoke the license of the skilled nursing facility, at the time  
1022 that the department determines, after a hearing complying with due  
1023 process, that the facility has failed to comply with any of the  
1024 conditions upon which the certificate of need was issued, as  
1025 provided in this paragraph and in the written agreement by the  
1026 recipient of the certificate of need. The provision of Section  
1027 41-7-193(1) regarding substantial compliance of the projection of  
1028 need as reported in the current State Health Plan is waived for  
1029 the purposes of this paragraph. If the certificate of need  
1030 authorized under this paragraph is not issued within twelve (12)  
1031 months after July 1, 1998, the department shall deny the  
1032 application for the certificate of need and shall not issue the  
1033 certificate of need at any time after the twelve-month period,  
1034 unless the issuance is contested. If the certificate of need is  
1035 issued and substantial construction of the nursing facility beds  
1036 has not commenced within eighteen (18) months after July 1, 1998,  
1037 the State Department of Health, after a hearing complying with due  
1038 process, shall revoke the certificate of need if it is still  
1039 outstanding, and the department shall not issue a license for the



1040 nursing facility at any time after the eighteen-month period.  
1041 However, if the issuance of the certificate of need is contested,  
1042 the department shall require substantial construction of the  
1043 nursing facility beds within six (6) months after final  
1044 adjudication on the issuance of the certificate of need.

1045 (q) (i) Beginning on July 1, 1999, the State  
1046 Department of Health shall issue certificates of need during each  
1047 of the next four (4) fiscal years for the construction or  
1048 expansion of nursing facility beds or the conversion of other beds  
1049 to nursing facility beds in each county in the state having a need  
1050 for fifty (50) or more additional nursing facility beds, as shown  
1051 in the fiscal year 1999 State Health Plan, in the manner provided  
1052 in this paragraph (q). The total number of nursing facility beds  
1053 that may be authorized by any certificate of need authorized under  
1054 this paragraph (q) shall not exceed sixty (60) beds.

1055 (ii) Subject to the provisions of subparagraph  
1056 (v), during each of the next four (4) fiscal years, the department  
1057 shall issue six (6) certificates of need for new nursing facility  
1058 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
1059 (1) certificate of need shall be issued for new nursing facility  
1060 beds in the county in each of the four (4) Long-Term Care Planning  
1061 Districts designated in the fiscal year 1999 State Health Plan  
1062 that has the highest need in the district for those beds; and two  
1063 (2) certificates of need shall be issued for new nursing facility  
1064 beds in the two (2) counties from the state at large that have the



1065 highest need in the state for those beds, when considering the  
1066 need on a statewide basis and without regard to the Long-Term Care  
1067 Planning Districts in which the counties are located. During  
1068 fiscal year 2003, one (1) certificate of need shall be issued for  
1069 new nursing facility beds in any county having a need for fifty  
1070 (50) or more additional nursing facility beds, as shown in the  
1071 fiscal year 1999 State Health Plan, that has not received a  
1072 certificate of need under this paragraph (q) during the three (3)  
1073 previous fiscal years. During fiscal year 2000, in addition to  
1074 the six (6) certificates of need authorized in this subparagraph,  
1075 the department also shall issue a certificate of need for new  
1076 nursing facility beds in Amite County and a certificate of need  
1077 for new nursing facility beds in Carroll County.

1078 (iii) Subject to the provisions of subparagraph  
1079 (v), the certificate of need issued under subparagraph (ii) for  
1080 nursing facility beds in each Long-Term Care Planning District  
1081 during each fiscal year shall first be available for nursing  
1082 facility beds in the county in the district having the highest  
1083 need for those beds, as shown in the fiscal year 1999 State Health  
1084 Plan. If there are no applications for a certificate of need for  
1085 nursing facility beds in the county having the highest need for  
1086 those beds by the date specified by the department, then the  
1087 certificate of need shall be available for nursing facility beds  
1088 in other counties in the district in descending order of the need  
1089 for those beds, from the county with the second highest need to



1090 the county with the lowest need, until an application is received  
1091 for nursing facility beds in an eligible county in the district.

1092 (iv) Subject to the provisions of subparagraph  
1093 (v), the certificate of need issued under subparagraph (ii) for  
1094 nursing facility beds in the two (2) counties from the state at  
1095 large during each fiscal year shall first be available for nursing  
1096 facility beds in the two (2) counties that have the highest need  
1097 in the state for those beds, as shown in the fiscal year 1999  
1098 State Health Plan, when considering the need on a statewide basis  
1099 and without regard to the Long-Term Care Planning Districts in  
1100 which the counties are located. If there are no applications for  
1101 a certificate of need for nursing facility beds in either of the  
1102 two (2) counties having the highest need for those beds on a  
1103 statewide basis by the date specified by the department, then the  
1104 certificate of need shall be available for nursing facility beds  
1105 in other counties from the state at large in descending order of  
1106 the need for those beds on a statewide basis, from the county with  
1107 the second highest need to the county with the lowest need, until  
1108 an application is received for nursing facility beds in an  
1109 eligible county from the state at large.

1110 (v) If a certificate of need is authorized to be  
1111 issued under this paragraph (q) for nursing facility beds in a  
1112 county on the basis of the need in the Long-Term Care Planning  
1113 District during any fiscal year of the four-year period, a  
1114 certificate of need shall not also be available under this



1115 paragraph (q) for additional nursing facility beds in that county  
1116 on the basis of the need in the state at large, and that county  
1117 shall be excluded in determining which counties have the highest  
1118 need for nursing facility beds in the state at large for that  
1119 fiscal year. After a certificate of need has been issued under  
1120 this paragraph (q) for nursing facility beds in a county during  
1121 any fiscal year of the four-year period, a certificate of need  
1122 shall not be available again under this paragraph (q) for  
1123 additional nursing facility beds in that county during the  
1124 four-year period, and that county shall be excluded in determining  
1125 which counties have the highest need for nursing facility beds in  
1126 succeeding fiscal years.

1127                   (vi) If more than one (1) application is made for  
1128 a certificate of need for nursing home facility beds available  
1129 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
1130 County, and one (1) of the applicants is a county-owned hospital  
1131 located in the county where the nursing facility beds are  
1132 available, the department shall give priority to the county-owned  
1133 hospital in granting the certificate of need if the following  
1134 conditions are met:

1135                   1. The county-owned hospital fully meets all  
1136 applicable criteria and standards required to obtain a certificate  
1137 of need for the nursing facility beds; and

1138                   2. The county-owned hospital's qualifications  
1139 for the certificate of need, as shown in its application and as



1140 determined by the department, are at least equal to the  
1141 qualifications of the other applicants for the certificate of  
1142 need.

1143 (r) (i) Beginning on July 1, 1999, the State  
1144 Department of Health shall issue certificates of need during each  
1145 of the next two (2) fiscal years for the construction or expansion  
1146 of nursing facility beds or the conversion of other beds to  
1147 nursing facility beds in each of the four (4) Long-Term Care  
1148 Planning Districts designated in the fiscal year 1999 State Health  
1149 Plan, to provide care exclusively to patients with Alzheimer's  
1150 disease.

1151 (ii) Not more than twenty (20) beds may be  
1152 authorized by any certificate of need issued under this paragraph  
1153 (r), and not more than a total of sixty (60) beds may be  
1154 authorized in any Long-Term Care Planning District by all  
1155 certificates of need issued under this paragraph (r). However,  
1156 the total number of beds that may be authorized by all  
1157 certificates of need issued under this paragraph (r) during any  
1158 fiscal year shall not exceed one hundred twenty (120) beds, and  
1159 the total number of beds that may be authorized in any Long-Term  
1160 Care Planning District during any fiscal year shall not exceed  
1161 forty (40) beds. Of the certificates of need that are issued for  
1162 each Long-Term Care Planning District during the next two (2)  
1163 fiscal years, at least one (1) shall be issued for beds in the  
1164 northern part of the district, at least one (1) shall be issued



1165 for beds in the central part of the district, and at least one (1)  
1166 shall be issued for beds in the southern part of the district.

1167 (iii) The State Department of Health, in  
1168 consultation with the Department of Mental Health and the Division  
1169 of Medicaid, shall develop and prescribe the staffing levels,  
1170 space requirements and other standards and requirements that must  
1171 be met with regard to the nursing facility beds authorized under  
1172 this paragraph (r) to provide care exclusively to patients with  
1173 Alzheimer's disease.

1174 (s) The State Department of Health may issue a  
1175 certificate of need to a nonprofit skilled nursing facility using  
1176 the Green House model of skilled nursing care and located in Yazoo  
1177 City, Yazoo County, Mississippi, for the construction, expansion  
1178 or conversion of not more than nineteen (19) nursing facility  
1179 beds. For purposes of this paragraph (s), the provisions of  
1180 Section 41-7-193(1) requiring substantial compliance with the  
1181 projection of need as reported in the current State Health Plan  
1182 and the provisions of Section 41-7-197 requiring a formal  
1183 certificate of need hearing process are waived. There shall be no  
1184 prohibition or restrictions on participation in the Medicaid  
1185 program for the person receiving the certificate of need  
1186 authorized under this paragraph (s).

