

By: Representatives Zuber, Creekmore IV

To: Public Health and Human Services; State Affairs

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 922

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI  
2 CODE OF 1972, TO REMOVE CHEMICAL DEPENDENCY SERVICES AND  
3 FACILITIES, INTERMEDIATE CARE FACILITIES AND PSYCHIATRIC  
4 RESIDENTIAL TREATMENT FACILITIES FROM THE REQUIREMENTS OF THE  
5 HEALTH CARE CERTIFICATE OF NEED LAW; TO REMOVE HOSPITAL-BASED END  
6 STAGE RENAL DISEASE FACILITIES, MAGNETIC RESONANCE IMAGING  
7 SERVICES AND DIAGNOSTIC IMAGING SERVICES OF AN INVASIVE NATURE  
8 FROM THE REQUIREMENTS OF THE CERTIFICATE OF NEED LAW FROM AND  
9 AFTER JULY 1, 2029; TO INCREASE THE MINIMUM DOLLAR AMOUNTS OF  
10 CAPITAL EXPENDITURES AND MAJOR MEDICAL EQUIPMENT THAT REQUIRE THE  
11 ISSUANCE OF A CERTIFICATE OF NEED; TO DIRECT THE STATE DEPARTMENT  
12 OF HEALTH TO ISSUE A CERTIFICATE OF NEED TO A NONPROFIT  
13 CORPORATION LOCATED IN MADISON COUNTY FOR THE CONSTRUCTION,  
14 EXPANSION OR CONVERSION OF ADDITIONAL BEDS IN A COMMUNITY LIVING  
15 PROGRAM FOR DEVELOPMENTALLY DISABLED ADULTS IN AN INTERMEDIATE  
16 CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES; TO  
17 AUTHORIZE THE DEPARTMENT TO ISSUE CERTIFICATES OF NEED TO PERSONS  
18 FOR THE NEW CONSTRUCTION OF INTERMEDIATE CARE FACILITIES FOR  
19 INDIVIDUALS WITH INTELLECTUAL DISABILITIES, WITH NOT MORE THAN TEN  
20 BEDS AUTHORIZED BY ANY CERTIFICATE OF NEED AND NOT MORE THAN  
21 EIGHTY BEDS FOR ALL SUCH CERTIFICATES OF NEED; TO AMEND SECTION  
22 41-7-185, MISSISSIPPI CODE OF 1972, TO DIRECT THE DEPARTMENT TO  
23 PREPARE A STATE HEALTH PLAN ANNUALLY USING THE MOST RECENT DATA  
24 AVAILABLE TO THE DEPARTMENT; TO AMEND SECTION 41-7-187,  
25 MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DEPARTMENT FROM  
26 EXEMPTING ANY PERSON OR ENTITY FROM HAVING TO OBTAIN A CERTIFICATE  
27 OF NEED FOR ANY ACTIVITY THAT WOULD OTHERWISE REQUIRE THE ISSUANCE  
28 OF A CERTIFICATE OF NEED UNDER THE CERTIFICATE OF NEED LAWS; TO  
29 AMEND SECTION 41-7-193, MISSISSIPPI CODE OF 1972, TO REQUIRE  
30 RECIPIENTS OF CERTIFICATES OF NEED TO MAKE WRITTEN PROGRESS  
31 REPORTS OF THEIR PROJECTS AT LEAST EVERY SIX MONTHS AND AT  
32 COMPLETION; TO PROVIDE THAT THE DEPARTMENT SHALL MONITOR THE  
33 PROJECTS TO ASSURE COMPLIANCE WITH STATED POLICIES, STANDARDS AND  
34 APPROVED COSTS; TO PROVIDE THAT THE DEPARTMENT SHALL PERIODICALLY



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



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

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

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

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

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



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

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

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

135 (ii) "Capital expenditure," when pertaining to  
136 other than major medical equipment, \* \* \* means any expenditure  
137 which under generally accepted accounting principles consistently  
138 applied is not properly chargeable as an expense of operation and  
139 maintenance and which exceeds, for clinical health services, as  
140 defined in paragraph (k) below, \* \* \* Ten Million Dollars  
141 (\$10,000,000.00), \* \* \* or which exceeds, for nonclinical health  
142 services, as defined in paragraph (k) below, \* \* \* Twenty Million



143 Dollars (\$20,000,000.00). Each fiscal year, the amounts in this  
144 subparagraph (ii) shall be increased by the annual rate of  
145 inflation for the State of Mississippi as determined by the State  
146 Economist.

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

157 (iv) In those instances where a health care  
158 facility or other provider of health services proposes to provide  
159 a service in which the capital expenditure for major medical  
160 equipment or other than major medical equipment or a combination  
161 of the two (2) may have been split between separate parties, the  
162 total capital expenditure required to provide the proposed service  
163 shall be considered in determining the necessity of certificate of  
164 need review and in determining the appropriate certificate of need  
165 review fee to be paid. The capital expenditure associated with  
166 facilities and equipment to provide services in Mississippi shall  
167 be considered regardless of where the capital expenditure was



168 made, in state or out of state, and regardless of the domicile of  
169 the party making the capital expenditure, in state or out of  
170 state.

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

183 (e) "Commencement of construction" means that all of  
184 the following have been completed with respect to a proposal or  
185 project proposing construction, renovating, remodeling or  
186 alteration:

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



193                   (ii) Any and all permits and/or approvals deemed  
194 lawfully necessary by all authorities with responsibility for such  
195 have been secured; and

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

202           Force account expenditures, such as deposits, securities,  
203 bonds, et cetera, may, in the discretion of the State Department  
204 of Health, be excluded from any or all of the provisions of  
205 defined commencement of construction.

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

209           (g) "Develop," when used in connection with health  
210 services, means to undertake those activities which, on their  
211 completion, will result in the offering of a new institutional  
212 health service or the incurring of a financial obligation as  
213 defined under applicable state law in relation to the offering of  
214 such services.

215           (h) "Health care facility" includes hospitals,  
216 psychiatric hospitals, \* \* \* skilled nursing facilities, end-stage  
217 renal disease (ESRD) facilities, ambulatory surgical facilities,



218 intermediate care facilities for individuals with intellectual  
219 disabilities, home health agencies, \* \* \* pediatric skilled  
220 nursing facilities, long-term care hospitals, comprehensive  
221 medical rehabilitation facilities, including facilities owned or  
222 operated by the state or a political subdivision or  
223 instrumentality of the state, but does not include Christian  
224 Science sanatoriums operated or listed and certified by the First  
225 Church of Christ, Scientist, Boston, Massachusetts. This  
226 definition shall not apply to facilities for the private practice,  
227 either independently or by incorporated medical groups, of  
228 physicians, dentists or health care professionals except where  
229 such facilities are an integral part of an institutional health  
230 service. The various health care facilities listed in this  
231 paragraph shall be defined as follows:

232 (i) "Hospital" means an institution which is  
233 primarily engaged in providing to inpatients, by or under the  
234 supervision of physicians, diagnostic services and therapeutic  
235 services for medical diagnosis, treatment and care of injured,  
236 disabled or sick persons, or rehabilitation services for the  
237 rehabilitation of injured, disabled or sick persons. Such term  
238 does not include psychiatric hospitals.

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





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

244 (iv) "Skilled nursing facility" means an  
245 institution or a distinct part of an institution which is  
246 primarily engaged in providing to inpatients skilled nursing care  
247 and related services for patients who require medical or nursing  
248 care or rehabilitation services for the rehabilitation of injured,  
249 disabled or sick persons.

250 (v) "End-stage renal disease (ESRD) facilities"  
251 means kidney disease treatment centers, which includes  
252 freestanding hemodialysis units and limited care facilities. From  
253 and after July 1, 2029, the term "end-stage renal disease (ESRD)  
254 facilities" does not include hospital-based facilities.

255 The term "limited care facility" generally refers to a  
256 facility, regardless of whether it is provider or nonprovider  
257 operated, which is engaged primarily in furnishing maintenance  
258 hemodialysis services to stabilized patients. The term  
259 "hospital-based facility" has the meaning as described in 42 CFR  
260 Section 413.174 at the time of application and also includes  
261 facilities contracting with or operating jointly with a hospital  
262 to provide hemodialysis services, provided that the hospital is  
263 the entity responsible for billing for such services.

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

265 (vii) "Ambulatory surgical facility" means a  
266 facility primarily organized or established for the purpose of  
267 performing surgery for outpatients and is a separate identifiable



268 legal entity from any other health care facility. Such term does  
269 not include the offices of private physicians or dentists, whether  
270 for individual or group practice, and does not include any  
271 abortion facility as defined in Section 41-75-1(f).

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

279 (ix) "Home health agency" means a public or  
280 privately owned agency or organization, or a subdivision of such  
281 an agency or organization, properly authorized to conduct business  
282 in Mississippi, which is primarily engaged in providing to  
283 individuals at the written direction of a licensed physician, in  
284 the individual's place of residence, skilled nursing services  
285 provided by or under the supervision of a registered nurse  
286 licensed to practice in Mississippi, and one or more of the  
287 following services or items:

- 288 1. Physical, occupational or speech therapy;  
289 2. Medical social services;  
290 3. Part-time or intermittent services of a  
291 home health aide;



292 4. Other services as approved by the  
293 licensing agency for home health agencies;

294 5. Medical supplies, other than drugs and  
295 biologicals, and the use of medical appliances; or

296 6. Medical services provided by an intern or  
297 resident-in-training at a hospital under a teaching program of  
298 such hospital.

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

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

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

309 (xi) "Pediatric skilled nursing facility" means an  
310 institution or a distinct part of an institution that is primarily  
311 engaged in providing to inpatients skilled nursing care and  
312 related services for persons under twenty-one (21) years of age  
313 who require medical or nursing care or rehabilitation services for  
314 the rehabilitation of injured, disabled or sick persons.

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



317 length of inpatient stay greater than twenty-five (25) days, which  
318 is primarily engaged in providing chronic or long-term medical  
319 care to patients who do not require more than three (3) hours of  
320 rehabilitation or comprehensive rehabilitation per day, and has a  
321 transfer agreement with an acute care medical center and a  
322 comprehensive medical rehabilitation facility. Long-term care  
323 hospitals shall not use rehabilitation, comprehensive medical  
324 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
325 nursing home, skilled nursing facility or sub-acute care facility  
326 in association with its name.

327 (xiii) "Comprehensive medical rehabilitation  
328 facility" means a hospital or hospital unit that is licensed  
329 and/or certified as a comprehensive medical rehabilitation  
330 facility which provides specialized programs that are accredited  
331 by the Commission on Accreditation of Rehabilitation Facilities  
332 and supervised by a physician board certified or board eligible in  
333 physiatry or other doctor of medicine or osteopathy with at least  
334 two (2) years of training in the medical direction of a  
335 comprehensive rehabilitation program that:

336 1. Includes evaluation and treatment of  
337 individuals with physical disabilities;

338 2. Emphasizes education and training of  
339 individuals with disabilities;

340 3. Incorporates at least the following core  
341 disciplines:



- 342 a. Physical Therapy;
- 343 b. Occupational Therapy;
- 344 c. Speech and Language Therapy;
- 345 d. Rehabilitation Nursing; and
- 346 4. Incorporates at least three (3) of the
- 347 following disciplines:
- 348 a. Psychology;
- 349 b. Audiology;
- 350 c. Respiratory Therapy;
- 351 d. Therapeutic Recreation;
- 352 e. Orthotics;
- 353 f. Prosthetics;
- 354 g. Special Education;
- 355 h. Vocational Rehabilitation;
- 356 i. Psychotherapy;
- 357 j. Social Work;
- 358 k. Rehabilitation Engineering.

359 These specialized programs include, but are not limited to:

360 spinal cord injury programs, head injury programs and infant and

361 early childhood development programs.

362 (i) "Health maintenance organization" or "HMO" means a

363 public or private organization organized under the laws of this

364 state or the federal government which:

365 (i) Provides or otherwise makes available to

366 enrolled participants health care services, including



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

370 (ii) Is compensated (except for copayments) for  
371 the provision of the basic health care services listed in  
372 subparagraph (i) of this paragraph to enrolled participants on a  
373 predetermined basis; and

374 (iii) Provides physician services primarily:

375 1. Directly through physicians who are either  
376 employees or partners of such organization; or

377 2. Through arrangements with individual  
378 physicians or one or more groups of physicians (organized on a  
379 group practice or individual practice basis).

380 (j) "Health service area" means a geographic area of  
381 the state designated in the State Health Plan as the area to be  
382 used in planning for specified health facilities and services and  
383 to be used when considering certificate of need applications to  
384 provide health facilities and services.

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

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



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

401 (l) "Institutional health services" shall mean health  
402 services provided in or through health care facilities and shall  
403 include the entities in or through which such services are  
404 provided.

405 (m) "Major medical equipment" means medical equipment  
406 designed for providing medical or any health-related service which  
407 costs in excess of \* \* \* Three Million Dollars (\$3,000,000.00).  
408 Each fiscal year, this amount shall be increased by the annual  
409 rate of inflation for the State of Mississippi as determined by  
410 the State Economist. However, this definition shall not be  
411 applicable to clinical laboratories if they are determined by the  
412 State Department of Health to be independent of any physician's  
413 office, hospital or other health care facility or otherwise not so  
414 defined by federal or state law, or rules and regulations  
415 promulgated thereunder.



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

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

424 (p) "Person" means an individual, a trust or estate,  
425 partnership, corporation (including associations, joint-stock  
426 companies and insurance companies), the state or a political  
427 subdivision or instrumentality of the state.

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

432 (r) "Radiation therapy services" means the treatment of  
433 cancer and other diseases using ionizing radiation of either high  
434 energy photons (x-rays or gamma rays) or charged particles  
435 (electrons, protons or heavy nuclei). However, for purposes of a  
436 certificate of need, radiation therapy services shall not include  
437 low energy, superficial, external beam x-ray treatment of  
438 superficial skin lesions.

439 (s) "Secretary" means the Secretary of Health and Human  
440 Services, and any officer or employee of the Department of Health





441 and Human Services to whom the authority involved has been  
442 delegated.

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

448 (u) "State Health Planning and Development Agency"  
449 means the agency of state government designated to perform health  
450 planning and resource development programs for the State of  
451 Mississippi.

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

454 41-7-185. In carrying out its functions under Section  
455 41-7-171 et seq., the State Department of Health is \* \* \*  
456 empowered to:

457 (a) Make applications for and accept funds from the  
458 secretary and other federal and state agencies and to receive and  
459 administer such other funds for the planning or provision of  
460 health facilities or health care as are appropriate to the  
461 accomplishment of the purposes of Section 41-7-171 et seq. \* \* \*  
462 and to contract with the secretary to accept funds to administer  
463 planning activities on the community, regional or state level;

464 (b) With the approval of the secretary, delegate to or  
465 contract with any mutually agreeable department, division or



466 agency of the state, the federal government, or any political  
467 subdivision of either, or any private corporation, organization or  
468 association chartered by the Secretary of State of Mississippi,  
469 authority for administering any programs, duties or functions  
470 provided for in Section 41-7-171 \* \* \* et seq.;

471 (c) Prescribe and promulgate such reasonable rules and  
472 regulations as may be necessary to the implementation of the  
473 purposes of Section 41-7-171 \* \* \* et seq., complying with  
474 Section \* \* \* 25-43-1.101 et seq.;

475 (d) Require providers of institutional health services  
476 and home health care services provided through a home health  
477 agency and any other provider of health care requiring a  
478 certificate of need to submit or make available statistical  
479 information or such other information requested by the State  
480 Department of Health, but not information that would constitute an  
481 unwarranted invasion of the personal privacy of any individual  
482 person or place the provider in jeopardy of legal action by a  
483 third party;

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



490 (f) In its discretion, contract with the secretary, or  
491 terminate any such contract, for the administration of the  
492 provisions, programs, duties and functions of Section 1122 of  
493 Public Law 92-603; but the State Department of Health shall not be  
494 relieved of matters of accountability, obligation or  
495 responsibility that accrued to the department by virtue of prior  
496 contracts and/or statutes;

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

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

503 41-7-187. The State Department of Health is hereby  
504 authorized to develop and implement a statewide health certificate  
505 of need program. The State Department of Health is authorized and  
506 empowered to adopt by rule and regulation:

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

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



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

517 (d) Review procedures for conducting reviews of  
518 applications for certificates of need.

