

By: Representatives Hines, Anthony

To: Public Health and Human Services

HOUSE BILL NO. 912

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE AN EXCEPTION TO THE MORATORIUM ON THE ISSUANCE OF  
3 CERTIFICATES OF NEED FOR HOME HEALTH AGENCIES TO AUTHORIZE THE  
4 STATE DEPARTMENT OF HEALTH TO ISSUE UP TO FIVE CERTIFICATES OF  
5 NEED TO THE RECIPIENTS OF THE FIVE NEW HOSPICE LICENSES ISSUED  
6 UNDER SECTION 41-85-7(3); AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-7-191, Mississippi Code of 1972, is  
9 amended as follows:

10 41-7-191. (1) No person shall engage in any of the  
11 following activities without obtaining the required certificate of  
12 need:

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

17 (b) The relocation of a health care facility or portion  
18 thereof, or major medical equipment, unless such relocation of a  
19 health care facility or portion thereof, or major medical  
20 equipment, which does not involve a capital expenditure by or on



21 behalf of a health care facility, is within five thousand two  
22 hundred eighty (5,280) feet from the main entrance of the health  
23 care facility;

24 (c) Any change in the existing bed complement of any  
25 health care facility through the addition or conversion of any  
26 beds or the alteration, modernizing or refurbishing of any unit or  
27 department in which the beds may be located; however, if a health  
28 care facility has voluntarily delicensed some of its existing bed  
29 complement, it may later relicense some or all of its delicensed  
30 beds without the necessity of having to acquire a certificate of  
31 need. The State Department of Health shall maintain a record of  
32 the delicensing health care facility and its voluntarily  
33 delicensed beds and continue counting those beds as part of the  
34 state's total bed count for health care planning purposes. If a  
35 health care facility that has voluntarily delicensed some of its  
36 beds later desires to relicense some or all of its voluntarily  
37 delicensed beds, it shall notify the State Department of Health of  
38 its intent to increase the number of its licensed beds. The State  
39 Department of Health shall survey the health care facility within  
40 thirty (30) days of that notice and, if appropriate, issue the  
41 health care facility a new license reflecting the new contingent  
42 of beds. However, in no event may a health care facility that has  
43 voluntarily delicensed some of its beds be reissued a license to  
44 operate beds in excess of its bed count before the voluntary



45 delicensure of some of its beds without seeking certificate of  
46 need approval;

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

- 51 (i) Open-heart surgery services;
- 52 (ii) Cardiac catheterization services;
- 53 (iii) Comprehensive inpatient rehabilitation  
54 services;
- 55 (iv) Licensed psychiatric services;
- 56 (v) Licensed chemical dependency services;
- 57 (vi) Radiation therapy services;
- 58 (vii) Diagnostic imaging services of an invasive  
59 nature, i.e. invasive digital angiography;
- 60 (viii) Nursing home care as defined in  
61 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 62 (ix) Home health services;
- 63 (x) Swing-bed services;
- 64 (xi) Ambulatory surgical services;
- 65 (xii) Magnetic resonance imaging services;
- 66 (xiii) [Deleted]
- 67 (xiv) Long-term care hospital services;
- 68 (xv) Positron emission tomography (PET) services;



69           (e) The relocation of one or more health services from  
70 one physical facility or site to another physical facility or  
71 site, unless such relocation, which does not involve a capital  
72 expenditure by or on behalf of a health care facility, (i) is to a  
73 physical facility or site within five thousand two hundred eighty  
74 (5,280) feet from the main entrance of the health care facility  
75 where the health care service is located, or (ii) is the result of  
76 an order of a court of appropriate jurisdiction or a result of  
77 pending litigation in such court, or by order of the State  
78 Department of Health, or by order of any other agency or legal  
79 entity of the state, the federal government, or any political  
80 subdivision of either, whose order is also approved by the State  
81 Department of Health;