1187 (t) The State Department of Health shall issue  
1188 certificates of need to the owner of a nursing facility in  
1189 operation at the time of Hurricane Katrina in Hancock County that



1190 was not operational on December 31, 2005, because of damage  
1191 sustained from Hurricane Katrina to authorize the following: (i)  
1192 the construction of a new nursing facility in Harrison County;  
1193 (ii) the relocation of forty-nine (49) nursing facility beds from  
1194 the Hancock County facility to the new Harrison County facility;  
1195 (iii) the establishment of not more than twenty (20) non-Medicaid  
1196 nursing facility beds at the Hancock County facility; and (iv) the  
1197 establishment of not more than twenty (20) non-Medicaid beds at  
1198 the new Harrison County facility. The certificates of need that  
1199 authorize the non-Medicaid nursing facility beds under  
1200 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1201 subject to the following conditions: The owner of the Hancock  
1202 County facility and the new Harrison County facility must agree in  
1203 writing that no more than fifty (50) of the beds at the Hancock  
1204 County facility and no more than forty-nine (49) of the beds at  
1205 the Harrison County facility will be certified for participation  
1206 in the Medicaid program, and that no claim will be submitted for  
1207 Medicaid reimbursement for more than fifty (50) patients in the  
1208 Hancock County facility in any month, or for more than forty-nine  
1209 (49) patients in the Harrison County facility in any month, or for  
1210 any patient in either facility who is in a bed that is not  
1211 Medicaid-certified. This written agreement by the owner of the  
1212 nursing facilities shall be a condition of the issuance of the  
1213 certificates of need under this paragraph (t), and the agreement  
1214 shall be fully binding on any later owner or owners of either





1215 facility if the ownership of either facility is transferred at any  
1216 time after the certificates of need are issued. After this  
1217 written agreement is executed, the Division of Medicaid and the  
1218 State Department of Health shall not certify more than fifty (50)  
1219 of the beds at the Hancock County facility or more than forty-nine  
1220 (49) of the beds at the Harrison County facility for participation  
1221 in the Medicaid program. If the Hancock County facility violates  
1222 the terms of the written agreement by admitting or keeping in the  
1223 facility on a regular or continuing basis more than fifty (50)  
1224 patients who are participating in the Medicaid program, or if the  
1225 Harrison County facility violates the terms of the written  
1226 agreement by admitting or keeping in the facility on a regular or  
1227 continuing basis more than forty-nine (49) patients who are  
1228 participating in the Medicaid program, the State Department of  
1229 Health shall revoke the license of the facility that is in  
1230 violation of the agreement, at the time that the department  
1231 determines, after a hearing complying with due process, that the  
1232 facility has violated the agreement.

1233 (u) The State Department of Health shall issue a  
1234 certificate of need to a nonprofit venture for the establishment,  
1235 construction and operation of a skilled nursing facility of not  
1236 more than sixty (60) beds to provide skilled nursing care for  
1237 ventilator dependent or otherwise medically dependent pediatric  
1238 patients who require medical and nursing care or rehabilitation  
1239 services to be located in a county in which an academic medical



1240 center and a children's hospital are located, and for any  
1241 construction and for the acquisition of equipment related to those  
1242 beds. The facility shall be authorized to keep such ventilator  
1243 dependent or otherwise medically dependent pediatric patients  
1244 beyond age twenty-one (21) in accordance with regulations of the  
1245 State Board of Health. For purposes of this paragraph (u), the  
1246 provisions of Section 41-7-193(1) requiring substantial compliance  
1247 with the projection of need as reported in the current State  
1248 Health Plan are waived, and the provisions of Section 41-7-197  
1249 requiring a formal certificate of need hearing process are waived.  
1250 The beds authorized by this paragraph shall be counted as  
1251 pediatric skilled nursing facility beds for health planning  
1252 purposes under Section 41-7-171 et seq. There shall be no  
1253 prohibition of or restrictions on participation in the Medicaid  
1254 program for the person receiving the certificate of need  
1255 authorized by this paragraph.

1256 (3) \* \* \* [Deleted]

1257 (4) (a) From and after \* \* \* July 1, 2025, the department  
1258 may issue a certificate of need to any person for the new  
1259 construction of any hospital \* \* \* or psychiatric hospital \* \* \*  
1260 that will contain any child/adolescent psychiatric \* \* \* beds, or  
1261 for the conversion of any other health care facility to a  
1262 hospital \* \* \* or psychiatric hospital \* \* \* that will contain any  
1263 child/adolescent psychiatric \* \* \* beds. There shall be no  
1264 prohibition or restrictions on participation in the Medicaid



1265 program (Section 43-13-101 et seq.) for the person(s) receiving  
1266 the certificate(s) of need authorized under this paragraph (a) or  
1267 for the beds converted pursuant to the authority of that  
1268 certificate of need. In issuing any new certificate of need for  
1269 any child/adolescent psychiatric \* \* \* beds, either by new  
1270 construction or conversion of beds of another category, the  
1271 department shall give preference to beds which will be located in  
1272 an area of the state which does not have such beds located in it,  
1273 and to a location more than sixty-five (65) miles from existing  
1274 beds. Upon receiving 2020 census data, the department may amend  
1275 the State Health Plan regarding child/adolescent psychiatric \* \* \*  
1276 beds to reflect the need based on new census data.

- 1277 (i) [Deleted]
- 1278 (ii) \* \* \* [Deleted]
- 1279 (iii) The department may issue a certificate or  
1280 certificates of need for the construction or expansion of  
1281 child/adolescent psychiatric beds or the conversion of other beds  
1282 to child/adolescent psychiatric beds in Warren County. For  
1283 purposes of this subparagraph (iii), the provisions of Section  
1284 41-7-193(1) requiring substantial compliance with the projection  
1285 of need as reported in the current State Health Plan are waived.  
1286 The total number of beds that may be authorized under the  
1287 authority of this subparagraph shall not exceed twenty (20) beds.  
1288 There shall be no prohibition or restrictions on participation in  
1289 the Medicaid program (Section 43-13-101 et seq.) for the person



1290 receiving the certificate of need authorized under this  
1291 subparagraph or for the beds converted pursuant to the authority  
1292 of that certificate of need.

1293         If by January 1, 2002, there has been no significant  
1294 commencement of construction of the beds authorized under this  
1295 subparagraph (iii), or no significant action taken to convert  
1296 existing beds to the beds authorized under this subparagraph, then  
1297 the certificate of need that was previously issued under this  
1298 subparagraph shall expire. If the previously issued certificate  
1299 of need expires, the department may accept applications for  
1300 issuance of another certificate of need for the beds authorized  
1301 under this subparagraph, and may issue a certificate of need to  
1302 authorize the construction, expansion or conversion of the beds  
1303 authorized under this subparagraph.

1304                 (iv) The department shall issue a certificate of  
1305 need to the Region 7 Mental Health/Retardation Commission for the  
1306 construction or expansion of child/adolescent psychiatric beds or  
1307 the conversion of other beds to child/adolescent psychiatric beds  
1308 in any of the counties served by the commission. For purposes of  
1309 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1310 requiring substantial compliance with the projection of need as  
1311 reported in the current State Health Plan are waived. The total  
1312 number of beds that may be authorized under the authority of this  
1313 subparagraph shall not exceed twenty (20) beds. There shall be no  
1314 prohibition or restrictions on participation in the Medicaid



1315 program (Section 43-13-101 et seq.) for the person receiving the  
1316 certificate of need authorized under this subparagraph or for the  
1317 beds converted pursuant to the authority of that certificate of  
1318 need.

1319 (v) The department may issue a certificate of need  
1320 to any county hospital located in Leflore County for the  
1321 construction or expansion of adult psychiatric beds or the  
1322 conversion of other beds to adult psychiatric beds, not to exceed  
1323 twenty (20) beds, provided that the recipient of the certificate  
1324 of need agrees in writing that the adult psychiatric beds will not  
1325 at any time be certified for participation in the Medicaid program  
1326 and that the hospital will not admit or keep any patients who are  
1327 participating in the Medicaid program in any of such adult  
1328 psychiatric beds. This written agreement by the recipient of the  
1329 certificate of need shall be fully binding on any subsequent owner  
1330 of the hospital if the ownership of the hospital is transferred at  
1331 any time after the issuance of the certificate of need. Agreement  
1332 that the adult psychiatric beds will not be certified for  
1333 participation in the Medicaid program shall be a condition of the  
1334 issuance of a certificate of need to any person under this  
1335 subparagraph (v), and if such hospital at any time after the  
1336 issuance of the certificate of need, regardless of the ownership  
1337 of the hospital, has any of such adult psychiatric beds certified  
1338 for participation in the Medicaid program or admits or keeps any  
1339 Medicaid patients in such adult psychiatric beds, the State



1340 Department of Health shall revoke the certificate of need, if it  
1341 is still outstanding, and shall deny or revoke the license of the  
1342 hospital at the time that the department determines, after a  
1343 hearing complying with due process, that the hospital has failed  
1344 to comply with any of the conditions upon which the certificate of  
1345 need was issued, as provided in this subparagraph and in the  
1346 written agreement by the recipient of the certificate of need.

1347                   (vi) The department may issue a certificate or  
1348 certificates of need for the expansion of child psychiatric beds  
1349 or the conversion of other beds to child psychiatric beds at the  
1350 University of Mississippi Medical Center. For purposes of this  
1351 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1352 substantial compliance with the projection of need as reported in  
1353 the current State Health Plan are waived. The total number of  
1354 beds that may be authorized under the authority of this  
1355 subparagraph shall not exceed fifteen (15) beds. There shall be  
1356 no prohibition or restrictions on participation in the Medicaid  
1357 program (Section 43-13-101 et seq.) for the hospital receiving the  
1358 certificate of need authorized under this subparagraph or for the  
1359 beds converted pursuant to the authority of that certificate of  
1360 need.

1361                   (b) From and after July 1, \* \* \* 2025, no  
1362 hospital \* \* \* or psychiatric hospital \* \* \* shall be authorized  
1363 to add any child/adolescent psychiatric \* \* \* beds or convert any  
1364 beds of another category to child/adolescent psychiatric \* \* \*



1365 beds without a certificate of need under the authority of  
1366 subsection (1)(c) and subsection (4)(a) of this section.

1367 (5) The department may issue a certificate of need to a  
1368 county hospital in Winston County for the conversion of fifteen  
1369 (15) acute care beds to geriatric psychiatric care beds.

1370 (6) The State Department of Health shall issue a certificate  
1371 of need to a Mississippi corporation qualified to manage a  
1372 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1373 Harrison County, not to exceed eighty (80) beds, including any  
1374 necessary renovation or construction required for licensure and  
1375 certification, provided that the recipient of the certificate of  
1376 need agrees in writing that the long-term care hospital will not  
1377 at any time participate in the Medicaid program (Section 43-13-101  
1378 et seq.) or admit or keep any patients in the long-term care  
1379 hospital who are participating in the Medicaid program. This  
1380 written agreement by the recipient of the certificate of need  
1381 shall be fully binding on any subsequent owner of the long-term  
1382 care hospital, if the ownership of the facility is transferred at  
1383 any time after the issuance of the certificate of need. Agreement  
1384 that the long-term care hospital will not participate in the  
1385 Medicaid program shall be a condition of the issuance of a  
1386 certificate of need to any person under this subsection (6), and  
1387 if such long-term care hospital at any time after the issuance of  
1388 the certificate of need, regardless of the ownership of the  
1389 facility, participates in the Medicaid program or admits or keeps



1390 any patients in the facility who are participating in the Medicaid  
1391 program, the State Department of Health shall revoke the  
1392 certificate of need, if it is still outstanding, and shall deny or  
1393 revoke the license of the long-term care hospital, at the time  
1394 that the department determines, after a hearing complying with due  
1395 process, that the facility has failed to comply with any of the  
1396 conditions upon which the certificate of need was issued, as  
1397 provided in this subsection and in the written agreement by the  
1398 recipient of the certificate of need. For purposes of this  
1399 subsection, the provisions of Section 41-7-193(1) requiring  
1400 substantial compliance with the projection of need as reported in  
1401 the current State Health Plan are waived.