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

521 41-7-188. (1) The State Department of Health is hereby  
522 authorized and empowered to assess fees for reviewing applications  
523 for certificates of need. The State Department of Health shall  
524 promulgate such rules and regulations as are necessary to  
525 effectuate the intent of this section in keeping with the  
526 standards hereinbelow:

527 (a) The fees assessed shall be uniform to all  
528 applicants.

529 (b) The fees assessed shall be nonrefundable.

530 (c) The fee shall be five-tenths of one percent (.5 of  
531 1%) of the amount of a proposed capital expenditure.

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

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



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

542 (g) There shall be no filing fee requirement for any  
543 application submitted by an agency, department, institution or  
544 facility which is operated, owned by and/or controlled by the  
545 State of Mississippi and which received operating and/or capital  
546 expenditure funds solely by appropriations from the Legislature of  
547 the state.

548 (h) There shall be no filing fee requirement for any  
549 health-care facility submitting an application for repairs or  
550 renovations determined by the State Department of Health in  
551 writing, to be necessary in order to avoid revocation of license  
552 and/or loss of certification for participation in the Medicaid  
553 and/or Medicare programs. Any proposed expenditure in excess of  
554 the amount determined by the State Department of Health to be  
555 necessary to accomplish the stated purposes shall be subject to  
556 the fee requirements of this section.

557 (2) The revenue derived from the fees imposed in subsection  
558 (1) of this section shall be deposited by the State Department of  
559 Health in a special fund \* \* \* that is created in the State  
560 Treasury, which is earmarked for use by the State Department of  
561 Health in conducting its health planning and certificate of need  
562 review activities. It is the intent of the Legislature that the  
563 health planning and certificate of need programs be continued for



564 the protection of the individuals within the state requiring  
565 health care.

566 (3) The State Department of Health is authorized and  
567 empowered to assess fees for reviewing applications for  
568 certificates of authority for health maintenance organizations and  
569 for the issuance and renewal of such certificates of authority.  
570 The fees assessed shall be uniform to all applicants and to all  
571 holders of certificates of authority, and shall be nonrefundable.  
572 The fees for applications, original certificates of authority and  
573 renewals of certificates of authority shall not exceed Five  
574 Thousand Dollars (\$5,000.00) each. The revenues derived from the  
575 fees assessed under this subsection shall be deposited by the  
576 department in a special fund \* \* \* that is created in the State  
577 Treasury, which is earmarked for the use of the department in its  
578 regulation of the operation of health maintenance organizations.

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

581 41-7-190. No corporation, foreign or domestic, partnership,  
582 individual(s) or association of such entities or of persons  
583 whatsoever, or any combination thereof, shall own, possess or  
584 exercise control over, in any manner, more than twenty percent  
585 (20%) of the beds in health care facilities defined in Section  
586 41-7-173(h) (iv) and (vi) in the defined health service area of the  
587 State of Mississippi.



588 Health care facilities owned, operated or under control of  
589 the United States government, the state government or political  
590 subdivision of either are excluded from the limitation of this  
591 section.

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

594 41-7-191. (1) No person shall engage in any of the  
595 following activities without obtaining the required certificate of  
596 need:

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

601 (b) The relocation of a health care facility or portion  
602 thereof, or major medical equipment, unless such relocation of a  
603 health care facility or portion thereof, or major medical  
604 equipment, which does not involve a capital expenditure by or on  
605 behalf of a health care facility, is within five thousand two  
606 hundred eighty (5,280) feet from the main entrance of the health  
607 care facility;

608 (c) Any change in the existing bed complement of any  
609 health care facility through the addition or conversion of any  
610 beds or the alteration, modernizing or refurbishing of any unit or  
611 department in which the beds may be located; however, if a health  
612 care facility has voluntarily delicensed some of its existing bed



613 complement, it may later relicense some or all of its delicensed  
614 beds without the necessity of having to acquire a certificate of  
615 need. The State Department of Health shall maintain a record of  
616 the delicensing health care facility and its voluntarily  
617 delicensed beds and continue counting those beds as part of the  
618 state's total bed count for health care planning purposes. If a  
619 health care facility that has voluntarily delicensed some of its  
620 beds later desires to relicense some or all of its voluntarily  
621 delicensed beds, it shall notify the State Department of Health of  
622 its intent to increase the number of its licensed beds. The State  
623 Department of Health shall survey the health care facility within  
624 thirty (30) days of that notice and, if appropriate, issue the  
625 health care facility a new license reflecting the new contingent  
626 of beds. However, in no event may a health care facility that has  
627 voluntarily delicensed some of its beds be reissued a license to  
628 operate beds in excess of its bed count before the voluntary  
629 delicensure of some of its beds without seeking certificate of  
630 need approval;

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

- 635 (i) Open-heart surgery services;
- 636 (ii) Cardiac catheterization services;





637 (iii) Comprehensive inpatient rehabilitation  
638 services;

639 (iv) Licensed psychiatric services;

640 (v) \* \* \* [Deleted]

641 (vi) Radiation therapy services;

642 (vii) Diagnostic imaging services of an invasive  
643 nature, i.e. invasive digital angiography. This subparagraph  
644 (vii) shall stand repealed on July 1, 2029;

645 (viii) Nursing home care as defined in  
646 subparagraphs (iv), \* \* \* and (viii) of Section 41-7-173(h);

647 (ix) Home health services;

648 (x) Swing-bed services;

649 (xi) Ambulatory surgical services;

650 (xii) Magnetic resonance imaging services. This  
651 subparagraph (xii) shall stand repealed on July 1, 2029;

652 (xiii) [Deleted]

653 (xiv) Long-term care hospital services;

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

655 (e) The relocation of one or more health services from  
656 one physical facility or site to another physical facility or  
657 site, unless such relocation, which does not involve a capital  
658 expenditure by or on behalf of a health care facility, (i) is to a  
659 physical facility or site within five thousand two hundred eighty  
660 (5,280) feet from the main entrance of the health care facility  
661 where the health care service is located, or (ii) is the result of



662 an order of a court of appropriate jurisdiction or a result of  
663 pending litigation in such court, or by order of the State  
664 Department of Health, or by order of any other agency or legal  
665 entity of the state, the federal government, or any political  
666 subdivision of either, whose order is also approved by the State  
667 Department of Health;

668 (f) The acquisition or otherwise control of any major  
669 medical equipment for the provision of medical services; however,  
670 (i) the acquisition of any major medical equipment used only for  
671 research purposes, and (ii) the acquisition of major medical  
672 equipment to replace medical equipment for which a facility is  
673 already providing medical services and for which the State  
674 Department of Health has been notified before the date of such  
675 acquisition shall be exempt from this paragraph; an acquisition  
676 for less than fair market value must be reviewed, if the  
677 acquisition at fair market value would be subject to review;

678 (g) Changes of ownership of existing health care  
679 facilities in which a notice of intent is not filed with the State  
680 Department of Health at least thirty (30) days prior to the date  
681 such change of ownership occurs, or a change in services or bed  
682 capacity as prescribed in paragraph (c) or (d) of this subsection  
683 as a result of the change of ownership; an acquisition for less  
684 than fair market value must be reviewed, if the acquisition at  
685 fair market value would be subject to review;



686 (h) The change of ownership of any health care facility  
687 defined in subparagraphs (iv) \* \* \* and (viii) of Section  
688 41-7-173(h), in which a notice of intent as described in paragraph  
689 (g) has not been filed and if the Executive Director, Division of  
690 Medicaid, Office of the Governor, has not certified in writing  
691 that there will be no increase in allowable costs to Medicaid from  
692 revaluation of the assets or from increased interest and  
693 depreciation as a result of the proposed change of ownership;

694 (i) Any activity described in paragraphs (a) through  
695 (h) if undertaken by any person if that same activity would  
696 require certificate of need approval if undertaken by a health  
697 care facility;

698 (j) Any capital expenditure or deferred capital  
699 expenditure by or on behalf of a health care facility not covered  
700 by paragraphs (a) through (h);

701 (k) The contracting of a health care facility as  
702 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
703 to establish a home office, subunit, or branch office in the space  
704 operated as a health care facility through a formal arrangement  
705 with an existing health care facility as defined in subparagraph  
706 (ix) of Section 41-7-173(h);

707 (l) The replacement or relocation of a health care  
708 facility designated as a critical access hospital shall be exempt  
709 from subsection (1) of this section so long as the critical access



710 hospital complies with all applicable federal law and regulations  
711 regarding such replacement or relocation;

712 (m) Reopening a health care facility that has ceased to  
713 operate for a period of sixty (60) months or more, which reopening  
714 requires a certificate of need for the establishment of a new  
715 health care facility.

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

723 (a) The department may issue a certificate of need to  
724 any person proposing the new construction of any health care  
725 facility defined in subparagraphs (iv) and (vi) of Section  
726 41-7-173(h) as part of a life care retirement facility, in any  
727 county bordering on the Gulf of Mexico in which is located a  
728 National Aeronautics and Space Administration facility, not to  
729 exceed forty (40) beds. From and after July 1, 1999, there shall  
730 be no prohibition or restrictions on participation in the Medicaid  
731 program (Section 43-13-101 et seq.) for the beds in the health  
732 care facility that were authorized under this paragraph (a).

733 (b) The department may issue certificates of need in  
734 Harrison County to provide skilled nursing home care for



735 Alzheimer's disease patients and other patients, not to exceed one  
736 hundred fifty (150) beds. From and after July 1, 1999, there  
737 shall be no prohibition or restrictions on participation in the  
738 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
739 nursing facilities that were authorized under this paragraph (b).

740 (c) The department may issue a certificate of need for  
741 the addition to or expansion of any skilled nursing facility that  
742 is part of an existing continuing care retirement community  
743 located in Madison County, provided that the recipient of the  
744 certificate of need agrees in writing that the skilled nursing  
745 facility will not at any time participate in the Medicaid program  
746 (Section 43-13-101 et seq.) or admit or keep any patients in the  
747 skilled nursing facility who are participating in the Medicaid  
748 program. This written agreement by the recipient of the  
749 certificate of need shall be fully binding on any subsequent owner  
750 of the skilled nursing facility, if the ownership of the facility  
751 is transferred at any time after the issuance of the certificate  
752 of need. Agreement that the skilled nursing facility will not  
753 participate in the Medicaid program shall be a condition of the  
754 issuance of a certificate of need to any person under this  
755 paragraph (c), and if such skilled nursing facility at any time  
756 after the issuance of the certificate of need, regardless of the  
757 ownership of the facility, participates in the Medicaid program or  
758 admits or keeps any patients in the facility who are participating  
759 in the Medicaid program, the State Department of Health shall



760 revoke the certificate of need, if it is still outstanding, and  
761 shall deny or revoke the license of the skilled nursing facility,  
762 at the time that the department determines, after a hearing  
763 complying with due process, that the facility has failed to comply  
764 with any of the conditions upon which the certificate of need was  
765 issued, as provided in this paragraph and in the written agreement  
766 by the recipient of the certificate of need. The total number of  
767 beds that may be authorized under the authority of this paragraph  
768 (c) shall not exceed sixty (60) beds.

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

777 (e) The State Department of Health may issue a  
778 certificate of need for the construction of a nursing facility or  
779 the conversion of beds to nursing facility beds at a personal care  
780 facility for the elderly in Lowndes County that is owned and  
781 operated by a Mississippi nonprofit corporation, not to exceed  
782 sixty (60) beds. From and after July 1, 1999, there shall be no  
783 prohibition or restrictions on participation in the Medicaid



784 program (Section 43-13-101 et seq.) for the beds in the nursing  
785 facility that were authorized under this paragraph (e).

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

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

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



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

810 (i) The department may issue a certificate of need for  
811 the new construction of a skilled nursing facility in Leake  
812 County, provided that the recipient of the certificate of need  
813 agrees in writing that the skilled nursing facility will not at  
814 any time participate in the Medicaid program (Section 43-13-101 et  
815 seq.) or admit or keep any patients in the skilled nursing  
816 facility who are participating in the Medicaid program. This  
817 written agreement by the recipient of the certificate of need  
818 shall be fully binding on any subsequent owner of the skilled  
819 nursing facility, if the ownership of the facility is transferred  
820 at any time after the issuance of the certificate of need.  
821 Agreement that the skilled nursing facility will not participate  
822 in the Medicaid program shall be a condition of the issuance of a  
823 certificate of need to any person under this paragraph (i), and if  
824 such skilled nursing facility at any time after the issuance of  
825 the certificate of need, regardless of the ownership of the  
826 facility, participates in the Medicaid program or admits or keeps  
827 any patients in the facility who are participating in the Medicaid  
828 program, the State Department of Health shall revoke the  
829 certificate of need, if it is still outstanding, and shall deny or  
830 revoke the license of the skilled nursing facility, at the time  
831 that the department determines, after a hearing complying with due  
832 process, that the facility has failed to comply with any of the





833 conditions upon which the certificate of need was issued, as  
834 provided in this paragraph and in the written agreement by the  
835 recipient of the certificate of need. The provision of Section  
836 41-7-193(1) regarding substantial compliance of the projection of  
837 need as reported in the current State Health Plan is waived for  
838 the purposes of this paragraph. The total number of nursing  
839 facility beds that may be authorized by any certificate of need  
840 issued under this paragraph (i) shall not exceed sixty (60) beds.  
841 If the skilled nursing facility authorized by the certificate of  
842 need issued under this paragraph is not constructed and fully  
843 operational within eighteen (18) months after July 1, 1994, the  
844 State Department of Health, after a hearing complying with due  
845 process, shall revoke the certificate of need, if it is still  
846 outstanding, and shall not issue a license for the skilled nursing  
847 facility at any time after the expiration of the eighteen-month  
848 period.