82           (f) The acquisition or otherwise control of any major  
83 medical equipment for the provision of medical services; however,  
84 (i) the acquisition of any major medical equipment used only for  
85 research purposes, and (ii) the acquisition of major medical  
86 equipment to replace medical equipment for which a facility is  
87 already providing medical services and for which the State  
88 Department of Health has been notified before the date of such  
89 acquisition shall be exempt from this paragraph; an acquisition  
90 for less than fair market value must be reviewed, if the  
91 acquisition at fair market value would be subject to review;

92           (g) Changes of ownership of existing health care  
93 facilities in which a notice of intent is not filed with the State



94 Department of Health at least thirty (30) days prior to the date  
95 such change of ownership occurs, or a change in services or bed  
96 capacity as prescribed in paragraph (c) or (d) of this subsection  
97 as a result of the change of ownership; an acquisition for less  
98 than fair market value must be reviewed, if the acquisition at  
99 fair market value would be subject to review;

100 (h) The change of ownership of any health care facility  
101 defined in subparagraphs (iv), (vi) and (viii) of Section  
102 41-7-173(h), in which a notice of intent as described in paragraph  
103 (g) has not been filed and if the Executive Director, Division of  
104 Medicaid, Office of the Governor, has not certified in writing  
105 that there will be no increase in allowable costs to Medicaid from  
106 revaluation of the assets or from increased interest and  
107 depreciation as a result of the proposed change of ownership;

108 (i) Any activity described in paragraphs (a) through  
109 (h) if undertaken by any person if that same activity would  
110 require certificate of need approval if undertaken by a health  
111 care facility;

112 (j) Any capital expenditure or deferred capital  
113 expenditure by or on behalf of a health care facility not covered  
114 by paragraphs (a) through (h);

115 (k) The contracting of a health care facility as  
116 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
117 to establish a home office, subunit, or branch office in the space  
118 operated as a health care facility through a formal arrangement



119 with an existing health care facility as defined in subparagraph  
120 (ix) of Section 41-7-173(h);

121 (l) The replacement or relocation of a health care  
122 facility designated as a critical access hospital shall be exempt  
123 from subsection (1) of this section so long as the critical access  
124 hospital complies with all applicable federal law and regulations  
125 regarding such replacement or relocation;

126 (m) Reopening a health care facility that has ceased to  
127 operate for a period of sixty (60) months or more, which reopening  
128 requires a certificate of need for the establishment of a new  
129 health care facility.

130 (2) The State Department of Health shall not grant approval  
131 for or issue a certificate of need to any person proposing the new  
132 construction of, addition to, or expansion of any health care  
133 facility defined in subparagraphs (iv) (skilled nursing facility)  
134 and (vi) (intermediate care facility) of Section 41-7-173(h) or  
135 the conversion of vacant hospital beds to provide skilled or  
136 intermediate nursing home care, except as hereinafter authorized:

137 (a) The department may issue a certificate of need to  
138 any person proposing the new construction of any health care  
139 facility defined in subparagraphs (iv) and (vi) of Section  
140 41-7-173(h) as part of a life care retirement facility, in any  
141 county bordering on the Gulf of Mexico in which is located a  
142 National Aeronautics and Space Administration facility, not to  
143 exceed forty (40) beds. From and after July 1, 1999, there shall



144 be no prohibition or restrictions on participation in the Medicaid  
145 program (Section 43-13-101 et seq.) for the beds in the health  
146 care facility that were authorized under this paragraph (a).

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

154 (c) The department may issue a certificate of need for  
155 the addition to or expansion of any skilled nursing facility that  
156 is part of an existing continuing care retirement community  
157 located in Madison County, provided that the recipient of the  
158 certificate of need agrees in writing that the skilled nursing  
159 facility will not at any time participate in the Medicaid program  
160 (Section 43-13-101 et seq.) or admit or keep any patients in the  
161 skilled nursing facility who are participating in the Medicaid  
162 program. This written agreement by the recipient of the  
163 certificate of need shall be fully binding on any subsequent owner  
164 of the skilled nursing facility, if the ownership of the facility  
165 is transferred at any time after the issuance of the certificate  
166 of need. Agreement that the skilled nursing facility will not  
167 participate in the Medicaid program shall be a condition of the  
168 issuance of a certificate of need to any person under this