1402 (7) The State Department of Health may issue a certificate  
1403 of need to any hospital in the state to utilize a portion of its  
1404 beds for the "swing-bed" concept. Any such hospital must be in  
1405 conformance with the federal regulations regarding such swing-bed  
1406 concept at the time it submits its application for a certificate  
1407 of need to the State Department of Health, except that such  
1408 hospital may have more licensed beds or a higher average daily  
1409 census (ADC) than the maximum number specified in federal  
1410 regulations for participation in the swing-bed program. Any  
1411 hospital meeting all federal requirements for participation in the  
1412 swing-bed program which receives such certificate of need shall  
1413 render services provided under the swing-bed concept to any  
1414 patient eligible for Medicare (Title XVIII of the Social Security





1415 Act) who is certified by a physician to be in need of such  
1416 services, and no such hospital shall permit any patient who is  
1417 eligible for both Medicaid and Medicare or eligible only for  
1418 Medicaid to stay in the swing beds of the hospital for more than  
1419 thirty (30) days per admission unless the hospital receives prior  
1420 approval for such patient from the Division of Medicaid, Office of  
1421 the Governor. Any hospital having more licensed beds or a higher  
1422 average daily census (ADC) than the maximum number specified in  
1423 federal regulations for participation in the swing-bed program  
1424 which receives such certificate of need shall develop a procedure  
1425 to ensure that before a patient is allowed to stay in the swing  
1426 beds of the hospital, there are no vacant nursing home beds  
1427 available for that patient located within a fifty-mile radius of  
1428 the hospital. When any such hospital has a patient staying in the  
1429 swing beds of the hospital and the hospital receives notice from a  
1430 nursing home located within such radius that there is a vacant bed  
1431 available for that patient, the hospital shall transfer the  
1432 patient to the nursing home within a reasonable time after receipt  
1433 of the notice. Any hospital which is subject to the requirements  
1434 of the two (2) preceding sentences of this subsection may be  
1435 suspended from participation in the swing-bed program for a  
1436 reasonable period of time by the State Department of Health if the  
1437 department, after a hearing complying with due process, determines  
1438 that the hospital has failed to comply with any of those  
1439 requirements.



1440 (8) \* \* \* [Deleted]

1441 (9) The Department of Health shall not grant approval for or  
1442 issue a certificate of need to any person proposing the  
1443 establishment of, or expansion of the currently approved territory  
1444 of, or the contracting to establish a home office, subunit or  
1445 branch office within the space operated as a health care facility  
1446 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1447 care facility as defined in subparagraph (ix) of Section  
1448 41-7-173(h).

1449 (10) Health care facilities owned and/or operated by the  
1450 state or its agencies are exempt from the restraints in this  
1451 section against issuance of a certificate of need if such addition  
1452 or expansion consists of repairing or renovation necessary to  
1453 comply with the state licensure law. This exception shall not  
1454 apply to the new construction of any building by such state  
1455 facility. This exception shall not apply to any health care  
1456 facilities owned and/or operated by counties, municipalities,  
1457 districts, unincorporated areas, other defined persons, or any  
1458 combination thereof.

1459 (11) The new construction, renovation or expansion of or  
1460 addition to any health care facility defined in subparagraph (ii)  
1461 (psychiatric hospital) \* \* \* and subparagraph (iv) (skilled  
1462 nursing facility), \* \* \* of Section 41-7-173(h) which is owned by  
1463 the State of Mississippi and under the direction and control of  
1464 the State Department of Mental Health, and the addition of new



1465 beds or the conversion of beds from one category to another in any  
1466 such defined health care facility which is owned by the State of  
1467 Mississippi and under the direction and control of the State  
1468 Department of Mental Health, shall not require the issuance of a  
1469 certificate of need under Section 41-7-171 et seq.,  
1470 notwithstanding any provision in Section 41-7-171 et seq. to the  
1471 contrary.

1472 (12) The new construction, renovation or expansion of or  
1473 addition to any veterans homes or domiciliaries for eligible  
1474 veterans of the State of Mississippi as authorized under Section  
1475 35-1-19 shall not require the issuance of a certificate of need,  
1476 notwithstanding any provision in Section 41-7-171 et seq. to the  
1477 contrary.

1478 (13) The repair or the rebuilding of an existing, operating  
1479 health care facility that sustained significant damage from a  
1480 natural disaster that occurred after April 15, 2014, in an area  
1481 that is proclaimed a disaster area or subject to a state of  
1482 emergency by the Governor or by the President of the United States  
1483 shall be exempt from all of the requirements of the Mississippi  
1484 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1485 rules and regulations promulgated under that law, subject to the  
1486 following conditions:

1487 (a) The repair or the rebuilding of any such damaged  
1488 health care facility must be within one (1) mile of the  
1489 pre-disaster location of the campus of the damaged health care



1490 facility, except that any temporary post-disaster health care  
1491 facility operating location may be within five (5) miles of the  
1492 pre-disaster location of the damaged health care facility;

1493           (b) The repair or the rebuilding of the damaged health  
1494 care facility (i) does not increase or change the complement of  
1495 its bed capacity that it had before the Governor's or the  
1496 President's proclamation, (ii) does not increase or change its  
1497 levels and types of health care services that it provided before  
1498 the Governor's or the President's proclamation, and (iii) does not  
1499 rebuild in a different county; however, this paragraph does not  
1500 restrict or prevent a health care facility from decreasing its bed  
1501 capacity that it had before the Governor's or the President's  
1502 proclamation, or from decreasing the levels of or decreasing or  
1503 eliminating the types of health care services that it provided  
1504 before the Governor's or the President's proclamation, when the  
1505 damaged health care facility is repaired or rebuilt;

1506           (c) The exemption from Certificate of Need Law provided  
1507 under this subsection (13) is valid for only five (5) years from  
1508 the date of the Governor's or the President's proclamation. If  
1509 actual construction has not begun within that five-year period,  
1510 the exemption provided under this subsection is inapplicable; and

1511           (d) The Division of Health Facilities Licensure and  
1512 Certification of the State Department of Health shall provide the  
1513 same oversight for the repair or the rebuilding of the damaged



1514 health care facility that it provides to all health care facility  
1515 construction projects in the state.

1516 For the purposes of this subsection (13), "significant  
1517 damage" to a health care facility means damage to the health care  
1518 facility requiring an expenditure of at least One Million Dollars  
1519 (\$1,000,000.00).

1520 (14) The State Department of Health shall issue a  
1521 certificate of need to any hospital which is currently licensed  
1522 for two hundred fifty (250) or more acute care beds and is located  
1523 in any general hospital service area not having a comprehensive  
1524 cancer center, for the establishment and equipping of such a  
1525 center which provides facilities and services for outpatient  
1526 radiation oncology therapy, outpatient medical oncology therapy,  
1527 and appropriate support services including the provision of  
1528 radiation therapy services. The provisions of Section 41-7-193(1)  
1529 regarding substantial compliance with the projection of need as  
1530 reported in the current State Health Plan are waived for the  
1531 purpose of this subsection.

1532 (15) The State Department of Health may authorize the  
1533 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1534 North Panola Community Hospital to the South Panola Community  
1535 Hospital. The authorization for the transfer of those beds shall  
1536 be exempt from the certificate of need review process.

1537 (16) The State Department of Health shall issue any  
1538 certificates of need necessary for Mississippi State University



1539 and a public or private health care provider to jointly acquire  
1540 and operate a linear accelerator and a magnetic resonance imaging  
1541 unit. Those certificates of need shall cover all capital  
1542 expenditures related to the project between Mississippi State  
1543 University and the health care provider, including, but not  
1544 limited to, the acquisition of the linear accelerator, the  
1545 magnetic resonance imaging unit and other radiological modalities;  
1546 the offering of linear accelerator and magnetic resonance imaging  
1547 services; and the cost of construction of facilities in which to  
1548 locate these services. The linear accelerator and the magnetic  
1549 resonance imaging unit shall be (a) located in the City of  
1550 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1551 Mississippi State University and the public or private health care  
1552 provider selected by Mississippi State University through a  
1553 request for proposals (RFP) process in which Mississippi State  
1554 University selects, and the Board of Trustees of State  
1555 Institutions of Higher Learning approves, the health care provider  
1556 that makes the best overall proposal; (c) available to Mississippi  
1557 State University for research purposes two-thirds (2/3) of the  
1558 time that the linear accelerator and magnetic resonance imaging  
1559 unit are operational; and (d) available to the public or private  
1560 health care provider selected by Mississippi State University and  
1561 approved by the Board of Trustees of State Institutions of Higher  
1562 Learning one-third (1/3) of the time for clinical, diagnostic and  
1563 treatment purposes. For purposes of this subsection, the



1564 provisions of Section 41-7-193(1) requiring substantial compliance  
1565 with the projection of need as reported in the current State  
1566 Health Plan are waived.

1567 (17) The State Department of Health shall issue a  
1568 certificate of need for the construction of an acute care hospital  
1569 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1570 be named the "John C. Stennis Memorial Hospital." In issuing the  
1571 certificate of need under this subsection, the department shall  
1572 give priority to a hospital located in Lauderdale County that has  
1573 two hundred fifteen (215) beds. For purposes of this subsection,  
1574 the provisions of Section 41-7-193(1) requiring substantial  
1575 compliance with the projection of need as reported in the current  
1576 State Health Plan and the provisions of Section 41-7-197 requiring  
1577 a formal certificate of need hearing process are waived. There  
1578 shall be no prohibition or restrictions on participation in the  
1579 Medicaid program (Section 43-13-101 et seq.) for the person or  
1580 entity receiving the certificate of need authorized under this  
1581 subsection or for the beds constructed under the authority of that  
1582 certificate of need.