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



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

860 (k) The department may issue a certificate of need for  
861 the construction of a nursing facility at a continuing care  
862 retirement community in Lowndes County. The total number of beds  
863 that may be authorized under the authority of this paragraph (k)  
864 shall not exceed sixty (60) beds. From and after July 1, 2001,  
865 the prohibition on the facility participating in the Medicaid  
866 program (Section 43-13-101 et seq.) that was a condition of  
867 issuance of the certificate of need under this paragraph (k) shall  
868 be revised as follows: The nursing facility may participate in  
869 the Medicaid program from and after July 1, 2001, if the owner of  
870 the facility on July 1, 2001, agrees in writing that no more than  
871 thirty (30) of the beds at the facility will be certified for  
872 participation in the Medicaid program, and that no claim will be  
873 submitted for Medicaid reimbursement for more than thirty (30)  
874 patients in the facility in any month or for any patient in the  
875 facility who is in a bed that is not Medicaid-certified. This  
876 written agreement by the owner of the facility shall be a  
877 condition of licensure of the facility, and the agreement shall be  
878 fully binding on any subsequent owner of the facility if the  
879 ownership of the facility is transferred at any time after July 1,  
880 2001. After this written agreement is executed, the Division of  
881 Medicaid and the State Department of Health shall not certify more  
882 than thirty (30) of the beds in the facility for participation in



883 the Medicaid program. If the facility violates the terms of the  
884 written agreement by admitting or keeping in the facility on a  
885 regular or continuing basis more than thirty (30) patients who are  
886 participating in the Medicaid program, the State Department of  
887 Health shall revoke the license of the facility, at the time that  
888 the department determines, after a hearing complying with due  
889 process, that the facility has violated the written agreement.

890 (1) Provided that funds are specifically appropriated  
891 therefor by the Legislature, the department may issue a  
892 certificate of need to a rehabilitation hospital in Hinds County  
893 for the construction of a sixty-bed long-term care nursing  
894 facility dedicated to the care and treatment of persons with  
895 severe disabilities including persons with spinal cord and  
896 closed-head injuries and ventilator dependent patients. The  
897 provisions of Section 41-7-193(1) regarding substantial compliance  
898 with projection of need as reported in the current State Health  
899 Plan are waived for the purpose of this paragraph.

900 (m) The State Department of Health may issue a  
901 certificate of need to a county-owned hospital in the Second  
902 Judicial District of Panola County for the conversion of not more  
903 than seventy-two (72) hospital beds to nursing facility beds,  
904 provided that the recipient of the certificate of need agrees in  
905 writing that none of the beds at the nursing facility will be  
906 certified for participation in the Medicaid program (Section  
907 43-13-101 et seq.), and that no claim will be submitted for



908 Medicaid reimbursement in the nursing facility in any day or for  
909 any patient in the nursing facility. This written agreement by  
910 the recipient of the certificate of need shall be a condition of  
911 the issuance of the certificate of need under this paragraph, and  
912 the agreement shall be fully binding on any subsequent owner of  
913 the nursing facility if the ownership of the nursing facility is  
914 transferred at any time after the issuance of the certificate of  
915 need. After this written agreement is executed, the Division of  
916 Medicaid and the State Department of Health shall not certify any  
917 of the beds in the nursing facility for participation in the  
918 Medicaid program. If the nursing facility violates the terms of  
919 the written agreement by admitting or keeping in the nursing  
920 facility on a regular or continuing basis any patients who are  
921 participating in the Medicaid program, the State Department of  
922 Health shall revoke the license of the nursing facility, at the  
923 time that the department determines, after a hearing complying  
924 with due process, that the nursing facility has violated the  
925 condition upon which the certificate of need was issued, as  
926 provided in this paragraph and in the written agreement. If the  
927 certificate of need authorized under this paragraph is not issued  
928 within twelve (12) months after July 1, 2001, the department shall  
929 deny the application for the certificate of need and shall not  
930 issue the certificate of need at any time after the twelve-month  
931 period, unless the issuance is contested. If the certificate of  
932 need is issued and substantial construction of the nursing



933 facility beds has not commenced within eighteen (18) months after  
934 July 1, 2001, the State Department of Health, after a hearing  
935 complying with due process, shall revoke the certificate of need  
936 if it is still outstanding, and the department shall not issue a  
937 license for the nursing facility at any time after the  
938 eighteen-month period. However, if the issuance of the  
939 certificate of need is contested, the department shall require  
940 substantial construction of the nursing facility beds within six  
941 (6) months after final adjudication on the issuance of the  
942 certificate of need.

943 (n) The department may issue a certificate of need for  
944 the new construction, addition or conversion of skilled nursing  
945 facility beds in Madison County, provided that the recipient of  
946 the certificate of need agrees in writing that the skilled nursing  
947 facility will not at any time participate in the Medicaid program  
948 (Section 43-13-101 et seq.) or admit or keep any patients in the  
949 skilled nursing facility who are participating in the Medicaid  
950 program. This written agreement by the recipient of the  
951 certificate of need shall be fully binding on any subsequent owner  
952 of the skilled nursing facility, if the ownership of the facility  
953 is transferred at any time after the issuance of the certificate  
954 of need. Agreement that the skilled nursing facility will not  
955 participate in the Medicaid program shall be a condition of the  
956 issuance of a certificate of need to any person under this  
957 paragraph (n), and if such skilled nursing facility at any time



958 after the issuance of the certificate of need, regardless of the  
959 ownership of the facility, participates in the Medicaid program or  
960 admits or keeps any patients in the facility who are participating  
961 in the Medicaid program, the State Department of Health shall  
962 revoke the certificate of need, if it is still outstanding, and  
963 shall deny or revoke the license of the skilled nursing facility,  
964 at the time that the department determines, after a hearing  
965 complying with due process, that the facility has failed to comply  
966 with any of the conditions upon which the certificate of need was  
967 issued, as provided in this paragraph and in the written agreement  
968 by the recipient of the certificate of need. The total number of  
969 nursing facility beds that may be authorized by any certificate of  
970 need issued under this paragraph (n) shall not exceed sixty (60)  
971 beds. If the certificate of need authorized under this paragraph  
972 is not issued within twelve (12) months after July 1, 1998, the  
973 department shall deny the application for the certificate of need  
974 and shall not issue the certificate of need at any time after the  
975 twelve-month period, unless the issuance is contested. If the  
976 certificate of need is issued and substantial construction of the  
977 nursing facility beds has not commenced within eighteen (18)  
978 months after July 1, 1998, the State Department of Health, after a  
979 hearing complying with due process, shall revoke the certificate  
980 of need if it is still outstanding, and the department shall not  
981 issue a license for the nursing facility at any time after the  
982 eighteen-month period. However, if the issuance of the



983 certificate of need is contested, the department shall require  
984 substantial construction of the nursing facility beds within six  
985 (6) months after final adjudication on the issuance of the  
986 certificate of need.

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



1008 at the time that the department determines, after a hearing  
1009 complying with due process, that the facility has failed to comply  
1010 with any of the conditions upon which the certificate of need was  
1011 issued, as provided in this paragraph and in the written agreement  
1012 by the recipient of the certificate of need. The total number of  
1013 nursing facility beds that may be authorized by any certificate of  
1014 need issued under this paragraph (o) shall not exceed sixty (60)  
1015 beds. If the certificate of need authorized under this paragraph  
1016 is not issued within twelve (12) months after July 1, 2001, the  
1017 department shall deny the application for the certificate of need  
1018 and shall not issue the certificate of need at any time after the  
1019 twelve-month period, unless the issuance is contested. If the  
1020 certificate of need is issued and substantial construction of the  
1021 nursing facility beds has not commenced within eighteen (18)  
1022 months after July 1, 2001, the State Department of Health, after a  
1023 hearing complying with due process, shall revoke the certificate  
1024 of need if it is still outstanding, and the department shall not  
1025 issue a license for the nursing facility at any time after the  
1026 eighteen-month period. However, if the issuance of the  
1027 certificate of need is contested, the department shall require  
1028 substantial construction of the nursing facility beds within six  
1029 (6) months after final adjudication on the issuance of the  
1030 certificate of need.

1031 (p) The department may issue a certificate of need for  
1032 the construction of a municipally owned nursing facility within





1033 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
1034 beds, provided that the recipient of the certificate of need  
1035 agrees in writing that the skilled nursing facility will not at  
1036 any time participate in the Medicaid program (Section 43-13-101 et  
1037 seq.) or admit or keep any patients in the skilled nursing  
1038 facility who are participating in the Medicaid program. This  
1039 written agreement by the recipient of the certificate of need  
1040 shall be fully binding on any subsequent owner of the skilled  
1041 nursing facility, if the ownership of the facility is transferred  
1042 at any time after the issuance of the certificate of need.  
1043 Agreement that the skilled nursing facility will not participate  
1044 in the Medicaid program shall be a condition of the issuance of a  
1045 certificate of need to any person under this paragraph (p), and if  
1046 such skilled nursing facility at any time after the issuance of  
1047 the certificate of need, regardless of the ownership of the  
1048 facility, participates in the Medicaid program or admits or keeps  
1049 any patients in the facility who are participating in the Medicaid  
1050 program, the State Department of Health shall revoke the  
1051 certificate of need, if it is still outstanding, and shall deny or  
1052 revoke the license of the skilled nursing facility, at the time  
1053 that the department determines, after a hearing complying with due  
1054 process, that the facility has failed to comply with any of the  
1055 conditions upon which the certificate of need was issued, as  
1056 provided in this paragraph and in the written agreement by the  
1057 recipient of the certificate of need. The provision of Section



1058 41-7-193(1) regarding substantial compliance of the projection of  
1059 need as reported in the current State Health Plan is waived for  
1060 the purposes of this paragraph. If the certificate of need  
1061 authorized under this paragraph is not issued within twelve (12)  
1062 months after July 1, 1998, the department shall deny the  
1063 application for the certificate of need and shall not issue the  
1064 certificate of need at any time after the twelve-month period,  
1065 unless the issuance is contested. If the certificate of need is  
1066 issued and substantial construction of the nursing facility beds  
1067 has not commenced within eighteen (18) months after July 1, 1998,  
1068 the State Department of Health, after a hearing complying with due  
1069 process, shall revoke the certificate of need if it is still  
1070 outstanding, and the department shall not issue a license for the  
1071 nursing facility at any time after the eighteen-month period.  
1072 However, if the issuance of the certificate of need is contested,  
1073 the department shall require substantial construction of the  
1074 nursing facility beds within six (6) months after final  
1075 adjudication on the issuance of the certificate of need.

1076 (q) (i) Beginning on July 1, 1999, the State  
1077 Department of Health shall issue certificates of need during each  
1078 of the next four (4) fiscal years for the construction or  
1079 expansion of nursing facility beds or the conversion of other beds  
1080 to nursing facility beds in each county in the state having a need  
1081 for fifty (50) or more additional nursing facility beds, as shown  
1082 in the fiscal year 1999 State Health Plan, in the manner provided



1083 in this paragraph (q). The total number of nursing facility beds  
1084 that may be authorized by any certificate of need authorized under  
1085 this paragraph (q) shall not exceed sixty (60) beds.

1086 (ii) Subject to the provisions of subparagraph  
1087 (v), during each of the next four (4) fiscal years, the department  
1088 shall issue six (6) certificates of need for new nursing facility  
1089 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
1090 (1) certificate of need shall be issued for new nursing facility  
1091 beds in the county in each of the four (4) Long-Term Care Planning  
1092 Districts designated in the fiscal year 1999 State Health Plan  
1093 that has the highest need in the district for those beds; and two  
1094 (2) certificates of need shall be issued for new nursing facility  
1095 beds in the two (2) counties from the state at large that have the  
1096 highest need in the state for those beds, when considering the  
1097 need on a statewide basis and without regard to the Long-Term Care  
1098 Planning Districts in which the counties are located. During  
1099 fiscal year 2003, one (1) certificate of need shall be issued for  
1100 new nursing facility beds in any county having a need for fifty  
1101 (50) or more additional nursing facility beds, as shown in the  
1102 fiscal year 1999 State Health Plan, that has not received a  
1103 certificate of need under this paragraph (q) during the three (3)  
1104 previous fiscal years. During fiscal year 2000, in addition to  
1105 the six (6) certificates of need authorized in this subparagraph,  
1106 the department also shall issue a certificate of need for new



1107 nursing facility beds in Amite County and a certificate of need  
1108 for new nursing facility beds in Carroll County.

1109 (iii) Subject to the provisions of subparagraph  
1110 (v), the certificate of need issued under subparagraph (ii) for  
1111 nursing facility beds in each Long-Term Care Planning District  
1112 during each fiscal year shall first be available for nursing  
1113 facility beds in the county in the district having the highest  
1114 need for those beds, as shown in the fiscal year 1999 State Health  
1115 Plan. If there are no applications for a certificate of need for  
1116 nursing facility beds in the county having the highest need for  
1117 those beds by the date specified by the department, then the  
1118 certificate of need shall be available for nursing facility beds  
1119 in other counties in the district in descending order of the need  
1120 for those beds, from the county with the second highest need to  
1121 the county with the lowest need, until an application is received  
1122 for nursing facility beds in an eligible county in the district.

1123 (iv) Subject to the provisions of subparagraph  
1124 (v), the certificate of need issued under subparagraph (ii) for  
1125 nursing facility beds in the two (2) counties from the state at  
1126 large during each fiscal year shall first be available for nursing  
1127 facility beds in the two (2) counties that have the highest need  
1128 in the state for those beds, as shown in the fiscal year 1999  
1129 State Health Plan, when considering the need on a statewide basis  
1130 and without regard to the Long-Term Care Planning Districts in  
1131 which the counties are located. If there are no applications for



1132 a certificate of need for nursing facility beds in either of the  
1133 two (2) counties having the highest need for those beds on a  
1134 statewide basis by the date specified by the department, then the  
1135 certificate of need shall be available for nursing facility beds  
1136 in other counties from the state at large in descending order of  
1137 the need for those beds on a statewide basis, from the county with  
1138 the second highest need to the county with the lowest need, until  
1139 an application is received for nursing facility beds in an  
1140 eligible county from the state at large.

1141 (v) If a certificate of need is authorized to be  
1142 issued under this paragraph (q) for nursing facility beds in a  
1143 county on the basis of the need in the Long-Term Care Planning  
1144 District during any fiscal year of the four-year period, a  
1145 certificate of need shall not also be available under this  
1146 paragraph (q) for additional nursing facility beds in that county  
1147 on the basis of the need in the state at large, and that county  
1148 shall be excluded in determining which counties have the highest  
1149 need for nursing facility beds in the state at large for that  
1150 fiscal year. After a certificate of need has been issued under  
1151 this paragraph (q) for nursing facility beds in a county during  
1152 any fiscal year of the four-year period, a certificate of need  
1153 shall not be available again under this paragraph (q) for  
1154 additional nursing facility beds in that county during the  
1155 four-year period, and that county shall be excluded in determining



1156 which counties have the highest need for nursing facility beds in  
1157 succeeding fiscal years.

1158                   (vi) If more than one (1) application is made for  
1159 a certificate of need for nursing home facility beds available  
1160 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
1161 County, and one (1) of the applicants is a county-owned hospital  
1162 located in the county where the nursing facility beds are  
1163 available, the department shall give priority to the county-owned  
1164 hospital in granting the certificate of need if the following  
1165 conditions are met:

1166                   1. The county-owned hospital fully meets all  
1167 applicable criteria and standards required to obtain a certificate  
1168 of need for the nursing facility beds; and

1169                   2. The county-owned hospital's qualifications  
1170 for the certificate of need, as shown in its application and as  
1171 determined by the department, are at least equal to the  
1172 qualifications of the other applicants for the certificate of  
1173 need.

