

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 (l) 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.