1583 (18) The planning, design, construction, renovation,  
1584 addition, furnishing and equipping of a clinical research unit at  
1585 any health care facility defined in Section 41-7-173(h) that is  
1586 under the direction and control of the University of Mississippi  
1587 Medical Center and located in Jackson, Mississippi, and the  
1588 addition of new beds or the conversion of beds from one (1)



1589 category to another in any such clinical research unit, shall not  
1590 require the issuance of a certificate of need under Section  
1591 41-7-171 et seq., notwithstanding any provision in Section  
1592 41-7-171 et seq. to the contrary.

1593 (19) [Repealed]

1594 (20) Nothing in this section or in any other provision of  
1595 Section 41-7-171 et seq. shall prevent any nursing facility from  
1596 designating an appropriate number of existing beds in the facility  
1597 as beds for providing care exclusively to patients with  
1598 Alzheimer's disease.

1599 (21) Nothing in this section or any other provision of  
1600 Section 41-7-171 et seq. shall prevent any health care facility  
1601 from the new construction, renovation, conversion or expansion of  
1602 new beds in the facility designated as intensive care units,  
1603 negative pressure rooms, or isolation rooms pursuant to the  
1604 provisions of Sections 41-14-1 through 41-14-11, or Section  
1605 41-14-31. For purposes of this subsection, the provisions of  
1606 Section 41-7-193(1) requiring substantial compliance with the  
1607 projection of need as reported in the current State Health Plan  
1608 and the provisions of Section 41-7-197 requiring a formal  
1609 certificate of need hearing process are waived.

1610 **SECTION 7.** Section 41-7-193, Mississippi Code of 1972, is  
1611 amended as follows:

1612 41-7-193. (1) No person may enter into any financing  
1613 arrangement or commitment for financing a new institutional health





1614 service or any other project requiring a certificate of need  
1615 unless such certificate has been granted for such purpose. A  
1616 certificate of need shall not be granted or issued to any person  
1617 for any proposal, cause or reason, unless the proposal has been  
1618 reviewed for consistency with the specifications and the criteria  
1619 established by the State Department of Health and substantially  
1620 complies with the projection of need as reported in the state  
1621 health plan in effect at the time the application for the proposal  
1622 was submitted.

1623 (2) An application for a certificate of need for an  
1624 institutional health service, medical equipment or any proposal  
1625 requiring a certificate of need shall specify the time, within  
1626 that granted, such shall be functional or operational according to  
1627 a time schedule submitted with the application. Each certificate  
1628 of need shall specify the maximum amount of capital expenditure  
1629 that may be obligated. The State Department of Health shall  
1630 periodically review the progress and time schedule of any person  
1631 issued or granted a certificate of need for any purpose.

1632 Recipients of certificates of need shall make written progress  
1633 reports of their projects at least every six (6) months and at  
1634 completion. The department shall monitor the projects to assure  
1635 compliance with stated policies, standards (including life safety,  
1636 construction and licensure), and approved costs. The department  
1637 shall also periodically review the health care facility, equipment  
1638 or service authorized by the certificate of need to ensure that



1639 the facility, equipment or service is being used or operated for  
1640 the purpose that was stated in the application for the certificate  
1641 of need and in a manner consistent with the information provided  
1642 in the application. The recipient of the certificate of need  
1643 shall provide the department with such information as necessary to  
1644 enable the department to properly conduct such reviews.

1645 (3) An application for a certificate of need may be filed at  
1646 any time with the department after the applicant has given the  
1647 department fifteen (15) days' written notice of its intent to  
1648 apply for a certificate of need. The department shall not delay  
1649 review of an application. The department shall make its  
1650 recommendation approving or disapproving a complete application  
1651 within forty-five (45) days of the date the application was filed  
1652 or within fifteen (15) days of receipt of any requested  
1653 information, whichever is later, \* \* \* the request to be made by  
1654 the department within fifteen (15) days of the filing of the  
1655 application.

1656 **SECTION 8.** Section 41-7-195, Mississippi Code of 1972, is  
1657 amended as follows:

1658 41-7-195. (1) A certificate of need shall be valid only for  
1659 the defined scope, physical location and person named in the  
1660 application. A certificate of need shall not be transferable or  
1661 assignable nor shall a project or capital expenditure project be  
1662 transferred from one person to another, except with the approval



1663 of the State Department of Health. A certificate of need shall be  
1664 valid for the period of time specified therein.

1665 (2) A certificate of need shall be issued for a period of  
1666 twelve (12) months, or such other lesser period as specified by  
1667 the State Department of Health.

1668 (3) The State Department of Health may define by regulation,  
1669 not to exceed six (6) months, the time for which a certificate of  
1670 need may be extended in those cases where the applicant shows to  
1671 the satisfaction of the department that a good faith effort has  
1672 been made toward completion of the project. A certificate of need  
1673 may be extended only one (1) time for not more than six (6)  
1674 months. After the end of the period of the extension, the  
1675 certificate of need shall expire, and the applicant must apply for  
1676 a new certificate of need.

1677 (4) If commencement of construction or other preparation is  
1678 not substantially undertaken during a valid certificate of need  
1679 period or the State Department of Health determines the applicant  
1680 is not making a good faith effort \* \* \* toward completion of the  
1681 project, the certificate of need shall be revoked.

1682 (5) The State Department of Health may approve or disapprove  
1683 a proposal for a certificate of need as originally presented in  
1684 final form, or it may approve a certificate of need by a  
1685 modification, by reduction only, of such proposal provided the  
1686 proponent agrees to such modification.



1687           **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is  
1688 brought forward as follows:

1689           41-7-197. (1) The State Department of Health shall adopt  
1690 and utilize procedures for conducting certificate of need reviews.  
1691 Such procedures shall include, inter alia, the following: (a)  
1692 written notification to the applicant; (b) written notification to  
1693 health care facilities in the same health service area as the  
1694 proposed service; (c) written notification to other persons who  
1695 prior to the receipt of the application have filed a formal notice  
1696 of intent to provide the proposed services in the same service  
1697 area; and (d) notification to members of the public who reside in  
1698 the service area where the service is proposed, which may be  
1699 provided through newspapers or public information channels.

1700           (2) All notices provided shall include, inter alia, the  
1701 following: (a) the proposed schedule for the review; (b) written  
1702 notification of the period within which a public hearing during  
1703 the course of the review may be requested in writing by one or  
1704 more affected persons, such request to be made within ten (10)  
1705 days of the department's staff recommendation for approval or  
1706 disapproval of an application; and (c) the manner in which  
1707 notification will be provided of the time and place of any hearing  
1708 so requested. Any such hearing shall be commenced by an  
1709 independent hearing officer designated by the State Department of  
1710 Health within sixty (60) days of the filing of the hearing request  
1711 unless all parties to the hearing agree to extend the time for the



1712 commencement of the hearing. At such hearing, the hearing officer  
1713 and any person affected by the proposal being reviewed may conduct  
1714 reasonable questioning of persons who make relevant factual  
1715 allegations concerning the proposal. The hearing officer shall  
1716 require that all persons be sworn before they may offer any  
1717 testimony at the hearing, and the hearing officer is authorized to  
1718 administer oaths. Any person so choosing may be represented by  
1719 counsel at the hearing. A record of the hearing shall be made,  
1720 which shall consist of a transcript of all testimony received, all  
1721 documents and other material introduced by any interested person,  
1722 the staff report and recommendation and such other material as the  
1723 hearing officer considers relevant, including his own  
1724 recommendation, which he shall make, after reviewing, studying and  
1725 analyzing the evidence presented during the hearing, within a  
1726 reasonable period of time after the hearing is closed, which in no  
1727 event shall exceed forty-five (45) days. The completed record  
1728 shall be certified to the State Health Officer, who shall consider  
1729 only the record in making his decision, and shall not consider any  
1730 evidence or material which is not included therein. All final  
1731 decisions regarding the issuance of a certificate of need shall be  
1732 made by the State Health Officer. The State Health Officer shall  
1733 make his or her written findings and issue his or her order after  
1734 reviewing said record. The findings and decision of the State  
1735 Health Officer shall not be deferred to any later date.



1736 (3) Unless a hearing is held, if review by the State  
1737 Department of Health concerning the issuance of a certificate of  
1738 need is not complete with a final decision issued by the State  
1739 Health Officer within the time specified by rule or regulation,  
1740 which shall not exceed ninety (90) days from the filing of the  
1741 application for a certificate of need, the proponent of the  
1742 proposal may, within thirty (30) days after the expiration of the  
1743 specified time for review, commence such legal action as is  
1744 necessary, in the Chancery Court of the First Judicial District of  
1745 Hinds County or in the chancery court of the county in which the  
1746 service or facility is proposed to be provided, to compel the  
1747 State Health Officer to issue written findings and written order  
1748 approving or disapproving the proposal in question.

1749 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is  
1750 amended as follows:

1751 41-7-201. \* \* \*

1752 ( \* \* \*1) The provisions of this \* \* \* section shall apply  
1753 to any party appealing any final order of the State Department of  
1754 Health pertaining to a certificate of need \* \* \*.

1755 ( \* \* \*2) There shall be a "stay of proceedings" of any  
1756 final order issued by the State Department of Health pertaining to  
1757 the issuance of a certificate of need for the establishment,  
1758 construction, expansion or replacement of a health care facility  
1759 for a period of thirty (30) calendar days from the date of the  
1760 order, if an existing provider located in the same service area



1761 where the health care facility is or will be located has requested  
1762 a hearing during the course of review in opposition to the  
1763 issuance of the certificate of need. The stay of proceedings  
1764 shall expire at the termination of thirty (30) calendar days;  
1765 however, no construction, renovation or other capital expenditure  
1766 that is the subject of the order shall be undertaken, no license  
1767 to operate any facility that is the subject of the order shall be  
1768 issued by the licensing agency, and no certification to  
1769 participate in the Title XVII or Title XIX programs of the Social  
1770 Security Act shall be granted, until all statutory appeals have  
1771 been exhausted or the time for such appeals has expired.  
1772 Notwithstanding the foregoing, the filing of an appeal from a  
1773 final order of the State Department of Health \* \* \* for the  
1774 issuance of a certificate of need shall not prevent the purchase  
1775 of medical equipment or development or offering of institutional  
1776 health services granted in a certificate of need issued by the  
1777 State Department of Health.