1174                   (r) (i) Beginning on July 1, 1999, the State  
1175 Department of Health shall issue certificates of need during each  
1176 of the next two (2) fiscal years for the construction or expansion  
1177 of nursing facility beds or the conversion of other beds to  
1178 nursing facility beds in each of the four (4) Long-Term Care  
1179 Planning Districts designated in the fiscal year 1999 State Health



1180 Plan, to provide care exclusively to patients with Alzheimer's  
1181 disease.

1182 (ii) Not more than twenty (20) beds may be  
1183 authorized by any certificate of need issued under this paragraph  
1184 (r), and not more than a total of sixty (60) beds may be  
1185 authorized in any Long-Term Care Planning District by all  
1186 certificates of need issued under this paragraph (r). However,  
1187 the total number of beds that may be authorized by all  
1188 certificates of need issued under this paragraph (r) during any  
1189 fiscal year shall not exceed one hundred twenty (120) beds, and  
1190 the total number of beds that may be authorized in any Long-Term  
1191 Care Planning District during any fiscal year shall not exceed  
1192 forty (40) beds. Of the certificates of need that are issued for  
1193 each Long-Term Care Planning District during the next two (2)  
1194 fiscal years, at least one (1) shall be issued for beds in the  
1195 northern part of the district, at least one (1) shall be issued  
1196 for beds in the central part of the district, and at least one (1)  
1197 shall be issued for beds in the southern part of the district.

1198 (iii) The State Department of Health, in  
1199 consultation with the Department of Mental Health and the Division  
1200 of Medicaid, shall develop and prescribe the staffing levels,  
1201 space requirements and other standards and requirements that must  
1202 be met with regard to the nursing facility beds authorized under  
1203 this paragraph (r) to provide care exclusively to patients with  
1204 Alzheimer's disease.



1205           (s) The State Department of Health may issue a  
1206 certificate of need to a nonprofit skilled nursing facility using  
1207 the Green House model of skilled nursing care and located in Yazoo  
1208 City, Yazoo County, Mississippi, for the construction, expansion  
1209 or conversion of not more than nineteen (19) nursing facility  
1210 beds. For purposes of this paragraph (s), the provisions of  
1211 Section 41-7-193(1) requiring substantial compliance with the  
1212 projection of need as reported in the current State Health Plan  
1213 and the provisions of Section 41-7-197 requiring a formal  
1214 certificate of need hearing process are waived. There shall be no  
1215 prohibition or restrictions on participation in the Medicaid  
1216 program for the person receiving the certificate of need  
1217 authorized under this paragraph (s).

1218           (t) The State Department of Health shall issue  
1219 certificates of need to the owner of a nursing facility in  
1220 operation at the time of Hurricane Katrina in Hancock County that  
1221 was not operational on December 31, 2005, because of damage  
1222 sustained from Hurricane Katrina to authorize the following: (i)  
1223 the construction of a new nursing facility in Harrison County;  
1224 (ii) the relocation of forty-nine (49) nursing facility beds from  
1225 the Hancock County facility to the new Harrison County facility;  
1226 (iii) the establishment of not more than twenty (20) non-Medicaid  
1227 nursing facility beds at the Hancock County facility; and (iv) the  
1228 establishment of not more than twenty (20) non-Medicaid beds at  
1229 the new Harrison County facility. The certificates of need that





1230 authorize the non-Medicaid nursing facility beds under  
1231 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1232 subject to the following conditions: The owner of the Hancock  
1233 County facility and the new Harrison County facility must agree in  
1234 writing that no more than fifty (50) of the beds at the Hancock  
1235 County facility and no more than forty-nine (49) of the beds at  
1236 the Harrison County facility will be certified for participation  
1237 in the Medicaid program, and that no claim will be submitted for  
1238 Medicaid reimbursement for more than fifty (50) patients in the  
1239 Hancock County facility in any month, or for more than forty-nine  
1240 (49) patients in the Harrison County facility in any month, or for  
1241 any patient in either facility who is in a bed that is not  
1242 Medicaid-certified. This written agreement by the owner of the  
1243 nursing facilities shall be a condition of the issuance of the  
1244 certificates of need under this paragraph (t), and the agreement  
1245 shall be fully binding on any later owner or owners of either  
1246 facility if the ownership of either facility is transferred at any  
1247 time after the certificates of need are issued. After this  
1248 written agreement is executed, the Division of Medicaid and the  
1249 State Department of Health shall not certify more than fifty (50)  
1250 of the beds at the Hancock County facility or more than forty-nine  
1251 (49) of the beds at the Harrison County facility for participation  
1252 in the Medicaid program. If the Hancock County facility violates  
1253 the terms of the written agreement by admitting or keeping in the  
1254 facility on a regular or continuing basis more than fifty (50)



1255 patients who are participating in the Medicaid program, or if the  
1256 Harrison County facility violates the terms of the written  
1257 agreement by admitting or keeping in the facility on a regular or  
1258 continuing basis more than forty-nine (49) patients who are  
1259 participating in the Medicaid program, the State Department of  
1260 Health shall revoke the license of the facility that is in  
1261 violation of the agreement, at the time that the department  
1262 determines, after a hearing complying with due process, that the  
1263 facility has violated the agreement.

1264           (u) The State Department of Health shall issue a  
1265 certificate of need to a nonprofit venture for the establishment,  
1266 construction and operation of a skilled nursing facility of not  
1267 more than sixty (60) beds to provide skilled nursing care for  
1268 ventilator dependent or otherwise medically dependent pediatric  
1269 patients who require medical and nursing care or rehabilitation  
1270 services to be located in a county in which an academic medical  
1271 center and a children's hospital are located, and for any  
1272 construction and for the acquisition of equipment related to those  
1273 beds. The facility shall be authorized to keep such ventilator  
1274 dependent or otherwise medically dependent pediatric patients  
1275 beyond age twenty-one (21) in accordance with regulations of the  
1276 State Board of Health. For purposes of this paragraph (u), the  
1277 provisions of Section 41-7-193(1) requiring substantial compliance  
1278 with the projection of need as reported in the current State  
1279 Health Plan are waived, and the provisions of Section 41-7-197



1280 requiring a formal certificate of need hearing process are waived.  
1281 The beds authorized by this paragraph shall be counted as  
1282 pediatric skilled nursing facility beds for health planning  
1283 purposes under Section 41-7-171 et seq. There shall be no  
1284 prohibition of or restrictions on participation in the Medicaid  
1285 program for the person receiving the certificate of need  
1286 authorized by this paragraph.

1287 (3) \* \* \* [Deleted]

1288 (4) (a) From and after \* \* \* July 1, 2025, the department  
1289 may issue a certificate of need to any person for the new  
1290 construction of any hospital \* \* \* or psychiatric hospital \* \* \*  
1291 that will contain any child/adolescent psychiatric \* \* \* beds, or  
1292 for the conversion of any other health care facility to a  
1293 hospital \* \* \* or psychiatric hospital \* \* \* that will contain any  
1294 child/adolescent psychiatric \* \* \* beds. There shall be no  
1295 prohibition or restrictions on participation in the Medicaid  
1296 program (Section 43-13-101 et seq.) for the person(s) receiving  
1297 the certificate(s) of need authorized under this paragraph (a) or  
1298 for the beds converted pursuant to the authority of that  
1299 certificate of need. In issuing any new certificate of need for  
1300 any child/adolescent psychiatric \* \* \* beds, either by new  
1301 construction or conversion of beds of another category, the  
1302 department shall give preference to beds which will be located in  
1303 an area of the state which does not have such beds located in it,  
1304 and to a location more than sixty-five (65) miles from existing



1305 beds. Upon receiving 2020 census data, the department may amend  
1306 the State Health Plan regarding child/adolescent psychiatric \* \* \*  
1307 beds to reflect the need based on new census data.

1308 (i) [Deleted]

1309 (ii) \* \* \* [Deleted]

1310 (iii) The department may issue a certificate or  
1311 certificates of need for the construction or expansion of  
1312 child/adolescent psychiatric beds or the conversion of other beds  
1313 to child/adolescent psychiatric beds in Warren County. For  
1314 purposes of this subparagraph (iii), the provisions of Section  
1315 41-7-193(1) requiring substantial compliance with the projection  
1316 of need as reported in the current State Health Plan are waived.  
1317 The total number of beds that may be authorized under the  
1318 authority of this subparagraph shall not exceed twenty (20) beds.  
1319 There shall be no prohibition or restrictions on participation in  
1320 the Medicaid program (Section 43-13-101 et seq.) for the person  
1321 receiving the certificate of need authorized under this  
1322 subparagraph or for the beds converted pursuant to the authority  
1323 of that certificate of need.

1324 If by January 1, 2002, there has been no significant  
1325 commencement of construction of the beds authorized under this  
1326 subparagraph (iii), or no significant action taken to convert  
1327 existing beds to the beds authorized under this subparagraph, then  
1328 the certificate of need that was previously issued under this  
1329 subparagraph shall expire. If the previously issued certificate



1330 of need expires, the department may accept applications for  
1331 issuance of another certificate of need for the beds authorized  
1332 under this subparagraph, and may issue a certificate of need to  
1333 authorize the construction, expansion or conversion of the beds  
1334 authorized under this subparagraph.

1335 (iv) The department shall issue a certificate of  
1336 need to the Region 7 Mental Health/Retardation Commission for the  
1337 construction or expansion of child/adolescent psychiatric beds or  
1338 the conversion of other beds to child/adolescent psychiatric beds  
1339 in any of the counties served by the commission. For purposes of  
1340 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1341 requiring substantial compliance with the projection of need as  
1342 reported in the current State Health Plan are waived. The total  
1343 number of beds that may be authorized under the authority of this  
1344 subparagraph shall not exceed twenty (20) beds. There shall be no  
1345 prohibition or restrictions on participation in the Medicaid  
1346 program (Section 43-13-101 et seq.) for the person receiving the  
1347 certificate of need authorized under this subparagraph or for the  
1348 beds converted pursuant to the authority of that certificate of  
1349 need.

1350 (v) The department may issue a certificate of need  
1351 to any county hospital located in Leflore County for the  
1352 construction or expansion of adult psychiatric beds or the  
1353 conversion of other beds to adult psychiatric beds, not to exceed  
1354 twenty (20) beds, provided that the recipient of the certificate



1355 of need agrees in writing that the adult psychiatric beds will not  
1356 at any time be certified for participation in the Medicaid program  
1357 and that the hospital will not admit or keep any patients who are  
1358 participating in the Medicaid program in any of such adult  
1359 psychiatric beds. This written agreement by the recipient of the  
1360 certificate of need shall be fully binding on any subsequent owner  
1361 of the hospital if the ownership of the hospital is transferred at  
1362 any time after the issuance of the certificate of need. Agreement  
1363 that the adult psychiatric beds will not be certified for  
1364 participation in the Medicaid program shall be a condition of the  
1365 issuance of a certificate of need to any person under this  
1366 subparagraph (v), and if such hospital at any time after the  
1367 issuance of the certificate of need, regardless of the ownership  
1368 of the hospital, has any of such adult psychiatric beds certified  
1369 for participation in the Medicaid program or admits or keeps any  
1370 Medicaid patients in such adult psychiatric beds, the State  
1371 Department of Health shall revoke the certificate of need, if it  
1372 is still outstanding, and shall deny or revoke the license of the  
1373 hospital at the time that the department determines, after a  
1374 hearing complying with due process, that the hospital has failed  
1375 to comply with any of the conditions upon which the certificate of  
1376 need was issued, as provided in this subparagraph and in the  
1377 written agreement by the recipient of the certificate of need.

1378 (vi) The department may issue a certificate or  
1379 certificates of need for the expansion of child psychiatric beds



1380 or the conversion of other beds to child psychiatric beds at the  
1381 University of Mississippi Medical Center. For purposes of this  
1382 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1383 substantial compliance with the projection of need as reported in  
1384 the current State Health Plan are waived. The total number of  
1385 beds that may be authorized under the authority of this  
1386 subparagraph shall not exceed fifteen (15) beds. There shall be  
1387 no prohibition or restrictions on participation in the Medicaid  
1388 program (Section 43-13-101 et seq.) for the hospital receiving the  
1389 certificate of need authorized under this subparagraph or for the  
1390 beds converted pursuant to the authority of that certificate of  
1391 need.

1392 (b) From and after July 1, \* \* \* 2025, no  
1393 hospital \* \* \* or psychiatric hospital \* \* \* shall be authorized  
1394 to add any child/adolescent psychiatric \* \* \* beds or convert any  
1395 beds of another category to child/adolescent psychiatric \* \* \*  
1396 beds without a certificate of need under the authority of  
1397 subsection (1)(c) and subsection (4)(a) of this section.

1398 (5) The department may issue a certificate of need to a  
1399 county hospital in Winston County for the conversion of fifteen  
1400 (15) acute care beds to geriatric psychiatric care beds.

1401 (6) The State Department of Health shall issue a certificate  
1402 of need to a Mississippi corporation qualified to manage a  
1403 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1404 Harrison County, not to exceed eighty (80) beds, including any



1405 necessary renovation or construction required for licensure and  
1406 certification, provided that the recipient of the certificate of  
1407 need agrees in writing that the long-term care hospital will not  
1408 at any time participate in the Medicaid program (Section 43-13-101  
1409 et seq.) or admit or keep any patients in the long-term care  
1410 hospital who are participating in the Medicaid program. This  
1411 written agreement by the recipient of the certificate of need  
1412 shall be fully binding on any subsequent owner of the long-term  
1413 care hospital, if the ownership of the facility is transferred at  
1414 any time after the issuance of the certificate of need. Agreement  
1415 that the long-term care hospital will not participate in the  
1416 Medicaid program shall be a condition of the issuance of a  
1417 certificate of need to any person under this subsection (6), and  
1418 if such long-term care hospital at any time after the issuance of  
1419 the certificate of need, regardless of the ownership of the  
1420 facility, participates in the Medicaid program or admits or keeps  
1421 any patients in the facility who are participating in the Medicaid  
1422 program, the State Department of Health shall revoke the  
1423 certificate of need, if it is still outstanding, and shall deny or  
1424 revoke the license of the long-term care hospital, at the time  
1425 that the department determines, after a hearing complying with due  
1426 process, that the facility has failed to comply with any of the  
1427 conditions upon which the certificate of need was issued, as  
1428 provided in this subsection and in the written agreement by the  
1429 recipient of the certificate of need. For purposes of this





1430 subsection, the provisions of Section 41-7-193(1) requiring  
1431 substantial compliance with the projection of need as reported in  
1432 the current State Health Plan are waived.

1433 (7) The State Department of Health may issue a certificate  
1434 of need to any hospital in the state to utilize a portion of its  
1435 beds for the "swing-bed" concept. Any such hospital must be in  
1436 conformance with the federal regulations regarding such swing-bed  
1437 concept at the time it submits its application for a certificate  
1438 of need to the State Department of Health, except that such  
1439 hospital may have more licensed beds or a higher average daily  
1440 census (ADC) than the maximum number specified in federal  
1441 regulations for participation in the swing-bed program. Any  
1442 hospital meeting all federal requirements for participation in the  
1443 swing-bed program which receives such certificate of need shall  
1444 render services provided under the swing-bed concept to any  
1445 patient eligible for Medicare (Title XVIII of the Social Security  
1446 Act) who is certified by a physician to be in need of such  
1447 services, and no such hospital shall permit any patient who is  
1448 eligible for both Medicaid and Medicare or eligible only for  
1449 Medicaid to stay in the swing beds of the hospital for more than  
1450 thirty (30) days per admission unless the hospital receives prior  
1451 approval for such patient from the Division of Medicaid, Office of  
1452 the Governor. Any hospital having more licensed beds or a higher  
1453 average daily census (ADC) than the maximum number specified in  
1454 federal regulations for participation in the swing-bed program



1455 which receives such certificate of need shall develop a procedure  
1456 to ensure that before a patient is allowed to stay in the swing  
1457 beds of the hospital, there are no vacant nursing home beds  
1458 available for that patient located within a fifty-mile radius of  
1459 the hospital. When any such hospital has a patient staying in the  
1460 swing beds of the hospital and the hospital receives notice from a  
1461 nursing home located within such radius that there is a vacant bed  
1462 available for that patient, the hospital shall transfer the  
1463 patient to the nursing home within a reasonable time after receipt  
1464 of the notice. Any hospital which is subject to the requirements  
1465 of the two (2) preceding sentences of this subsection may be  
1466 suspended from participation in the swing-bed program for a  
1467 reasonable period of time by the State Department of Health if the  
1468 department, after a hearing complying with due process, determines  
1469 that the hospital has failed to comply with any of those  
1470 requirements.