1778 ( \* \* \*3) In addition to other remedies now available at law  
1779 or in equity, any party aggrieved by such final order of the State  
1780 Department of Health shall have the right of appeal to \* \* \* a  
1781 special chancery judge appointed by the Supreme Court, which  
1782 appeal must be filed with the Supreme Court within twenty (20)  
1783 calendar days after the date of the final order. \* \* \* Any appeal  
1784 shall state briefly the nature of the proceedings before the State  
1785 Department of Health and shall specify the order complained of.



1786 The Supreme Court shall appoint the special chancery judge in  
1787 accordance with the provisions of Section 9-1-105 within fifteen  
1788 (15) calendar days after the date that the appeal is filed. The  
1789 appeal shall be held in one (1) of the courtrooms of the Chancery  
1790 Court of the First Judicial District of Hinds County, Mississippi.

1791 ( \* \* \*4) Upon the filing of such an appeal, the Clerk of  
1792 the \* \* \* Supreme Court shall serve notice thereof upon the State  
1793 Department of Health, \* \* \* after which the State Department of  
1794 Health shall \* \* \* certify the record in the case to the special  
1795 chancery judge within thirty (30) calendar days of the date of the  
1796 filing of the appeal \* \* \* or within such time as the special  
1797 chancery judge may, by order for cause, allow from the service of  
1798 such notice. The certified record in the case \* \* \* shall include  
1799 a transcript of all testimony, together with all exhibits or  
1800 copies thereof, all proceedings, orders, findings and opinions  
1801 entered in the case; \* \* \* however, \* \* \* the parties and the  
1802 State Department of Health may stipulate that a specified portion  
1803 only of the record shall be certified to the \* \* \* special  
1804 chancery judge as the record on appeal. The \* \* \* special  
1805 chancery judge shall render a final order regarding such appeal no  
1806 later than one hundred twenty (120) calendar days from the date of  
1807 the final order by the State Department of Health. If the \* \* \*  
1808 special chancery judge has not rendered a final order within this  
1809 one-hundred-twenty-day period, then the final order of the State  
1810 Department of Health shall be deemed to have been affirmed by





1811 the \* \* \* special chancery judge \* \* \*. The final order of the  
1812 special chancery judge, or the deemed affirmation of the final  
1813 order of the State Department of Health, shall be the final  
1814 decision in the case, and no further appeal shall be allowed from  
1815 that final order or deemed affirmation.

1816 ( \* \* \* 5) Any appeal of a final order by the State  
1817 Department of Health in a certificate of need proceeding shall  
1818 require the giving of a bond by the appellant(s) sufficient to  
1819 secure the appellee against the loss of costs, fees, expenses and  
1820 attorney's fees incurred in defense of the appeal, approved by  
1821 the \* \* \* Supreme Court within five (5) calendar days of the date  
1822 of filing the appeal.

1823 ( \* \* \* 6) No new or additional evidence shall be introduced  
1824 in the appeal to the \* \* \* special chancery judge but the case  
1825 shall be determined upon the record certified to the \* \* \* special  
1826 chancery judge.

1827 ( \* \* \* 7) The \* \* \* special chancery judge may sustain or  
1828 dismiss the appeal, modify or vacate the order complained of in  
1829 whole or in part and may make an award of costs, fees, expenses  
1830 and attorney's fees, as the case may be \* \* \* In case the order is  
1831 wholly or partly vacated, the \* \* \* special chancery judge may  
1832 also, in \* \* \* his or her discretion, remand the matter to the  
1833 State Department of Health for such further proceedings, not  
1834 inconsistent with the \* \* \* judge's order, as, in the opinion of  
1835 the \* \* \* judge, justice may require. The \* \* \* special chancery



1836 judge, as part of the final order, shall make an award of costs,  
1837 fees, reasonable expenses and attorney's fees incurred in favor of  
1838 appellee payable by the appellant(s) \* \* \* if the court affirms  
1839 the order of the State Department of Health. The order shall not  
1840 be vacated or set aside, either in whole or in part, except for  
1841 errors of law, unless the \* \* \* special chancery judge finds that  
1842 the order of the State Department of Health is not supported by  
1843 substantial evidence, is contrary to the manifest weight of the  
1844 evidence, is in excess of the statutory authority or jurisdiction  
1845 of the State Department of Health, or violates any vested  
1846 constitutional rights of any party involved in the appeal. \* \* \*

1847 \* \* \*

1848 ( \* \* \*8) Within thirty (30) calendar days from the date  
1849 of \* \* \* a final order of the \* \* \* special chancery judge that  
1850 modifies or wholly or partly vacates the final order of the State  
1851 Department of Health granting a certificate of need, the State  
1852 Department of Health shall issue another order in conformity with  
1853 the final order of the \* \* \* special chancery judge.

1854 **SECTION 11.** Section 41-7-207, Mississippi Code of 1972, is  
1855 brought forward as follows:

1856 41-7-207. Notwithstanding any other provisions of Sections  
1857 41-7-171 through 41-7-209, except when the owner of a damaged  
1858 health care facility applies to repair or rebuild the facility in  
1859 accordance with the provisions of Section 41-7-191(13), when the  
1860 need for any emergency replacement occurs, the certificate of need



1861 review process shall be expedited by promulgation of  
1862 administrative procedures for expenditures necessary to alleviate  
1863 an emergency condition and restore health care access. Emergency  
1864 replacement means the replacement, and/or a necessary relocation,  
1865 of all or the damaged part of the facilities or equipment the  
1866 replacement of which is not exempt from certificate of need review  
1867 under the medical equipment replacement exemption provided in  
1868 Section 41-7-191(1)(f), without which the operation of the  
1869 facility and the health and safety of patients would be  
1870 immediately jeopardized and health care access would be denied to  
1871 such patients. Expenditures under this section shall be limited  
1872 to the replacement of those necessary facilities or equipment, the  
1873 loss of which constitutes an emergency; however, in the case of  
1874 the destruction or major damage to a health care facility, the  
1875 department shall be authorized to issue a certificate of need to  
1876 address the current and future health care needs of the community,  
1877 including, but not limited to, the expansion of the health care  
1878 facility and/or the relocation of the health care facility. In  
1879 exercising the authority granted in this section, the department  
1880 may waive all or part of the required certificate of need  
1881 application fee for any application filed under this section if  
1882 the expenditure would create a further hardship or undue burden on  
1883 the health care facility.

1884       **SECTION 12.** Section 41-7-209, Mississippi Code of 1972, is  
1885 brought forward as follows:



1886           41-7-209. (1) Any person or entity violating the provisions  
1887 of Sections 41-7-171 through 41-7-209, or regulations promulgated  
1888 thereunder, by not obtaining a certificate of need, by deviating  
1889 from the provisions of a certificate of need, or by refusing or  
1890 failing to cooperate with the State Department of Health in its  
1891 exercise or execution of its functions, responsibilities and  
1892 powers shall be subject to the following:

1893           (a) Revocation of the license of a health care facility  
1894 or a designated section, component or bed service thereof, or  
1895 revocation of the license of any other person for which the State  
1896 Department of Health is the licensing agency. If the State  
1897 Department of Health lacks jurisdiction to revoke the license of  
1898 such person, the State Health Officer shall recommend and show  
1899 cause to the appropriate licensing agency that such license should  
1900 be revoked;

1901           (b) Nonlicensure by the State Department of Health of a  
1902 specific or designated bed service offered by the entity or  
1903 person;

1904           (c) Nonlicensure by the State Department of Health  
1905 where infractions occur concerning the acquisition or control of  
1906 major medical equipment;

1907           (d) Revoking, rescinding or withdrawing a certificate  
1908 of need previously issued.

1909           (2) Violations of Sections 41-7-171 through 41-7-209, or any  
1910 rules or regulations promulgated in furtherance thereof by intent,



1911 fraud, deceit, unlawful design, willful and/or deliberate  
1912 misrepresentation, or by careless, negligent or incautious  
1913 disregard for such statutes or rules and regulations, either by  
1914 persons acting individually or in concert with others, shall  
1915 constitute a misdemeanor and shall be punishable by a fine not to  
1916 exceed One Thousand Dollars (\$1,000.00) for each such offense.  
1917 Each day of continuing violation shall be considered a separate  
1918 offense. The venue for prosecution of any such violation shall be  
1919 in any county of the state wherein any such violation, or portion  
1920 thereof, occurred.

1921 (3) The Attorney General, upon certification by the State  
1922 Health Officer, shall seek injunctive relief in a court of proper  
1923 jurisdiction to prevent violations of Sections 41-7-171 through  
1924 41-7-209 or any rules or regulations promulgated in furtherance of  
1925 Sections 41-7-171 through 41-7-209 in cases where other  
1926 administrative penalties and legal sanctions imposed have failed  
1927 to prevent or cause a discontinuance of any such violation.

1928 (4) Major third party payers, public or private, shall be  
1929 notified of any violation or infraction under this section and  
1930 shall be requested to take such appropriate punitive action as is  
1931 provided by law.

1932 **SECTION 13.** Section 9-1-105, Mississippi Code of 1972, is  
1933 amended as follows:

1934 9-1-105. (1) Whenever any judicial officer is unwilling or  
1935 unable to hear a case or unable to hold or attend any of the



1936 courts at the time and place required by law by reason of the  
1937 physical disability or sickness of such judicial officer, by  
1938 reason of the absence of such judicial officer from the state, by  
1939 reason of the disqualification of such judicial officer pursuant  
1940 to the provision of Section 165, Mississippi Constitution of 1890,  
1941 or any provision of the Code of Judicial Conduct, or for any other  
1942 reason, the Chief Justice of the Mississippi Supreme Court, with  
1943 the advice and consent of a majority of the justices of the  
1944 Mississippi Supreme Court, may appoint a person as a special judge  
1945 to hear the case or attend and hold a court.

1946       (2) Upon the request of the Chief Judge of the Court of  
1947 Appeals, the senior judge of a chancery or circuit court district,  
1948 the senior judge of a county court, or upon his own motion, the  
1949 Chief Justice of the Mississippi Supreme Court, with the advice  
1950 and consent of a majority of the justices of the Mississippi  
1951 Supreme Court, shall have the authority to appoint a special judge  
1952 to serve on a temporary basis in a circuit, chancery or county  
1953 court in the event of an emergency or overcrowded docket. It  
1954 shall be the duty of any special judge so appointed to assist the  
1955 court to which he is assigned in the disposition of causes so  
1956 pending in such court for whatever period of time is designated by  
1957 the Chief Justice. The Chief Justice, in his discretion, may  
1958 appoint the special judge to hear particular cases, a particular  
1959 type of case, or a particular portion of the court's docket.



1960           (3) When an appeal is taken from a final order of the State  
1961 Department of Health pertaining to a certificate of need under  
1962 Section 41-7-201, the Chief Justice of the Supreme Court, with the  
1963 advice and consent of a majority of the justices of the Supreme  
1964 Court, shall appoint a person as a special chancery judge to hear  
1965 the appeal within fifteen (15) calendar days after the date that  
1966 the appeal is filed with the Supreme Court, as provided in Section  
1967 41-7-201. The Supreme Court shall not appoint a person as the  
1968 special chancery judge (a) if the person is a resident of the  
1969 county of any of the parties to the appeal, or (b) if the person  
1970 is a currently sitting judge or retired judge and the health care  
1971 facility, equipment, or service or capital expenditure that is the  
1972 subject of the certificate of need is located or to be located in  
1973 the county or judicial district in which the judge serves or in  
1974 which the retired judge previously served.

1975           (4) When a vacancy exists for any of the reasons enumerated  
1976 in Section 9-1-103, the vacancy has not been filled within seven  
1977 (7) days by an appointment by the Governor, and there is a pending  
1978 cause or are pending causes in the court where the vacancy exists  
1979 that in the interests of justice and in the orderly dispatch of  
1980 the court's business require the appointment of a special judge,  
1981 the Chief Justice of the Supreme Court, with the advice and  
1982 consent of a majority of the justices of the Mississippi Supreme  
1983 Court, may appoint a qualified person as a special judge to fill



1984 the vacancy until the Governor makes his appointment and such  
1985 appointee has taken the oath of office.

1986 ( \* \* \*5) If the Chief Justice pursuant to this section  
1987 shall make an appointment within the authority vested in the  
1988 Governor by reason of Section 165, Mississippi Constitution of  
1989 1890, the Governor may at his election appoint a person to so  
1990 serve. In the event that the Governor makes such an appointment,  
1991 any appointment made by the Chief Justice pursuant to this section  
1992 shall be void and of no further force or effect from the date of  
1993 the Governor's appointment.

1994 ( \* \* \*6) When a judicial officer is unwilling or unable to  
1995 hear a case or unable or unwilling to hold court for a period of  
1996 time not to exceed two (2) weeks, the trial judge or judges of the  
1997 affected district or county and other trial judges may agree among  
1998 themselves regarding the appointment of a person for such case or  
1999 such limited period of time. The trial judges shall submit a  
2000 notice to the Chief Justice of the Supreme Court informing him of  
2001 their appointment. If the Chief Justice does not appoint another  
2002 person to serve as special judge within seven (7) days after  
2003 receipt of such notice, the person designated in such order shall  
2004 be deemed appointed.

2005 ( \* \* \*7) A person appointed to serve as a special judge may  
2006 be any currently sitting or retired chancery, circuit or county  
2007 court judge, Court of Appeals judge or Supreme Court Justice, or  
2008 any other person possessing the qualifications of the judicial





2009 office for which the appointment is made; however, a judge or  
2010 justice who was retired from service at the polls shall not be  
2011 eligible for appointment as a special judge in the district in  
2012 which he served prior to his defeat.

2013 ( \* \* \*8) Except as otherwise provided in subsection (2) of  
2014 this section, the need for an appointment pursuant to this section  
2015 may be certified to the Chief Justice of the Mississippi Supreme  
2016 Court by any attorney in good standing or other officer of the  
2017 court.

2018 ( \* \* \*9) The order appointing a person as a special judge  
2019 pursuant to this section shall describe as specifically as  
2020 possible the duration of the appointment.

2021 ( \* \* \*10) A special judge appointed pursuant to this  
2022 section shall take the oath of office, if necessary, and shall,  
2023 for the duration of his appointment, enjoy the full power and  
2024 authority of the office to which he is appointed.

2025 ( \* \* \*11) Any currently sitting justice or judge appointed  
2026 as a special judge under this section shall receive no additional  
2027 compensation for his or her service as special judge. Any other  
2028 person appointed as a special judge hereunder shall, for the  
2029 period of his service, receive compensation from the state for  
2030 each day's service a sum equal to 1/260ths of the current salary  
2031 in effect for the judicial office; however, no retired chancery,  
2032 circuit or county court judge, retired Court of Appeals judge or  
2033 any retired Supreme Court Justice appointed as a special judge



2034 pursuant to this section may, during any fiscal year, receive  
2035 compensation in excess of fifty percent (50%) of the current  
2036 salary in effect for a chancery or circuit court judge. Any  
2037 person appointed as a special judge shall be reimbursed for travel  
2038 expenses incurred in the performance of the official duties to  
2039 which he may be appointed hereunder in the same manner as other  
2040 public officials and employees as provided by Section 25-3-41,  
2041 Mississippi Code of 1972.

2042 ( \* \* \*12) If any person appointed as such special judge is  
2043 receiving retirement benefits by virtue of the provisions of the  
2044 Public Employees' Retirement Law of 1952, appearing as Sections  
2045 25-11-1 through 25-11-139, \* \* \* such benefits shall not be  
2046 reduced in any sum whatsoever because of such service, nor shall  
2047 any sum be deducted as contributions toward retirement under \* \* \*  
2048 that law.

2049 ( \* \* \*13) The Supreme Court shall have authority to  
2050 prescribe rules and regulations reasonably necessary to implement  
2051 and give effect to the provisions of this section.

2052 ( \* \* \*14) Nothing in this section shall abrogate the right  
2053 of attorneys engaged in a case to agree upon a member of the bar  
2054 to preside in a case pursuant to Section 165 of the Mississippi  
2055 Constitution of 1890.

2056 ( \* \* \*15) The Supreme Court shall prepare the necessary  
2057 payroll for special judges appointed pursuant to this section and



2058 shall submit such payroll to the Department of Finance and  
2059 Administration.

2060 ( \* \* \*16) Special judges appointed pursuant to this section  
2061 shall direct requests for reimbursement for travel expenses  
2062 authorized pursuant to this section to the Supreme Court and the  
2063 Supreme Court shall submit such requests to the Department of  
2064 Finance and Administration. The Supreme Court shall have the  
2065 power to adopt rules and regulations regarding the administration  
2066 of travel expenses authorized pursuant to this section.

2067 **SECTION 14.** Section 41-3-15, Mississippi Code of 1972, is  
2068 amended as follows:

2069 41-3-15. (1) (a) There shall be a State Department of  
2070 Health.

2071 (b) The State Board of Health shall have the following  
2072 powers and duties:

2073 (i) To formulate the policy of the State  
2074 Department of Health regarding public health matters within the  
2075 jurisdiction of the department;

2076 (ii) To adopt, modify, repeal and promulgate,  
2077 after due notice and hearing, and enforce rules and regulations  
2078 implementing or effectuating the powers and duties of the  
2079 department under any and all statutes within the department's  
2080 jurisdiction, and as the board may deem necessary;

2081 (iii) To apply for, receive, accept and expend any  
2082 federal or state funds or contributions, gifts, trusts, devises,



2083 bequests, grants, endowments or funds from any other source or  
2084 transfers of property of any kind;

2085                   (iv) To enter into, and to authorize the executive  
2086 officer to execute contracts, grants and cooperative agreements  
2087 with any federal or state agency or subdivision thereof, or any  
2088 public or private institution located inside or outside the State  
2089 of Mississippi, or any person, corporation or association in  
2090 connection with carrying out the provisions of this chapter, if it  
2091 finds those actions to be in the public interest and the contracts  
2092 or agreements do not have a financial cost that exceeds the  
2093 amounts appropriated for those purposes by the Legislature;

2094                   (v) To appoint, upon recommendation of the  
2095 Executive Officer of the State Department of Health, a Director of  
2096 Internal Audit who shall be either a Certified Public Accountant  
2097 or Certified Internal Auditor, and whose employment shall be  
2098 continued at the discretion of the board, and who shall report  
2099 directly to the board, or its designee; and

2100                   (vi) To discharge such other duties,  
2101 responsibilities and powers as are necessary to implement the  
2102 provisions of this chapter.

2103                   (c) The Executive Officer of the State Department of  
2104 Health shall have the following powers and duties:

2105                   (i) To administer the policies of the State Board  
2106 of Health within the authority granted by the board;



2107                   (ii) To supervise and direct all administrative  
2108 and technical activities of the department, except that the  
2109 department's internal auditor shall be subject to the sole  
2110 supervision and direction of the board;

2111                   (iii) To organize the administrative units of the  
2112 department in accordance with the plan adopted by the board and,  
2113 with board approval, alter the organizational plan and reassign  
2114 responsibilities as he or she may deem necessary to carry out the  
2115 policies of the board;

2116                   (iv) To coordinate the activities of the various  
2117 offices of the department;

2118                   (v) To employ, subject to regulations of the State  
2119 Personnel Board, qualified professional personnel in the subject  
2120 matter or fields of each office, and such other technical and  
2121 clerical staff as may be required for the operation of the  
2122 department. The executive officer shall be the appointing  
2123 authority for the department, and shall have the power to delegate  
2124 the authority to appoint or dismiss employees to appropriate  
2125 subordinates, subject to the rules and regulations of the State  
2126 Personnel Board;

2127                   (vi) To recommend to the board such studies and  
2128 investigations as he or she may deem appropriate, and to carry out  
2129 the approved recommendations in conjunction with the various  
2130 offices;



2131                   (vii) To prepare and deliver to the Legislature  
2132 and the Governor on or before January 1 of each year, and at such  
2133 other times as may be required by the Legislature or Governor, a  
2134 full report of the work of the department and the offices thereof,  
2135 including a detailed statement of expenditures of the department  
2136 and any recommendations the board may have;

2137                   (viii) To prepare and deliver to the Chairmen of  
2138 the Public Health and Welfare/Human Services Committees of the  
2139 Senate and House on or before January 1 of each year, a plan for  
2140 monitoring infant mortality in Mississippi and a full report of  
2141 the work of the department on reducing Mississippi's infant  
2142 mortality and morbidity rates and improving the status of maternal  
2143 and infant health; and

2144                   (ix) To enter into contracts, grants and  
2145 cooperative agreements with any federal or state agency or  
2146 subdivision thereof, or any public or private institution located  
2147 inside or outside the State of Mississippi, or any person,  
2148 corporation or association in connection with carrying out the  
2149 provisions of this chapter, if he or she finds those actions to be  
2150 in the public interest and the contracts or agreements do not have  
2151 a financial cost that exceeds the amounts appropriated for those  
2152 purposes by the Legislature. Each contract or agreement entered  
2153 into by the executive officer shall be submitted to the board  
2154 before its next meeting.