1471 (8) The Department of Health shall not grant approval for or  
1472 issue a certificate of need to any person proposing the new  
1473 construction of, addition to or expansion of a health care  
1474 facility as defined in subparagraph (viii) of Section 41-7-173(h)  
1475 (intermediate care facility for individuals with intellectual  
1476 disabilities), except as hereinafter provided:

1477 (a) Effective July 1, 2025, the department \* \* \* shall  
1478 issue a certificate of need to a nonprofit corporation located in  
1479 Madison County, Mississippi, for the construction, expansion or



1480 conversion of not more than \* \* \* forty (40) beds in a community  
1481 living program for developmentally disabled adults in \* \* \* an  
1482 intermediate care facility for individuals with intellectual  
1483 disabilities.

1484 (b) The department may issue a certificate or  
1485 certificates of need to any person or persons for the new  
1486 construction of an intermediate care facility for individuals with  
1487 intellectual disabilities, with not more than ten (10) beds  
1488 authorized by any certificate of need. The total number of beds  
1489 that may be authorized under all certificates of need issued under  
1490 this paragraph (b) shall not be more than eighty (80) beds.

1491 (c) For purposes of this subsection (8), the provisions  
1492 of Section 41-7-193(1) requiring substantial compliance with the  
1493 projection of need as reported in the current State Health Plan  
1494 and the provisions of Section 41-7-197 requiring a formal  
1495 certificate of need hearing process are waived. There shall be no  
1496 prohibition or restrictions on participation in the Medicaid  
1497 program for the person receiving \* \* \* any certificate of need  
1498 authorized under this subsection (8).

1499 (9) The Department of Health shall not grant approval for or  
1500 issue a certificate of need to any person proposing the  
1501 establishment of, or expansion of the currently approved territory  
1502 of, or the contracting to establish a home office, subunit or  
1503 branch office within the space operated as a health care facility  
1504 as defined in Section 41-7-173(h) (i) through (viii) by a health



1505 care facility as defined in subparagraph (ix) of Section  
1506 41-7-173(h).

1507 (10) Health care facilities owned and/or operated by the  
1508 state or its agencies are exempt from the restraints in this  
1509 section against issuance of a certificate of need if such addition  
1510 or expansion consists of repairing or renovation necessary to  
1511 comply with the state licensure law. This exception shall not  
1512 apply to the new construction of any building by such state  
1513 facility. This exception shall not apply to any health care  
1514 facilities owned and/or operated by counties, municipalities,  
1515 districts, unincorporated areas, other defined persons, or any  
1516 combination thereof.

1517 (11) The new construction, renovation or expansion of or  
1518 addition to any health care facility defined in subparagraph (ii)  
1519 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1520 facility) \* \* \* and subparagraph (viii) (intermediate care  
1521 facility for individuals with intellectual disabilities) \* \* \* of  
1522 Section 41-7-173(h) which is owned by the State of Mississippi and  
1523 under the direction and control of the State Department of Mental  
1524 Health, and the addition of new beds or the conversion of beds  
1525 from one category to another in any such defined health care  
1526 facility which is owned by the State of Mississippi and under the  
1527 direction and control of the State Department of Mental Health,  
1528 shall not require the issuance of a certificate of need under



1529 Section 41-7-171 et seq., notwithstanding any provision in Section  
1530 41-7-171 et seq. to the contrary.

1531 (12) The new construction, renovation or expansion of or  
1532 addition to any veterans homes or domiciliaries for eligible  
1533 veterans of the State of Mississippi as authorized under Section  
1534 35-1-19 shall not require the issuance of a certificate of need,  
1535 notwithstanding any provision in Section 41-7-171 et seq. to the  
1536 contrary.

1537 (13) The repair or the rebuilding of an existing, operating  
1538 health care facility that sustained significant damage from a  
1539 natural disaster that occurred after April 15, 2014, in an area  
1540 that is proclaimed a disaster area or subject to a state of  
1541 emergency by the Governor or by the President of the United States  
1542 shall be exempt from all of the requirements of the Mississippi  
1543 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1544 rules and regulations promulgated under that law, subject to the  
1545 following conditions:

1546 (a) The repair or the rebuilding of any such damaged  
1547 health care facility must be within one (1) mile of the  
1548 pre-disaster location of the campus of the damaged health care  
1549 facility, except that any temporary post-disaster health care  
1550 facility operating location may be within five (5) miles of the  
1551 pre-disaster location of the damaged health care facility;

1552 (b) The repair or the rebuilding of the damaged health  
1553 care facility (i) does not increase or change the complement of



1554 its bed capacity that it had before the Governor's or the  
1555 President's proclamation, (ii) does not increase or change its  
1556 levels and types of health care services that it provided before  
1557 the Governor's or the President's proclamation, and (iii) does not  
1558 rebuild in a different county; however, this paragraph does not  
1559 restrict or prevent a health care facility from decreasing its bed  
1560 capacity that it had before the Governor's or the President's  
1561 proclamation, or from decreasing the levels of or decreasing or  
1562 eliminating the types of health care services that it provided  
1563 before the Governor's or the President's proclamation, when the  
1564 damaged health care facility is repaired or rebuilt;

1565 (c) The exemption from Certificate of Need Law provided  
1566 under this subsection (13) is valid for only five (5) years from  
1567 the date of the Governor's or the President's proclamation. If  
1568 actual construction has not begun within that five-year period,  
1569 the exemption provided under this subsection is inapplicable; and

1570 (d) The Division of Health Facilities Licensure and  
1571 Certification of the State Department of Health shall provide the  
1572 same oversight for the repair or the rebuilding of the damaged  
1573 health care facility that it provides to all health care facility  
1574 construction projects in the state.

1575 For the purposes of this subsection (13), "significant  
1576 damage" to a health care facility means damage to the health care  
1577 facility requiring an expenditure of at least One Million Dollars  
1578 (\$1,000,000.00).



1579           (14) The State Department of Health shall issue a  
1580 certificate of need to any hospital which is currently licensed  
1581 for two hundred fifty (250) or more acute care beds and is located  
1582 in any general hospital service area not having a comprehensive  
1583 cancer center, for the establishment and equipping of such a  
1584 center which provides facilities and services for outpatient  
1585 radiation oncology therapy, outpatient medical oncology therapy,  
1586 and appropriate support services including the provision of  
1587 radiation therapy services. The provisions of Section 41-7-193(1)  
1588 regarding substantial compliance with the projection of need as  
1589 reported in the current State Health Plan are waived for the  
1590 purpose of this subsection.

1591           (15) The State Department of Health may authorize the  
1592 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1593 North Panola Community Hospital to the South Panola Community  
1594 Hospital. The authorization for the transfer of those beds shall  
1595 be exempt from the certificate of need review process.

1596           (16) The State Department of Health shall issue any  
1597 certificates of need necessary for Mississippi State University  
1598 and a public or private health care provider to jointly acquire  
1599 and operate a linear accelerator and a magnetic resonance imaging  
1600 unit. Those certificates of need shall cover all capital  
1601 expenditures related to the project between Mississippi State  
1602 University and the health care provider, including, but not  
1603 limited to, the acquisition of the linear accelerator, the



1604 magnetic resonance imaging unit and other radiological modalities;  
1605 the offering of linear accelerator and magnetic resonance imaging  
1606 services; and the cost of construction of facilities in which to  
1607 locate these services. The linear accelerator and the magnetic  
1608 resonance imaging unit shall be (a) located in the City of  
1609 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1610 Mississippi State University and the public or private health care  
1611 provider selected by Mississippi State University through a  
1612 request for proposals (RFP) process in which Mississippi State  
1613 University selects, and the Board of Trustees of State  
1614 Institutions of Higher Learning approves, the health care provider  
1615 that makes the best overall proposal; (c) available to Mississippi  
1616 State University for research purposes two-thirds (2/3) of the  
1617 time that the linear accelerator and magnetic resonance imaging  
1618 unit are operational; and (d) available to the public or private  
1619 health care provider selected by Mississippi State University and  
1620 approved by the Board of Trustees of State Institutions of Higher  
1621 Learning one-third (1/3) of the time for clinical, diagnostic and  
1622 treatment purposes. For purposes of this subsection, the  
1623 provisions of Section 41-7-193(1) requiring substantial compliance  
1624 with the projection of need as reported in the current State  
1625 Health Plan are waived.

1626 (17) The State Department of Health shall issue a  
1627 certificate of need for the construction of an acute care hospital  
1628 in Kemper County, not to exceed twenty-five (25) beds, which shall





1629 be named the "John C. Stennis Memorial Hospital." In issuing the  
1630 certificate of need under this subsection, the department shall  
1631 give priority to a hospital located in Lauderdale County that has  
1632 two hundred fifteen (215) beds. For purposes of this subsection,  
1633 the provisions of Section 41-7-193(1) requiring substantial  
1634 compliance with the projection of need as reported in the current  
1635 State Health Plan and the provisions of Section 41-7-197 requiring  
1636 a formal certificate of need hearing process are waived. There  
1637 shall be no prohibition or restrictions on participation in the  
1638 Medicaid program (Section 43-13-101 et seq.) for the person or  
1639 entity receiving the certificate of need authorized under this  
1640 subsection or for the beds constructed under the authority of that  
1641 certificate of need.

1642 (18) The planning, design, construction, renovation,  
1643 addition, furnishing and equipping of a clinical research unit at  
1644 any health care facility defined in Section 41-7-173(h) that is  
1645 under the direction and control of the University of Mississippi  
1646 Medical Center and located in Jackson, Mississippi, and the  
1647 addition of new beds or the conversion of beds from one (1)  
1648 category to another in any such clinical research unit, shall not  
1649 require the issuance of a certificate of need under Section  
1650 41-7-171 et seq., notwithstanding any provision in Section  
1651 41-7-171 et seq. to the contrary.

1652 (19) [Repealed]



1653 (20) Nothing in this section or in any other provision of  
1654 Section 41-7-171 et seq. shall prevent any nursing facility from  
1655 designating an appropriate number of existing beds in the facility  
1656 as beds for providing care exclusively to patients with  
1657 Alzheimer's disease.

1658 (21) Nothing in this section or any other provision of  
1659 Section 41-7-171 et seq. shall prevent any health care facility  
1660 from the new construction, renovation, conversion or expansion of  
1661 new beds in the facility designated as intensive care units,  
1662 negative pressure rooms, or isolation rooms pursuant to the  
1663 provisions of Sections 41-14-1 through 41-14-11, or Section  
1664 41-14-31. For purposes of this subsection, the provisions of  
1665 Section 41-7-193(1) requiring substantial compliance with the  
1666 projection of need as reported in the current State Health Plan  
1667 and the provisions of Section 41-7-197 requiring a formal  
1668 certificate of need hearing process are waived.

1669 **SECTION 7.** Section 41-7-193, Mississippi Code of 1972, is  
1670 amended as follows:

1671 41-7-193. (1) No person may enter into any financing  
1672 arrangement or commitment for financing a new institutional health  
1673 service or any other project requiring a certificate of need  
1674 unless such certificate has been granted for such purpose. A  
1675 certificate of need shall not be granted or issued to any person  
1676 for any proposal, cause or reason, unless the proposal has been  
1677 reviewed for consistency with the specifications and the criteria



1678 established by the State Department of Health and substantially  
1679 complies with the projection of need as reported in the state  
1680 health plan in effect at the time the application for the proposal  
1681 was submitted.

1682 (2) An application for a certificate of need for an  
1683 institutional health service, medical equipment or any proposal  
1684 requiring a certificate of need shall specify the time, within  
1685 that granted, such shall be functional or operational according to  
1686 a time schedule submitted with the application. Each certificate  
1687 of need shall specify the maximum amount of capital expenditure  
1688 that may be obligated. The State Department of Health shall  
1689 periodically review the progress and time schedule of any person  
1690 issued or granted a certificate of need for any purpose.

1691 Recipients of certificates of need shall make written progress  
1692 reports of their projects at least every six (6) months and at  
1693 completion. The department shall monitor the projects to assure  
1694 compliance with stated policies, standards (including life safety,  
1695 construction and licensure), and approved costs. The department  
1696 shall also periodically review the health care facility, equipment  
1697 or service authorized by the certificate of need to ensure that  
1698 the facility, equipment or service is being used or operated for  
1699 the purpose that was stated in the application for the certificate  
1700 of need and in a manner consistent with the information provided  
1701 in the application. The recipient of the certificate of need



1702 shall provide the department with such information as necessary to  
1703 enable the department to properly conduct such reviews.

1704 (3) An application for a certificate of need may be filed at  
1705 any time with the department after the applicant has given the  
1706 department fifteen (15) days' written notice of its intent to  
1707 apply for a certificate of need. The department shall not delay  
1708 review of an application. The department shall make its  
1709 recommendation approving or disapproving a complete application  
1710 within forty-five (45) days of the date the application was filed  
1711 or within fifteen (15) days of receipt of any requested  
1712 information, whichever is later, \* \* \* the request to be made by  
1713 the department within fifteen (15) days of the filing of the  
1714 application.

1715 **SECTION 8.** Section 41-7-195, Mississippi Code of 1972, is  
1716 amended as follows:

1717 41-7-195. (1) A certificate of need shall be valid only for  
1718 the defined scope, physical location and person named in the  
1719 application. A certificate of need shall not be transferable or  
1720 assignable nor shall a project or capital expenditure project be  
1721 transferred from one person to another, except with the approval  
1722 of the State Department of Health. A certificate of need shall be  
1723 valid for the period of time specified therein.

1724 (2) A certificate of need shall be issued for a period of  
1725 twelve (12) months, or such other lesser period as specified by  
1726 the State Department of Health.



1727 (3) The State Department of Health may define by regulation,  
1728 not to exceed \* \* \* twelve (12) months, the time for which a  
1729 certificate of need may be extended in those cases where the  
1730 applicant shows to the satisfaction of the department that a good  
1731 faith effort has been made toward completion of the project. A  
1732 certificate of need may be extended up to four (4) times for not  
1733 more than twelve (12) months each time, where construction has not  
1734 commenced or other preparation is not substantially undertaken  
1735 related to the certificate of need. After the end of the period  
1736 of the fourth twelve-month extension, the certificate of need  
1737 shall expire, and the applicant must apply for a new certificate  
1738 of need.

1739 (4) If commencement of construction or other preparation is  
1740 not substantially undertaken during a valid certificate of need  
1741 period or the State Department of Health determines the applicant  
1742 is not making a good faith effort \* \* \* toward completion of the  
1743 project, the certificate of need shall be revoked.

1744 (5) The State Department of Health may approve or disapprove  
1745 a proposal for a certificate of need as originally presented in  
1746 final form, or it may approve a certificate of need by a  
1747 modification, by reduction only, of such proposal provided the  
1748 proponent agrees to such modification.

1749 **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is  
1750 brought forward as follows:



1751           41-7-197. (1) The State Department of Health shall adopt  
1752 and utilize procedures for conducting certificate of need reviews.  
1753 Such procedures shall include, inter alia, the following: (a)  
1754 written notification to the applicant; (b) written notification to  
1755 health care facilities in the same health service area as the  
1756 proposed service; (c) written notification to other persons who  
1757 prior to the receipt of the application have filed a formal notice  
1758 of intent to provide the proposed services in the same service  
1759 area; and (d) notification to members of the public who reside in  
1760 the service area where the service is proposed, which may be  
1761 provided through newspapers or public information channels.

1762           (2) All notices provided shall include, inter alia, the  
1763 following: (a) the proposed schedule for the review; (b) written  
1764 notification of the period within which a public hearing during  
1765 the course of the review may be requested in writing by one or  
1766 more affected persons, such request to be made within ten (10)  
1767 days of the department's staff recommendation for approval or  
1768 disapproval of an application; and (c) the manner in which  
1769 notification will be provided of the time and place of any hearing  
1770 so requested. Any such hearing shall be commenced by an  
1771 independent hearing officer designated by the State Department of  
1772 Health within sixty (60) days of the filing of the hearing request  
1773 unless all parties to the hearing agree to extend the time for the  
1774 commencement of the hearing. At such hearing, the hearing officer  
1775 and any person affected by the proposal being reviewed may conduct



1776 reasonable questioning of persons who make relevant factual  
1777 allegations concerning the proposal. The hearing officer shall  
1778 require that all persons be sworn before they may offer any  
1779 testimony at the hearing, and the hearing officer is authorized to  
1780 administer oaths. Any person so choosing may be represented by  
1781 counsel at the hearing. A record of the hearing shall be made,  
1782 which shall consist of a transcript of all testimony received, all  
1783 documents and other material introduced by any interested person,  
1784 the staff report and recommendation and such other material as the  
1785 hearing officer considers relevant, including his own  
1786 recommendation, which he shall make, after reviewing, studying and  
1787 analyzing the evidence presented during the hearing, within a  
1788 reasonable period of time after the hearing is closed, which in no  
1789 event shall exceed forty-five (45) days. The completed record  
1790 shall be certified to the State Health Officer, who shall consider  
1791 only the record in making his decision, and shall not consider any  
1792 evidence or material which is not included therein. All final  
1793 decisions regarding the issuance of a certificate of need shall be  
1794 made by the State Health Officer. The State Health Officer shall  
1795 make his or her written findings and issue his or her order after  
1796 reviewing said record. The findings and decision of the State  
1797 Health Officer shall not be deferred to any later date.

1798 (3) Unless a hearing is held, if review by the State  
1799 Department of Health concerning the issuance of a certificate of  
1800 need is not complete with a final decision issued by the State



1801 Health Officer within the time specified by rule or regulation,  
1802 which shall not exceed ninety (90) days from the filing of the  
1803 application for a certificate of need, the proponent of the  
1804 proposal may, within thirty (30) days after the expiration of the  
1805 specified time for review, commence such legal action as is  
1806 necessary, in the Chancery Court of the First Judicial District of  
1807 Hinds County or in the chancery court of the county in which the  
1808 service or facility is proposed to be provided, to compel the  
1809 State Health Officer to issue written findings and written order  
1810 approving or disapproving the proposal in question.

1811 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is  
1812 amended as follows:

1813 41-7-201. \* \* \*

1814 ( \* \* \*1) The provisions of this \* \* \* section shall apply  
1815 to any party appealing any final order of the State Department of  
1816 Health pertaining to a certificate of need \* \* \*.

1817 ( \* \* \*2) There shall be a "stay of proceedings" of any  
1818 final order issued by the State Department of Health pertaining to  
1819 the issuance of a certificate of need for the establishment,  
1820 construction, expansion or replacement of a health care facility  
1821 for a period of thirty (30) calendar days from the date of the  
1822 order, if an existing provider located in the same service area  
1823 where the health care facility is or will be located has requested  
1824 a hearing during the course of review in opposition to the  
1825 issuance of the certificate of need. The stay of proceedings





1826 shall expire at the termination of thirty (30) calendar days;  
1827 however, no construction, renovation or other capital expenditure  
1828 that is the subject of the order shall be undertaken, no license  
1829 to operate any facility that is the subject of the order shall be  
1830 issued by the licensing agency, and no certification to  
1831 participate in the Title XVII or Title XIX programs of the Social  
1832 Security Act shall be granted, until all statutory appeals have  
1833 been exhausted or the time for such appeals has expired.  
1834 Notwithstanding the foregoing, the filing of an appeal from a  
1835 final order of the State Department of Health \* \* \* for the  
1836 issuance of a certificate of need shall not prevent the purchase  
1837 of medical equipment or development or offering of institutional  
1838 health services granted in a certificate of need issued by the  
1839 State Department of Health.

1840 ( \* \* \*3) In addition to other remedies now available at law  
1841 or in equity, any party aggrieved by such final order of the State  
1842 Department of Health shall have the right of appeal to \* \* \* a  
1843 special chancery judge appointed by the Supreme Court, which  
1844 appeal must be filed with the Supreme Court within twenty (20)  
1845 calendar days after the date of the final order. \* \* \* Any appeal  
1846 shall state briefly the nature of the proceedings before the State  
1847 Department of Health and shall specify the order complained of.  
1848 The Supreme Court shall appoint the special chancery judge in  
1849 accordance with the provisions of Section 9-1-105 within fifteen  
1850 (15) calendar days after the date that the appeal is filed. The



1851 appeal shall be held in one (1) of the courtrooms of the Chancery  
1852 Court of the First Judicial District of Hinds County, Mississippi.

1853 ( \* \* \*4) Upon the filing of such an appeal, the Clerk of  
1854 the \* \* \* Supreme Court shall serve notice thereof upon the State  
1855 Department of Health, \* \* \* after which the State Department of  
1856 Health shall \* \* \* certify the record in the case to the special  
1857 chancery judge within thirty (30) calendar days of the date of the  
1858 filing of the appeal \* \* \* or within such time as the special  
1859 chancery judge may, by order for cause, allow from the service of  
1860 such notice. The certified record in the case \* \* \* shall include  
1861 a transcript of all testimony, together with all exhibits or  
1862 copies thereof, all proceedings, orders, findings and opinions  
1863 entered in the case; \* \* \* however, \* \* \* the parties and the  
1864 State Department of Health may stipulate that a specified portion  
1865 only of the record shall be certified to the \* \* \* special  
1866 chancery judge as the record on appeal. The \* \* \* special  
1867 chancery judge shall render a final order regarding such appeal no  
1868 later than one hundred twenty (120) calendar days from the date of  
1869 the final order by the State Department of Health. If the \* \* \*  
1870 special chancery judge has not rendered a final order within this  
1871 one-hundred-twenty-day period, then the final order of the State  
1872 Department of Health shall be deemed to have been affirmed by  
1873 the \* \* \* special chancery judge \* \* \*. The final order of the  
1874 special chancery judge, or the deemed affirmation of the final  
1875 order of the State Department of Health, shall be the final



1876 decision in the case, and no further appeal shall be allowed from  
1877 that final order or deemed affirmation.

1878 ( \* \* \*5) Any appeal of a final order by the State  
1879 Department of Health in a certificate of need proceeding shall  
1880 require the giving of a bond by the appellant(s) sufficient to  
1881 secure the appellee against the loss of costs, fees, expenses and  
1882 attorney's fees incurred in defense of the appeal, approved by  
1883 the \* \* \* Supreme Court within five (5) calendar days of the date  
1884 of filing the appeal.

1885 ( \* \* \*6) No new or additional evidence shall be introduced  
1886 in the appeal to the \* \* \* special chancery judge but the case  
1887 shall be determined upon the record certified to the \* \* \* special  
1888 chancery judge.

1889 ( \* \* \*7) The \* \* \* special chancery judge may sustain or  
1890 dismiss the appeal, modify or vacate the order complained of in  
1891 whole or in part and may make an award of costs, fees, expenses  
1892 and attorney's fees, as the case may be \* \* \* In case the order is  
1893 wholly or partly vacated, the \* \* \* special chancery judge may  
1894 also, in \* \* \* his or her discretion, remand the matter to the  
1895 State Department of Health for such further proceedings, not  
1896 inconsistent with the \* \* \* judge's order, as, in the opinion of  
1897 the \* \* \* judge, justice may require. The \* \* \* special chancery  
1898 judge, as part of the final order, shall make an award of costs,  
1899 fees, reasonable expenses and attorney's fees incurred in favor of  
1900 appellee payable by the appellant(s) \* \* \* if the court affirms



1901 the order of the State Department of Health. The order shall not  
1902 be vacated or set aside, either in whole or in part, except for  
1903 errors of law, unless the \* \* \* special chancery judge finds that  
1904 the order of the State Department of Health is not supported by  
1905 substantial evidence, is contrary to the manifest weight of the  
1906 evidence, is in excess of the statutory authority or jurisdiction  
1907 of the State Department of Health, or violates any vested  
1908 constitutional rights of any party involved in the appeal. \* \* \*

1909 \* \* \*

1910 ( \* \* \*8) Within thirty (30) calendar days from the date  
1911 of \* \* \* a final order of the \* \* \* special chancery judge that  
1912 modifies or wholly or partly vacates the final order of the State  
1913 Department of Health granting a certificate of need, the State  
1914 Department of Health shall issue another order in conformity with  
1915 the final order of the \* \* \* special chancery judge.

1916 **SECTION 11.** Section 41-7-207, Mississippi Code of 1972, is  
1917 brought forward as follows:

1918 41-7-207. Notwithstanding any other provisions of Sections  
1919 41-7-171 through 41-7-209, except when the owner of a damaged  
1920 health care facility applies to repair or rebuild the facility in  
1921 accordance with the provisions of Section 41-7-191(13), when the  
1922 need for any emergency replacement occurs, the certificate of need  
1923 review process shall be expedited by promulgation of  
1924 administrative procedures for expenditures necessary to alleviate  
1925 an emergency condition and restore health care access. Emergency



1926 replacement means the replacement, and/or a necessary relocation,  
1927 of all or the damaged part of the facilities or equipment the  
1928 replacement of which is not exempt from certificate of need review  
1929 under the medical equipment replacement exemption provided in  
1930 Section 41-7-191(1)(f), without which the operation of the  
1931 facility and the health and safety of patients would be  
1932 immediately jeopardized and health care access would be denied to  
1933 such patients. Expenditures under this section shall be limited  
1934 to the replacement of those necessary facilities or equipment, the  
1935 loss of which constitutes an emergency; however, in the case of  
1936 the destruction or major damage to a health care facility, the  
1937 department shall be authorized to issue a certificate of need to  
1938 address the current and future health care needs of the community,  
1939 including, but not limited to, the expansion of the health care  
1940 facility and/or the relocation of the health care facility. In  
1941 exercising the authority granted in this section, the department  
1942 may waive all or part of the required certificate of need  
1943 application fee for any application filed under this section if  
1944 the expenditure would create a further hardship or undue burden on  
1945 the health care facility.

1946       **SECTION 12.** Section 41-7-209, Mississippi Code of 1972, is  
1947 brought forward as follows:

1948       41-7-209. (1) Any person or entity violating the provisions  
1949 of Sections 41-7-171 through 41-7-209, or regulations promulgated  
1950 thereunder, by not obtaining a certificate of need, by deviating



1951 from the provisions of a certificate of need, or by refusing or  
1952 failing to cooperate with the State Department of Health in its  
1953 exercise or execution of its functions, responsibilities and  
1954 powers shall be subject to the following:

1955           (a) Revocation of the license of a health care facility  
1956 or a designated section, component or bed service thereof, or  
1957 revocation of the license of any other person for which the State  
1958 Department of Health is the licensing agency. If the State  
1959 Department of Health lacks jurisdiction to revoke the license of  
1960 such person, the State Health Officer shall recommend and show  
1961 cause to the appropriate licensing agency that such license should  
1962 be revoked;

1963           (b) Nonlicensure by the State Department of Health of a  
1964 specific or designated bed service offered by the entity or  
1965 person;

1966           (c) Nonlicensure by the State Department of Health  
1967 where infractions occur concerning the acquisition or control of  
1968 major medical equipment;

1969           (d) Revoking, rescinding or withdrawing a certificate  
1970 of need previously issued.

1971           (2) Violations of Sections 41-7-171 through 41-7-209, or any  
1972 rules or regulations promulgated in furtherance thereof by intent,  
1973 fraud, deceit, unlawful design, willful and/or deliberate  
1974 misrepresentation, or by careless, negligent or incautious  
1975 disregard for such statutes or rules and regulations, either by



1976 persons acting individually or in concert with others, shall  
1977 constitute a misdemeanor and shall be punishable by a fine not to  
1978 exceed One Thousand Dollars (\$1,000.00) for each such offense.  
1979 Each day of continuing violation shall be considered a separate  
1980 offense. The venue for prosecution of any such violation shall be  
1981 in any county of the state wherein any such violation, or portion  
1982 thereof, occurred.

1983 (3) The Attorney General, upon certification by the State  
1984 Health Officer, shall seek injunctive relief in a court of proper  
1985 jurisdiction to prevent violations of Sections 41-7-171 through  
1986 41-7-209 or any rules or regulations promulgated in furtherance of  
1987 Sections 41-7-171 through 41-7-209 in cases where other  
1988 administrative penalties and legal sanctions imposed have failed  
1989 to prevent or cause a discontinuance of any such violation.

1990 (4) Major third party payers, public or private, shall be  
1991 notified of any violation or infraction under this section and  
1992 shall be requested to take such appropriate punitive action as is  
1993 provided by law.

1994 **SECTION 13.** Section 9-1-105, Mississippi Code of 1972, is  
1995 amended as follows:

1996 9-1-105. (1) Whenever any judicial officer is unwilling or  
1997 unable to hear a case or unable to hold or attend any of the  
1998 courts at the time and place required by law by reason of the  
1999 physical disability or sickness of such judicial officer, by  
2000 reason of the absence of such judicial officer from the state, by



2001 reason of the disqualification of such judicial officer pursuant  
2002 to the provision of Section 165, Mississippi Constitution of 1890,  
2003 or any provision of the Code of Judicial Conduct, or for any other  
2004 reason, the Chief Justice of the Mississippi Supreme Court, with  
2005 the advice and consent of a majority of the justices of the  
2006 Mississippi Supreme Court, may appoint a person as a special judge  
2007 to hear the case or attend and hold a court.