2155           (2) The State Board of Health shall have the authority to  
2156 establish an Office of Rural Health within the department. The  
2157 duties and responsibilities of this office shall include the  
2158 following:

2159                 (a) To collect and evaluate data on rural health  
2160 conditions and needs;

2161                 (b) To engage in policy analysis, policy development  
2162 and economic impact studies with regard to rural health issues;

2163                 (c) To develop and implement plans and provide  
2164 technical assistance to enable community health systems to respond  
2165 to various changes in their circumstances;

2166                 (d) To plan and assist in professional recruitment and  
2167 retention of medical professionals and assistants; and

2168                 (e) To establish information clearinghouses to improve  
2169 access to and sharing of rural health care information.

2170           (3) The State Board of Health shall have general supervision  
2171 of the health interests of the people of the state and to exercise  
2172 the rights, powers and duties of those acts which it is authorized  
2173 by law to enforce.

2174           (4) The State Board of Health shall have authority:

2175                 (a) To make investigations and inquiries with respect  
2176 to the causes of disease and death, and to investigate the effect  
2177 of environment, including conditions of employment and other  
2178 conditions that may affect health, and to make such other



2179 investigations as it may deem necessary for the preservation and  
2180 improvement of health.

2181 (b) To make such sanitary investigations as it may,  
2182 from time to time, deem necessary for the protection and  
2183 improvement of health and to investigate nuisance questions that  
2184 affect the security of life and health within the state.

2185 (c) To direct and control sanitary and quarantine  
2186 measures for dealing with all diseases within the state possible  
2187 to suppress same and prevent their spread.

2188 (d) To obtain, collect and preserve such information  
2189 relative to mortality, morbidity, disease and health as may be  
2190 useful in the discharge of its duties or may contribute to the  
2191 prevention of disease or the promotion of health in this state.

2192 (e) To charge and collect reasonable fees for health  
2193 services, including immunizations, inspections and related  
2194 activities, and the board shall charge fees for those services;  
2195 however, if it is determined that a person receiving services is  
2196 unable to pay the total fee, the board shall collect any amount  
2197 that the person is able to pay. Any increase in the fees charged  
2198 by the board under this paragraph shall be in accordance with the  
2199 provisions of Section 41-3-65.

2200 (f) (i) To establish standards for, issue permits and  
2201 exercise control over, any cafes, restaurants, food or drink  
2202 stands, sandwich manufacturing establishments, and all other  
2203 establishments, other than churches, church-related and private





2204 schools, and other nonprofit or charitable organizations, where  
2205 food or drink is regularly prepared, handled and served for pay;  
2206 and

2207                   (ii) To require that a permit be obtained from the  
2208 Department of Health before those persons begin operation. If any  
2209 such person fails to obtain the permit required in this  
2210 subparagraph (ii), the State Board of Health, after due notice and  
2211 opportunity for a hearing, may impose a monetary penalty not to  
2212 exceed One Thousand Dollars (\$1,000.00) for each violation.  
2213 However, the department is not authorized to impose a monetary  
2214 penalty against any person whose gross annual prepared food sales  
2215 are less than Five Thousand Dollars (\$5,000.00). Money collected  
2216 by the board under this subparagraph (ii) shall be deposited to  
2217 the credit of the State General Fund of the State Treasury.

2218                   (g) To promulgate rules and regulations and exercise  
2219 control over the production and sale of milk pursuant to the  
2220 provisions of Sections 75-31-41 through 75-31-49.

2221                   (h) On presentation of proper authority, to enter into  
2222 and inspect any public place or building where the State Health  
2223 Officer or his representative deems it necessary and proper to  
2224 enter for the discovery and suppression of disease and for the  
2225 enforcement of any health or sanitary laws and regulations in the  
2226 state.

2227                   (i) To conduct investigations, inquiries and hearings,  
2228 and to issue subpoenas for the attendance of witnesses and the



2229 production of books and records at any hearing when authorized and  
2230 required by statute to be conducted by the State Health Officer or  
2231 the State Board of Health.

2232 (j) To promulgate rules and regulations, and to collect  
2233 data and information, on (i) the delivery of services through the  
2234 practice of telemedicine; and (ii) the use of electronic records  
2235 for the delivery of telemedicine services.

2236 (k) To enforce and regulate domestic and imported fish  
2237 as authorized under Section 69-7-601 et seq.

2238 (5) (a) The State Board of Health shall have the authority,  
2239 in its discretion, to establish programs to promote the public  
2240 health, to be administered by the State Department of Health.  
2241 Specifically, those programs may include, but shall not be limited  
2242 to, programs in the following areas:

2243 (i) Maternal and child health;

2244 (ii) Family planning;

2245 (iii) Pediatric services;

2246 (iv) Services to crippled and disabled children;

2247 (v) Control of communicable and noncommunicable  
2248 disease;

2249 (vi) Chronic disease;

2250 (vii) Accidental deaths and injuries;

2251 (viii) Child care licensure;

2252 (ix) Radiological health;

2253 (x) Dental health;



2254 (xi) Milk sanitation;  
2255 (xii) Occupational safety and health;  
2256 (xiii) Food, vector control and general  
2257 sanitation;  
2258 (xiv) Protection of drinking water;  
2259 (xv) Sanitation in food handling establishments  
2260 open to the public;  
2261 (xvi) Registration of births and deaths and other  
2262 vital events;  
2263 (xvii) Such public health programs and services as  
2264 may be assigned to the State Board of Health by the Legislature or  
2265 by executive order; and  
2266 (xviii) Regulation of domestic and imported fish  
2267 for human consumption.  
2268 (b) [Deleted]  
2269 (c) The State Department of Health may undertake such  
2270 technical programs and activities as may be required for the  
2271 support and operation of those programs, including maintaining  
2272 physical, chemical, bacteriological and radiological laboratories,  
2273 and may make such diagnostic tests for diseases and tests for the  
2274 evaluation of health hazards as may be deemed necessary for the  
2275 protection of the people of the state.  
2276 (6) (a) The State Board of Health shall administer the  
2277 local governments and rural water systems improvements loan  
2278 program in accordance with the provisions of Section 41-3-16.



2279 (b) The State Board of Health shall have authority:  
2280 (i) To enter into capitalization grant agreements  
2281 with the United States Environmental Protection Agency, or any  
2282 successor agency thereto;  
2283 (ii) To accept capitalization grant awards made  
2284 under the federal Safe Drinking Water Act, as amended;  
2285 (iii) To provide annual reports and audits to the  
2286 United States Environmental Protection Agency, as may be required  
2287 by federal capitalization grant agreements; and  
2288 (iv) To establish and collect fees to defray the  
2289 reasonable costs of administering the revolving fund or emergency  
2290 fund if the State Board of Health determines that those costs will  
2291 exceed the limitations established in the federal Safe Drinking  
2292 Water Act, as amended. The administration fees may be included in  
2293 loan amounts to loan recipients for the purpose of facilitating  
2294 payment to the board; however, those fees may not exceed five  
2295 percent (5%) of the loan amount.

2296 (7) [Deleted]

2297 (8) Notwithstanding any other provision to the contrary, the  
2298 State Department of Health shall have the following specific  
2299 powers: The State Department of Health is authorized to issue a  
2300 license to an existing home health agency for the transfer of a  
2301 county from that agency to another existing home health agency,  
2302 and to charge a fee for reviewing and making a determination on  
2303 the application for such transfer not to exceed one-half (1/2) of



2304 the authorized fee assessed for the original application for the  
2305 home health agency, with the revenue to be deposited by the State  
2306 Department of Health into the special fund created under Section  
2307 41-7-188.

2308 (9) [Deleted]

2309 (10) \* \* \* [Deleted]

2310 (11) Notwithstanding any other provision to the contrary,  
2311 the State Department of Health shall have the following specific  
2312 powers: The State Department of Health is authorized and  
2313 empowered, to revoke, immediately, the license and require closure  
2314 of any institution for the aged or infirm, including any other  
2315 remedy less than closure to protect the health and safety of the  
2316 residents of said institution or the health and safety of the  
2317 general public.

2318 (12) Notwithstanding any other provision to the contrary,  
2319 the State Department of Health shall have the following specific  
2320 powers: The State Department of Health is authorized and  
2321 empowered, to require the temporary detainment of individuals for  
2322 disease control purposes based upon violation of any order of the  
2323 State Health Officer, as provided in Section 41-23-5. For the  
2324 purpose of enforcing such orders of the State Health Officer,  
2325 persons employed by the department as investigators shall have  
2326 general arrest powers. All law enforcement officers are  
2327 authorized and directed to assist in the enforcement of such  
2328 orders of the State Health Officer.