2008 (2) Upon the request of the Chief Judge of the Court of  
2009 Appeals, the senior judge of a chancery or circuit court district,  
2010 the senior judge of a county court, or upon his own motion, the  
2011 Chief Justice of the Mississippi Supreme Court, with the advice  
2012 and consent of a majority of the justices of the Mississippi  
2013 Supreme Court, shall have the authority to appoint a special judge  
2014 to serve on a temporary basis in a circuit, chancery or county  
2015 court in the event of an emergency or overcrowded docket. It  
2016 shall be the duty of any special judge so appointed to assist the  
2017 court to which he is assigned in the disposition of causes so  
2018 pending in such court for whatever period of time is designated by  
2019 the Chief Justice. The Chief Justice, in his discretion, may  
2020 appoint the special judge to hear particular cases, a particular  
2021 type of case, or a particular portion of the court's docket.

2022 (3) When an appeal is taken from a final order of the State  
2023 Department of Health pertaining to a certificate of need under  
2024 Section 41-7-201, the Chief Justice of the Supreme Court, with the  
2025 advice and consent of a majority of the justices of the Supreme





2026 Court, shall appoint a person as a special chancery judge to hear  
2027 the appeal within fifteen (15) calendar days after the date that  
2028 the appeal is filed with the Supreme Court, as provided in Section  
2029 41-7-201. The Supreme Court shall not appoint a person as the  
2030 special chancery judge (a) if the person is a resident of the  
2031 county of any of the parties to the appeal, or (b) if the person  
2032 is a currently sitting judge or retired judge and the health care  
2033 facility, equipment, or service or capital expenditure that is the  
2034 subject of the certificate of need is located or to be located in  
2035 the county or judicial district in which the judge serves or in  
2036 which the retired judge previously served.

2037       (4) When a vacancy exists for any of the reasons enumerated  
2038 in Section 9-1-103, the vacancy has not been filled within seven  
2039 (7) days by an appointment by the Governor, and there is a pending  
2040 cause or are pending causes in the court where the vacancy exists  
2041 that in the interests of justice and in the orderly dispatch of  
2042 the court's business require the appointment of a special judge,  
2043 the Chief Justice of the Supreme Court, with the advice and  
2044 consent of a majority of the justices of the Mississippi Supreme  
2045 Court, may appoint a qualified person as a special judge to fill  
2046 the vacancy until the Governor makes his appointment and such  
2047 appointee has taken the oath of office.

2048       ( \* \* \*5) If the Chief Justice pursuant to this section  
2049 shall make an appointment within the authority vested in the  
2050 Governor by reason of Section 165, Mississippi Constitution of



2051 1890, the Governor may at his election appoint a person to so  
2052 serve. In the event that the Governor makes such an appointment,  
2053 any appointment made by the Chief Justice pursuant to this section  
2054 shall be void and of no further force or effect from the date of  
2055 the Governor's appointment.

2056 ( \* \* \*6) When a judicial officer is unwilling or unable to  
2057 hear a case or unable or unwilling to hold court for a period of  
2058 time not to exceed two (2) weeks, the trial judge or judges of the  
2059 affected district or county and other trial judges may agree among  
2060 themselves regarding the appointment of a person for such case or  
2061 such limited period of time. The trial judges shall submit a  
2062 notice to the Chief Justice of the Supreme Court informing him of  
2063 their appointment. If the Chief Justice does not appoint another  
2064 person to serve as special judge within seven (7) days after  
2065 receipt of such notice, the person designated in such order shall  
2066 be deemed appointed.

2067 ( \* \* \*7) A person appointed to serve as a special judge may  
2068 be any currently sitting or retired chancery, circuit or county  
2069 court judge, Court of Appeals judge or Supreme Court Justice, or  
2070 any other person possessing the qualifications of the judicial  
2071 office for which the appointment is made; however, a judge or  
2072 justice who was retired from service at the polls shall not be  
2073 eligible for appointment as a special judge in the district in  
2074 which he served prior to his defeat.



2075 ( \* \* \*8) Except as otherwise provided in subsection (2) of  
2076 this section, the need for an appointment pursuant to this section  
2077 may be certified to the Chief Justice of the Mississippi Supreme  
2078 Court by any attorney in good standing or other officer of the  
2079 court.

2080 ( \* \* \*9) The order appointing a person as a special judge  
2081 pursuant to this section shall describe as specifically as  
2082 possible the duration of the appointment.

2083 ( \* \* \*10) A special judge appointed pursuant to this  
2084 section shall take the oath of office, if necessary, and shall,  
2085 for the duration of his appointment, enjoy the full power and  
2086 authority of the office to which he is appointed.

2087 ( \* \* \*11) Any currently sitting justice or judge appointed  
2088 as a special judge under this section shall receive no additional  
2089 compensation for his or her service as special judge. Any other  
2090 person appointed as a special judge hereunder shall, for the  
2091 period of his service, receive compensation from the state for  
2092 each day's service a sum equal to 1/260ths of the current salary  
2093 in effect for the judicial office; however, no retired chancery,  
2094 circuit or county court judge, retired Court of Appeals judge or  
2095 any retired Supreme Court Justice appointed as a special judge  
2096 pursuant to this section may, during any fiscal year, receive  
2097 compensation in excess of fifty percent (50%) of the current  
2098 salary in effect for a chancery or circuit court judge. Any  
2099 person appointed as a special judge shall be reimbursed for travel



2100 expenses incurred in the performance of the official duties to  
2101 which he may be appointed hereunder in the same manner as other  
2102 public officials and employees as provided by Section 25-3-41,  
2103 Mississippi Code of 1972.

2104 ( \* \* \*12) If any person appointed as such special judge is  
2105 receiving retirement benefits by virtue of the provisions of the  
2106 Public Employees' Retirement Law of 1952, appearing as Sections  
2107 25-11-1 through 25-11-139, \* \* \* such benefits shall not be  
2108 reduced in any sum whatsoever because of such service, nor shall  
2109 any sum be deducted as contributions toward retirement under \* \* \*  
2110 that law.

2111 ( \* \* \*13) The Supreme Court shall have authority to  
2112 prescribe rules and regulations reasonably necessary to implement  
2113 and give effect to the provisions of this section.

2114 ( \* \* \*14) Nothing in this section shall abrogate the right  
2115 of attorneys engaged in a case to agree upon a member of the bar  
2116 to preside in a case pursuant to Section 165 of the Mississippi  
2117 Constitution of 1890.

2118 ( \* \* \*15) The Supreme Court shall prepare the necessary  
2119 payroll for special judges appointed pursuant to this section and  
2120 shall submit such payroll to the Department of Finance and  
2121 Administration.

2122 ( \* \* \*16) Special judges appointed pursuant to this section  
2123 shall direct requests for reimbursement for travel expenses  
2124 authorized pursuant to this section to the Supreme Court and the



2125 Supreme Court shall submit such requests to the Department of  
2126 Finance and Administration. The Supreme Court shall have the  
2127 power to adopt rules and regulations regarding the administration  
2128 of travel expenses authorized pursuant to this section.

2129 **SECTION 14.** Section 41-3-15, Mississippi Code of 1972, is  
2130 amended as follows:

2131 41-3-15. (1) (a) There shall be a State Department of  
2132 Health.

2133 (b) The State Board of Health shall have the following  
2134 powers and duties:

2135 (i) To formulate the policy of the State  
2136 Department of Health regarding public health matters within the  
2137 jurisdiction of the department;

2138 (ii) To adopt, modify, repeal and promulgate,  
2139 after due notice and hearing, and enforce rules and regulations  
2140 implementing or effectuating the powers and duties of the  
2141 department under any and all statutes within the department's  
2142 jurisdiction, and as the board may deem necessary;

2143 (iii) To apply for, receive, accept and expend any  
2144 federal or state funds or contributions, gifts, trusts, devises,  
2145 bequests, grants, endowments or funds from any other source or  
2146 transfers of property of any kind;

2147 (iv) To enter into, and to authorize the executive  
2148 officer to execute contracts, grants and cooperative agreements  
2149 with any federal or state agency or subdivision thereof, or any



2150 public or private institution located inside or outside the State  
2151 of Mississippi, or any person, corporation or association in  
2152 connection with carrying out the provisions of this chapter, if it  
2153 finds those actions to be in the public interest and the contracts  
2154 or agreements do not have a financial cost that exceeds the  
2155 amounts appropriated for those purposes by the Legislature;

2156 (v) To appoint, upon recommendation of the  
2157 Executive Officer of the State Department of Health, a Director of  
2158 Internal Audit who shall be either a Certified Public Accountant  
2159 or Certified Internal Auditor, and whose employment shall be  
2160 continued at the discretion of the board, and who shall report  
2161 directly to the board, or its designee; and

2162 (vi) To discharge such other duties,  
2163 responsibilities and powers as are necessary to implement the  
2164 provisions of this chapter.

2165 (c) The Executive Officer of the State Department of  
2166 Health shall have the following powers and duties:

2167 (i) To administer the policies of the State Board  
2168 of Health within the authority granted by the board;

2169 (ii) To supervise and direct all administrative  
2170 and technical activities of the department, except that the  
2171 department's internal auditor shall be subject to the sole  
2172 supervision and direction of the board;

2173 (iii) To organize the administrative units of the  
2174 department in accordance with the plan adopted by the board and,



2175 with board approval, alter the organizational plan and reassign  
2176 responsibilities as he or she may deem necessary to carry out the  
2177 policies of the board;

2178 (iv) To coordinate the activities of the various  
2179 offices of the department;

2180 (v) To employ, subject to regulations of the State  
2181 Personnel Board, qualified professional personnel in the subject  
2182 matter or fields of each office, and such other technical and  
2183 clerical staff as may be required for the operation of the  
2184 department. The executive officer shall be the appointing  
2185 authority for the department, and shall have the power to delegate  
2186 the authority to appoint or dismiss employees to appropriate  
2187 subordinates, subject to the rules and regulations of the State  
2188 Personnel Board;

2189 (vi) To recommend to the board such studies and  
2190 investigations as he or she may deem appropriate, and to carry out  
2191 the approved recommendations in conjunction with the various  
2192 offices;

2193 (vii) To prepare and deliver to the Legislature  
2194 and the Governor on or before January 1 of each year, and at such  
2195 other times as may be required by the Legislature or Governor, a  
2196 full report of the work of the department and the offices thereof,  
2197 including a detailed statement of expenditures of the department  
2198 and any recommendations the board may have;



2199                   (viii) To prepare and deliver to the Chairmen of  
2200 the Public Health and Welfare/Human Services Committees of the  
2201 Senate and House on or before January 1 of each year, a plan for  
2202 monitoring infant mortality in Mississippi and a full report of  
2203 the work of the department on reducing Mississippi's infant  
2204 mortality and morbidity rates and improving the status of maternal  
2205 and infant health; and

2206                   (ix) To enter into contracts, grants and  
2207 cooperative agreements with any federal or state agency or  
2208 subdivision thereof, or any public or private institution located  
2209 inside or outside the State of Mississippi, or any person,  
2210 corporation or association in connection with carrying out the  
2211 provisions of this chapter, if he or she finds those actions to be  
2212 in the public interest and the contracts or agreements do not have  
2213 a financial cost that exceeds the amounts appropriated for those  
2214 purposes by the Legislature. Each contract or agreement entered  
2215 into by the executive officer shall be submitted to the board  
2216 before its next meeting.

2217           (2) The State Board of Health shall have the authority to  
2218 establish an Office of Rural Health within the department. The  
2219 duties and responsibilities of this office shall include the  
2220 following:

2221                   (a) To collect and evaluate data on rural health  
2222 conditions and needs;





2223           (b) To engage in policy analysis, policy development  
2224 and economic impact studies with regard to rural health issues;

2225           (c) To develop and implement plans and provide  
2226 technical assistance to enable community health systems to respond  
2227 to various changes in their circumstances;

2228           (d) To plan and assist in professional recruitment and  
2229 retention of medical professionals and assistants; and

2230           (e) To establish information clearinghouses to improve  
2231 access to and sharing of rural health care information.

2232           (3) The State Board of Health shall have general supervision  
2233 of the health interests of the people of the state and to exercise  
2234 the rights, powers and duties of those acts which it is authorized  
2235 by law to enforce.

2236           (4) The State Board of Health shall have authority:

2237           (a) To make investigations and inquiries with respect  
2238 to the causes of disease and death, and to investigate the effect  
2239 of environment, including conditions of employment and other  
2240 conditions that may affect health, and to make such other  
2241 investigations as it may deem necessary for the preservation and  
2242 improvement of health.

2243           (b) To make such sanitary investigations as it may,  
2244 from time to time, deem necessary for the protection and  
2245 improvement of health and to investigate nuisance questions that  
2246 affect the security of life and health within the state.



2247 (c) To direct and control sanitary and quarantine  
2248 measures for dealing with all diseases within the state possible  
2249 to suppress same and prevent their spread.

2250 (d) To obtain, collect and preserve such information  
2251 relative to mortality, morbidity, disease and health as may be  
2252 useful in the discharge of its duties or may contribute to the  
2253 prevention of disease or the promotion of health in this state.

2254 (e) To charge and collect reasonable fees for health  
2255 services, including immunizations, inspections and related  
2256 activities, and the board shall charge fees for those services;  
2257 however, if it is determined that a person receiving services is  
2258 unable to pay the total fee, the board shall collect any amount  
2259 that the person is able to pay. Any increase in the fees charged  
2260 by the board under this paragraph shall be in accordance with the  
2261 provisions of Section 41-3-65.

2262 (f) (i) To establish standards for, issue permits and  
2263 exercise control over, any cafes, restaurants, food or drink  
2264 stands, sandwich manufacturing establishments, and all other  
2265 establishments, other than churches, church-related and private  
2266 schools, and other nonprofit or charitable organizations, where  
2267 food or drink is regularly prepared, handled and served for pay;  
2268 and

2269 (ii) To require that a permit be obtained from the  
2270 Department of Health before those persons begin operation. If any  
2271 such person fails to obtain the permit required in this



2272 subparagraph (ii), the State Board of Health, after due notice and  
2273 opportunity for a hearing, may impose a monetary penalty not to  
2274 exceed One Thousand Dollars (\$1,000.00) for each violation.

2275 However, the department is not authorized to impose a monetary  
2276 penalty against any person whose gross annual prepared food sales  
2277 are less than Five Thousand Dollars (\$5,000.00). Money collected  
2278 by the board under this subparagraph (ii) shall be deposited to  
2279 the credit of the State General Fund of the State Treasury.

2280 (g) To promulgate rules and regulations and exercise  
2281 control over the production and sale of milk pursuant to the  
2282 provisions of Sections 75-31-41 through 75-31-49.

2283 (h) On presentation of proper authority, to enter into  
2284 and inspect any public place or building where the State Health  
2285 Officer or his representative deems it necessary and proper to  
2286 enter for the discovery and suppression of disease and for the  
2287 enforcement of any health or sanitary laws and regulations in the  
2288 state.

2289 (i) To conduct investigations, inquiries and hearings,  
2290 and to issue subpoenas for the attendance of witnesses and the  
2291 production of books and records at any hearing when authorized and  
2292 required by statute to be conducted by the State Health Officer or  
2293 the State Board of Health.

2294 (j) To promulgate rules and regulations, and to collect  
2295 data and information, on (i) the delivery of services through the



2296 practice of telemedicine; and (ii) the use of electronic records  
2297 for the delivery of telemedicine services.

2298 (k) To enforce and regulate domestic and imported fish  
2299 as authorized under Section 69-7-601 et seq.

2300 (5) (a) The State Board of Health shall have the authority,  
2301 in its discretion, to establish programs to promote the public  
2302 health, to be administered by the State Department of Health.  
2303 Specifically, those programs may include, but shall not be limited  
2304 to, programs in the following areas:

2305 (i) Maternal and child health;

2306 (ii) Family planning;

2307 (iii) Pediatric services;

2308 (iv) Services to crippled and disabled children;

2309 (v) Control of communicable and noncommunicable  
2310 disease;

2311 (vi) Chronic disease;

2312 (vii) Accidental deaths and injuries;

2313 (viii) Child care licensure;

2314 (ix) Radiological health;

2315 (x) Dental health;

2316 (xi) Milk sanitation;

2317 (xii) Occupational safety and health;

2318 (xiii) Food, vector control and general  
2319 sanitation;

2320 (xiv) Protection of drinking water;



2321 (xv) Sanitation in food handling establishments  
2322 open to the public;

2323 (xvi) Registration of births and deaths and other  
2324 vital events;

2325 (xvii) Such public health programs and services as  
2326 may be assigned to the State Board of Health by the Legislature or  
2327 by executive order; and

2328 (xviii) Regulation of domestic and imported fish  
2329 for human consumption.

2330 (b) [Deleted]

2331 (c) The State Department of Health may undertake such  
2332 technical programs and activities as may be required for the  
2333 support and operation of those programs, including maintaining  
2334 physical, chemical, bacteriological and radiological laboratories,  
2335 and may make such diagnostic tests for diseases and tests for the  
2336 evaluation of health hazards as may be deemed necessary for the  
2337 protection of the people of the state.

2338 (6) (a) The State Board of Health shall administer the  
2339 local governments and rural water systems improvements loan  
2340 program in accordance with the provisions of Section 41-3-16.

2341 (b) The State Board of Health shall have authority:

2342 (i) To enter into capitalization grant agreements  
2343 with the United States Environmental Protection Agency, or any  
2344 successor agency thereto;



2345 (ii) To accept capitalization grant awards made  
2346 under the federal Safe Drinking Water Act, as amended;

2347 (iii) To provide annual reports and audits to the  
2348 United States Environmental Protection Agency, as may be required  
2349 by federal capitalization grant agreements; and

2350 (iv) To establish and collect fees to defray the  
2351 reasonable costs of administering the revolving fund or emergency  
2352 fund if the State Board of Health determines that those costs will  
2353 exceed the limitations established in the federal Safe Drinking  
2354 Water Act, as amended. The administration fees may be included in  
2355 loan amounts to loan recipients for the purpose of facilitating  
2356 payment to the board; however, those fees may not exceed five  
2357 percent (5%) of the loan amount.

2358 (7) [Deleted]

2359 (8) Notwithstanding any other provision to the contrary, the  
2360 State Department of Health shall have the following specific  
2361 powers: The State Department of Health is authorized to issue a  
2362 license to an existing home health agency for the transfer of a  
2363 county from that agency to another existing home health agency,  
2364 and to charge a fee for reviewing and making a determination on  
2365 the application for such transfer not to exceed one-half (1/2) of  
2366 the authorized fee assessed for the original application for the  
2367 home health agency, with the revenue to be deposited by the State  
2368 Department of Health into the special fund created under Section  
2369 41-7-188.



2370 (9) [Deleted]

2371 (10) \* \* \* [Deleted]

2372 (11) Notwithstanding any other provision to the contrary,  
2373 the State Department of Health shall have the following specific  
2374 powers: The State Department of Health is authorized and  
2375 empowered, to revoke, immediately, the license and require closure  
2376 of any institution for the aged or infirm, including any other  
2377 remedy less than closure to protect the health and safety of the  
2378 residents of said institution or the health and safety of the  
2379 general public.

2380 (12) Notwithstanding any other provision to the contrary,  
2381 the State Department of Health shall have the following specific  
2382 powers: The State Department of Health is authorized and  
2383 empowered, to require the temporary detainment of individuals for  
2384 disease control purposes based upon violation of any order of the  
2385 State Health Officer, as provided in Section 41-23-5. For the  
2386 purpose of enforcing such orders of the State Health Officer,  
2387 persons employed by the department as investigators shall have  
2388 general arrest powers. All law enforcement officers are  
2389 authorized and directed to assist in the enforcement of such  
2390 orders of the State Health Officer.

2391 (13) Additionally, the State Board of Health and the State  
2392 Health Officer each are authorized and directed to study the  
2393 status of health care, in its broadest sense, throughout the  
2394 state. The study should include challenges such as access to



2395 care; the cost of care; indigent care; providing health care to  
2396 the incarcerated; the availability of health care workers,  
2397 paraprofessionals, and professionals; the effects of unhealthy  
2398 lifestyle choices; the consequences of health care facilities  
2399 locating in affluent and urban areas to the detriment of less  
2400 affluent areas, small towns, and rural areas; and negative trends  
2401 which may cause ill effects if they continue. The study shall  
2402 also include opportunities to improve health care, such as greater  
2403 coordination among state agencies, local governments, and other  
2404 entities which provide various types of health care; methods of  
2405 increasing the health care workforce; and methods to increase the  
2406 location of health care facilities in distressed areas, rural  
2407 areas, and small towns. All state agencies, the Legislative  
2408 Budget Office and the Joint Legislative Committee on Performance  
2409 Evaluation and Expenditure Review (PEER) are directed to assist  
2410 the department in developing this study. This provision does not  
2411 by itself grant any additional power to the State Board of Health  
2412 or the State Health Officer to require any entity to operate  
2413 differently. It does, however, empower and direct them to obtain  
2414 information and make recommendations, and it does require all  
2415 entities to cooperate with the board and health officer as they  
2416 seek information.

2417       **SECTION 15.** Section 41-77-1, Mississippi Code of 1972, is  
2418 amended as follows:

2419       41-77-1. For purposes of this chapter:





2420 (a) "Birthing center" \* \* \* means a publicly or  
2421 privately owned facility, place or institution constructed,  
2422 renovated, leased or otherwise established where nonemergency  
2423 births are planned to occur away from the mother's usual residence  
2424 following a documented period of prenatal care for a normal  
2425 uncomplicated pregnancy which has been determined to be low risk  
2426 through a formal risk scoring examination. Care provided in a  
2427 birthing center shall be provided by a licensed physician, or  
2428 certified nurse midwife, and a registered nurse. Services  
2429 provided in a birthing center shall be limited in the following  
2430 manner: (i) surgical services shall be limited to those normally  
2431 performed during uncomplicated childbirth, such as episiotomy and  
2432 repair, and shall not include operative obstetrics or caesarean  
2433 sections; (ii) labor shall not be inhibited, stimulated or  
2434 augmented with chemical agents during the first or second stage of  
2435 labor; (iii) systemic analgesia may be administered and local  
2436 anesthesia for pudental block and episiotomy repair may be  
2437 performed. General and conductive anesthesia shall not be  
2438 administered at birthing centers; (iv) patients shall not remain  
2439 in the facility in excess of twenty-four (24) hours.

2440 Hospitals are excluded from the definition of a "birthing  
2441 center" unless they choose to and are qualified to designate a  
2442 portion or part of the hospital as a birthing center, and nothing  
2443 herein shall be construed as referring to the usual service  
2444 provided the pregnant female in the obstetric-gynecology service



2445 of an acute care hospital. Such facility or center, as heretofore  
2446 stated, shall include the offices of physicians in private  
2447 practice alone or in groups of two (2) or more; and such facility  
2448 or center rendering service to pregnant female persons, as stated  
2449 heretofore and by the rules and regulations promulgated by the  
2450 licensing agency in furtherance thereof, shall be deemed to be a  
2451 "birthing center" whether using a similar or different name. Such  
2452 center or facility if in any manner is deemed to be or considered  
2453 to be operated or owned by a hospital or a hospital holding  
2454 leasing or management company, for profit or not for profit, is  
2455 required to comply with all birthing center standards governing a  
2456 "hospital affiliated" birthing center as adopted by the licensing  
2457 authority.

2458 (b) "Hospital affiliated" birthing center \* \* \* means a  
2459 separate and distinct unit of a hospital or a building owned,  
2460 leased, rented or utilized by a hospital and located in the same  
2461 county as the hospital for the purpose of providing the service of  
2462 a "birthing center." Such center or facility is not required to  
2463 be licensed separately, and may operate under the license issued  
2464 to the hospital if it is in compliance with Section 41-9-1 et  
2465 seq., where applicable, and the rules and regulations promulgated  
2466 by the licensing agency in furtherance thereof.

2467 (c) "Freestanding" birthing center \* \* \* means a  
2468 separate and distinct facility or center or a separate and  
2469 distinct organized unit of a hospital or other \* \* \* entity for



2470 the purpose of performing the service of a "birthing center."  
2471 Such facility or center must be separately licensed and must  
2472 comply with all licensing standards promulgated by the licensing  
2473 agency by virtue of this chapter. Further, such facility or  
2474 center must be a separate, identifiable entity and must be  
2475 physically, administratively and financially independent from  
2476 other operations of any hospital or other health care facility or  
2477 service and shall maintain a separate and required staff,  
2478 including administrative staff. \* \* \*

2479 (d) "Licensing agency" \* \* \* means the State Department  
2480 of Health.

2481 **SECTION 16.** Section 41-77-5, Mississippi Code of 1972, is  
2482 amended as follows:

2483 41-77-5. No person \* \* \* or other entity, acting severally  
2484 or jointly with any other person or entity, shall establish,  
2485 conduct or maintain a "birthing center" in this state without a  
2486 license under this chapter.

2487 **SECTION 17.** Section 41-77-21, Mississippi Code of 1972, is  
2488 amended as follows:

2489 41-77-21. Any applicant or licensee aggrieved by the  
2490 decision of the licensing agency after a hearing may, within  
2491 thirty (30) days after the mailing or serving of notice of the  
2492 decision as provided in Section 43-11-11, \* \* \* file a notice of  
2493 appeal to the Chancery Court of the First Judicial District of  
2494 Hinds County or in the chancery court of the county in which the



2495 institution is located or proposed to be located. \* \* \*  
2496 Thereupon, the licensing agency shall \* \* \* certify and file with  
2497 the court a copy of the record and decision, including the  
2498 transcript of the hearings in which the decision is based. No new  
2499 or additional evidence shall be introduced in court; the case  
2500 shall be determined upon the record certified to the court. The  
2501 court may sustain or dismiss the appeal, modify or vacate the  
2502 order complained of in whole or in part, as the case may be; but  
2503 in case the order is wholly or partly vacated, the court may also,  
2504 in its discretion, remand the matter to the licensing agency for  
2505 such further proceedings, not inconsistent with the court's order,  
2506 as, in the opinion of the court, justice may require. The order  
2507 may not be vacated or set aside, either in whole or in part,  
2508 except for errors of law, unless the court finds that the order of  
2509 the licensing agency is not supported by substantial evidence, is  
2510 contrary to the manifest weight of the evidence, is in excess of  
2511 the statutory authority or jurisdiction of the licensing agency,  
2512 or violates any vested constitutional rights of any party involved  
2513 in the appeal. Pending final disposition of the matter, the  
2514 status quo of the applicant or licensee shall be preserved, except  
2515 as the court otherwise orders in the public interest. Rules with  
2516 respect to court costs in other cases in chancery shall apply  
2517 equally to cases hereunder. Appeals in accordance with law may be  
2518 had to the Supreme Court of the State of Mississippi from any  
2519 final judgment of the chancery court.



2520           **SECTION 18.** Section 41-77-23, Mississippi Code of 1972, is  
2521 amended as follows:

2522           41-77-23. Any person or persons or other entity or entities  
2523 establishing, managing or operating a "birthing center" or  
2524 conducting the business of a "birthing center" without the  
2525 required license, or which otherwise violate any of the provisions  
2526 of this chapter \* \* \* or the rules, regulations or standards  
2527 promulgated in furtherance of any law in which the \* \* \* licensing  
2528 agency has authority therefor, shall be subject to the following  
2529 penalties and sanctions \* \* \*:

2530           (a) Revocation of the license of the birthing center or  
2531 a designated section, component or service thereof; or

2532           (b) Nonlicensure of a specific or designated service  
2533 offered by the birthing center.

2534           In addition, any violation of any provision of this chapter  
2535 or any rules or regulations promulgated in furtherance thereof by  
2536 intent, fraud, deceit, unlawful design, willful and/or deliberate  
2537 misrepresentation, or by careless, negligent or incautious  
2538 disregard for such statutes or rules and regulations, either by  
2539 persons acting individually or in concert with others, shall  
2540 constitute a misdemeanor and shall be punishable by a fine not to  
2541 exceed One Thousand Dollars (\$1,000.00) for each such offense.  
2542 Each day of continuing violation shall be considered a separate  
2543 offense. The venue for prosecution of any such violation shall be



2544 in any county of the state in which any such violation, or portion  
2545 thereof, occurred.

2546         **SECTION 19.** Section 41-77-25, Mississippi Code of 1972, is  
2547 amended as follows:

2548         41-77-25. Upon receipt of an application for license and the  
2549 license fee, the licensing agency shall issue a license if the  
2550 applicant and the institutional facilities meet the requirements  
2551 established under this chapter \* \* \*. A license, unless suspended  
2552 or revoked, shall be renewable annually upon payment of a renewal  
2553 fee of Three Hundred Dollars (\$300.00), which shall be paid to the  
2554 licensing agency, and upon filing by the licensee and approval by  
2555 the licensing agency of an annual report upon such uniform dates  
2556 and containing such information in such form as the licensing  
2557 agency requires. Any increase in the fee charged by the licensing  
2558 agency under this section shall be in accordance with the  
2559 provisions of Section 41-3-65. Each license shall be issued only  
2560 for the premises and person or persons named in the application  
2561 and shall not be transferable or assignable. Licenses shall be  
2562 posted in a conspicuous place on the licensed premises.

2563         **SECTION 20.** Section 41-7-202, Mississippi Code of 1972,  
2564 which provides for a stay of proceedings of written decisions of  
2565 the State Department of Health pertaining to certificates of need  
2566 for certain health care facilities, and Section 41-4-18,  
2567 Mississippi Code of 1972, which authorizes the Department of  
2568 Mental Health to contract with private and/or public entities to



2569 transfer beds of intermediate care facilities for individuals with  
2570 intellectual disabilities owned and operated by the department to  
2571 locations owned and operated by private and/or public entities,  
2572 are repealed.

2573         **SECTION 21.** The following shall be codified as Section  
2574 43-11-10, Mississippi Code of 1972:

2575         43-11-10. (1) Any license issued on or after July 1, 2025,  
2576 by the licensing agency for the establishment of a new  
2577 intermediate care facility for individuals with intellectual  
2578 disabilities shall not authorize more than ten (10) beds for the  
2579 facility.

2580         (2) The licensing agency shall not authorize any additional  
2581 beds for any intermediate care facility for individuals with  
2582 intellectual disabilities that is operating on July 1, 2025, above  
2583 the number of beds that were authorized for the facility in its  
2584 license on July 1, 2025. However, the licensing agency may:

2585                 (a) Issue a license to the owner of any such facility  
2586 for the establishment of a new intermediate care facility for  
2587 individuals with intellectual disabilities with not more than ten  
2588 (10) beds authorized for the facility; and

2589                 (b) Revise the license of the facility described in  
2590 Section 41-7-191(8) (a) for the additional beds authorized by  
2591 Section 41-7-191(8) (a).

2592         **SECTION 22.** This act shall take effect and be in force from  
2593 and after July 1, 2025.