2329 (13) Additionally, the State Board of Health and the State  
2330 Health Officer each are authorized and directed to study the  
2331 status of health care, in its broadest sense, throughout the  
2332 state. The study should include challenges such as access to  
2333 care; the cost of care; indigent care; providing health care to  
2334 the incarcerated; the availability of health care workers,  
2335 paraprofessionals, and professionals; the effects of unhealthy  
2336 lifestyle choices; the consequences of health care facilities  
2337 locating in affluent and urban areas to the detriment of less  
2338 affluent areas, small towns, and rural areas; and negative trends  
2339 which may cause ill effects if they continue. The study shall  
2340 also include opportunities to improve health care, such as greater  
2341 coordination among state agencies, local governments, and other  
2342 entities which provide various types of health care; methods of  
2343 increasing the health care workforce; and methods to increase the  
2344 location of health care facilities in distressed areas, rural  
2345 areas, and small towns. All state agencies, the Legislative  
2346 Budget Office and the Joint Legislative Committee on Performance  
2347 Evaluation and Expenditure Review (PEER) are directed to assist  
2348 the department in developing this study. This provision does not  
2349 by itself grant any additional power to the State Board of Health  
2350 or the State Health Officer to require any entity to operate  
2351 differently. It does, however, empower and direct them to obtain  
2352 information and make recommendations, and it does require all



2353 entities to cooperate with the board and health officer as they  
2354 seek information.

2355         **SECTION 15.** Section 41-4-18, Mississippi Code of 1972, is  
2356 amended as follows:

2357             41-4-18. (1) Notwithstanding \* \* \* any other section of  
2358 law, the Department of Mental Health shall have the authority to  
2359 contract with private and/or public entities to transfer beds  
2360 within intermediate care facilities for individuals with  
2361 intellectual disabilities owned and operated by the Department of  
2362 Mental Health to locations owned and operated by private and/or  
2363 public entities for the purpose of serving individuals with  
2364 intellectual disabilities in the settings most appropriate to meet  
2365 their needs.

2366             (2) Any license granted to the Department of Mental Health  
2367 by the Department of Health for the operation of transferred  
2368 intermediate care facility for individuals with intellectual  
2369 disabilities beds shall remain in the name of the Department of  
2370 Mental Health \* \* \*.

2371         **SECTION 16.** Section 41-77-1, Mississippi Code of 1972, is  
2372 amended as follows:

2373             41-77-1. For purposes of this chapter:

2374             (a) "Birthing center" \* \* \* means a publicly or  
2375 privately owned facility, place or institution constructed,  
2376 renovated, leased or otherwise established where nonemergency  
2377 births are planned to occur away from the mother's usual residence



2378 following a documented period of prenatal care for a normal  
2379 uncomplicated pregnancy which has been determined to be low risk  
2380 through a formal risk scoring examination. Care provided in a  
2381 birthing center shall be provided by a licensed physician, or  
2382 certified nurse midwife, and a registered nurse. Services  
2383 provided in a birthing center shall be limited in the following  
2384 manner: (i) surgical services shall be limited to those normally  
2385 performed during uncomplicated childbirth, such as episiotomy and  
2386 repair, and shall not include operative obstetrics or caesarean  
2387 sections; (ii) labor shall not be inhibited, stimulated or  
2388 augmented with chemical agents during the first or second stage of  
2389 labor; (iii) systemic analgesia may be administered and local  
2390 anesthesia for pudental block and episiotomy repair may be  
2391 performed. General and conductive anesthesia shall not be  
2392 administered at birthing centers; (iv) patients shall not remain  
2393 in the facility in excess of twenty-four (24) hours.

2394 Hospitals are excluded from the definition of a "birthing  
2395 center" unless they choose to and are qualified to designate a  
2396 portion or part of the hospital as a birthing center, and nothing  
2397 herein shall be construed as referring to the usual service  
2398 provided the pregnant female in the obstetric-gynecology service  
2399 of an acute care hospital. Such facility or center, as heretofore  
2400 stated, shall include the offices of physicians in private  
2401 practice alone or in groups of two (2) or more; and such facility  
2402 or center rendering service to pregnant female persons, as stated





2403 heretofore and by the rules and regulations promulgated by the  
2404 licensing agency in furtherance thereof, shall be deemed to be a  
2405 "birthing center" whether using a similar or different name. Such  
2406 center or facility if in any manner is deemed to be or considered  
2407 to be operated or owned by a hospital or a hospital holding  
2408 leasing or management company, for profit or not for profit, is  
2409 required to comply with all birthing center standards governing a  
2410 "hospital affiliated" birthing center as adopted by the licensing  
2411 authority.

2412 (b) "Hospital affiliated" birthing center \* \* \* means a  
2413 separate and distinct unit of a hospital or a building owned,  
2414 leased, rented or utilized by a hospital and located in the same  
2415 county as the hospital for the purpose of providing the service of  
2416 a "birthing center." Such center or facility is not required to  
2417 be licensed separately, and may operate under the license issued  
2418 to the hospital if it is in compliance with Section 41-9-1 et  
2419 seq., where applicable, and the rules and regulations promulgated  
2420 by the licensing agency in furtherance thereof.

2421 (c) "Freestanding" birthing center \* \* \* means a  
2422 separate and distinct facility or center or a separate and  
2423 distinct organized unit of a hospital or other \* \* \* entity for  
2424 the purpose of performing the service of a "birthing center."  
2425 Such facility or center must be separately licensed and must  
2426 comply with all licensing standards promulgated by the licensing  
2427 agency by virtue of this chapter. Further, such facility or



2428 center must be a separate, identifiable entity and must be  
2429 physically, administratively and financially independent from  
2430 other operations of any hospital or other health care facility or  
2431 service and shall maintain a separate and required staff,  
2432 including administrative staff. \* \* \*

2433 (d) "Licensing agency" \* \* \* means the State Department  
2434 of Health.

2435 **SECTION 17.** Section 41-77-5, Mississippi Code of 1972, is  
2436 amended as follows:

2437 41-77-5. No person \* \* \* or other entity, acting severally  
2438 or jointly with any other person or entity, shall establish,  
2439 conduct or maintain a "birthing center" in this state without a  
2440 license under this chapter.

2441 **SECTION 18.** Section 41-77-21, Mississippi Code of 1972, is  
2442 amended as follows:

2443 41-77-21. Any applicant or licensee aggrieved by the  
2444 decision of the licensing agency after a hearing may, within  
2445 thirty (30) days after the mailing or serving of notice of the  
2446 decision as provided in Section 43-11-11, \* \* \* file a notice of  
2447 appeal to the Chancery Court of the First Judicial District of  
2448 Hinds County or in the chancery court of the county in which the  
2449 institution is located or proposed to be located. \* \* \*  
2450 Thereupon, the licensing agency shall \* \* \* certify and file with  
2451 the court a copy of the record and decision, including the  
2452 transcript of the hearings in which the decision is based. No new



2453 or additional evidence shall be introduced in court; the case  
2454 shall be determined upon the record certified to the court. The  
2455 court may sustain or dismiss the appeal, modify or vacate the  
2456 order complained of in whole or in part, as the case may be; but  
2457 in case the order is wholly or partly vacated, the court may also,  
2458 in its discretion, remand the matter to the licensing agency for  
2459 such further proceedings, not inconsistent with the court's order,  
2460 as, in the opinion of the court, justice may require. The order  
2461 may not be vacated or set aside, either in whole or in part,  
2462 except for errors of law, unless the court finds that the order of  
2463 the licensing agency is not supported by substantial evidence, is  
2464 contrary to the manifest weight of the evidence, is in excess of  
2465 the statutory authority or jurisdiction of the licensing agency,  
2466 or violates any vested constitutional rights of any party involved  
2467 in the appeal. Pending final disposition of the matter, the  
2468 status quo of the applicant or licensee shall be preserved, except  
2469 as the court otherwise orders in the public interest. Rules with  
2470 respect to court costs in other cases in chancery shall apply  
2471 equally to cases hereunder. Appeals in accordance with law may be  
2472 had to the Supreme Court of the State of Mississippi from any  
2473 final judgment of the chancery court.

2474       **SECTION 19.** Section 41-77-23, Mississippi Code of 1972, is  
2475 amended as follows:

2476       41-77-23. Any person or persons or other entity or entities  
2477 establishing, managing or operating a "birthing center" or



2478 conducting the business of a "birthing center" without the  
2479 required license, or which otherwise violate any of the provisions  
2480 of this chapter \* \* \* or the rules, regulations or standards  
2481 promulgated in furtherance of any law in which the \* \* \* licensing  
2482 agency has authority therefor, shall be subject to the following  
2483 penalties and sanctions \* \* \*:

2484 (a) Revocation of the license of the birthing center or  
2485 a designated section, component or service thereof; or

2486 (b) Nonlicensure of a specific or designated service  
2487 offered by the birthing center.

2488 In addition, any violation of any provision of this chapter  
2489 or any rules or regulations promulgated in furtherance thereof by  
2490 intent, fraud, deceit, unlawful design, willful and/or deliberate  
2491 misrepresentation, or by careless, negligent or incautious  
2492 disregard for such statutes or rules and regulations, either by  
2493 persons acting individually or in concert with others, shall  
2494 constitute a misdemeanor and shall be punishable by a fine not to  
2495 exceed One Thousand Dollars (\$1,000.00) for each such offense.  
2496 Each day of continuing violation shall be considered a separate  
2497 offense. The venue for prosecution of any such violation shall be  
2498 in any county of the state in which any such violation, or portion  
2499 thereof, occurred.

2500 **SECTION 20.** Section 41-77-25, Mississippi Code of 1972, is  
2501 amended as follows:



2502           41-77-25. Upon receipt of an application for license and the  
2503 license fee, the licensing agency shall issue a license if the  
2504 applicant and the institutional facilities meet the requirements  
2505 established under this chapter \* \* \*. A license, unless suspended  
2506 or revoked, shall be renewable annually upon payment of a renewal  
2507 fee of Three Hundred Dollars (\$300.00), which shall be paid to the  
2508 licensing agency, and upon filing by the licensee and approval by  
2509 the licensing agency of an annual report upon such uniform dates  
2510 and containing such information in such form as the licensing  
2511 agency requires. Any increase in the fee charged by the licensing  
2512 agency under this section shall be in accordance with the  
2513 provisions of Section 41-3-65. Each license shall be issued only  
2514 for the premises and person or persons named in the application  
2515 and shall not be transferable or assignable. Licenses shall be  
2516 posted in a conspicuous place on the licensed premises.

2517           **SECTION 21.** Section 41-7-202, Mississippi Code of 1972,  
2518 which provides for a stay of proceedings of written decisions of  
2519 the State Department of Health pertaining to certificates of need  
2520 for certain health care facilities, is repealed.

2521           **SECTION 22.** This act shall take effect and be in force from  
2522 and after July 1, 2025.