169 paragraph (c), and if such skilled nursing facility at any time  
170 after the issuance of the certificate of need, regardless of the  
171 ownership of the facility, participates in the Medicaid program or  
172 admits or keeps any patients in the facility who are participating  
173 in the Medicaid program, the State Department of Health shall  
174 revoke the certificate of need, if it is still outstanding, and  
175 shall deny or revoke the license of the skilled nursing facility,  
176 at the time that the department determines, after a hearing  
177 complying with due process, that the facility has failed to comply  
178 with any of the conditions upon which the certificate of need was  
179 issued, as provided in this paragraph and in the written agreement  
180 by the recipient of the certificate of need. The total number of  
181 beds that may be authorized under the authority of this paragraph  
182 (c) shall not exceed sixty (60) beds.

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

191 (e) The State Department of Health may issue a  
192 certificate of need for the construction of a nursing facility or  
193 the conversion of beds to nursing facility beds at a personal care





194 facility for the elderly in Lowndes County that is owned and  
195 operated by a Mississippi nonprofit corporation, not to exceed  
196 sixty (60) beds. From and after July 1, 1999, there shall be no  
197 prohibition or restrictions on participation in the Medicaid  
198 program (Section 43-13-101 et seq.) for the beds in the nursing  
199 facility that were authorized under this paragraph (e).

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

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

216 (h) The State Department of Health may issue a  
217 certificate of need for the construction or expansion of nursing  
218 facility beds or the conversion of other beds to nursing facility



219 beds in either Hancock, Harrison or Jackson County, not to exceed  
220 sixty (60) beds. From and after July 1, 1999, there shall be no  
221 prohibition or restrictions on participation in the Medicaid  
222 program (Section 43-13-101 et seq.) for the beds in the facility  
223 that were authorized under this paragraph (h).

224 (i) The department may issue a certificate of need for  
225 the new construction of a skilled nursing facility in Leake  
226 County, provided that the recipient of the certificate of need  
227 agrees in writing that the skilled nursing facility will not at  
228 any time participate in the Medicaid program (Section 43-13-101 et  
229 seq.) or admit or keep any patients in the skilled nursing  
230 facility who are participating in the Medicaid program. This  
231 written agreement by the recipient of the certificate of need  
232 shall be fully binding on any subsequent owner of the skilled  
233 nursing facility, if the ownership of the facility is transferred  
234 at any time after the issuance of the certificate of need.  
235 Agreement that the skilled nursing facility will not participate  
236 in the Medicaid program shall be a condition of the issuance of a  
237 certificate of need to any person under this paragraph (i), and if  
238 such skilled nursing facility at any time after the issuance of  
239 the certificate of need, regardless of the ownership of the  
240 facility, participates in the Medicaid program or admits or keeps  
241 any patients in the facility who are participating in the Medicaid  
242 program, the State Department of Health shall revoke the  
243 certificate of need, if it is still outstanding, and shall deny or



244 revoke the license of the skilled nursing facility, at the time  
245 that the department determines, after a hearing complying with due  
246 process, that the facility has failed to comply with any of the  
247 conditions upon which the certificate of need was issued, as  
248 provided in this paragraph and in the written agreement by the  
249 recipient of the certificate of need. The provision of Section  
250 41-7-193(1) regarding substantial compliance of the projection of  
251 need as reported in the current State Health Plan is waived for  
252 the purposes of this paragraph. The total number of nursing  
253 facility beds that may be authorized by any certificate of need  
254 issued under this paragraph (i) shall not exceed sixty (60) beds.  
255 If the skilled nursing facility authorized by the certificate of  
256 need issued under this paragraph is not constructed and fully  
257 operational within eighteen (18) months after July 1, 1994, the  
258 State Department of Health, after a hearing complying with due  
259 process, shall revoke the certificate of need, if it is still  
260 outstanding, and shall not issue a license for the skilled nursing  
261 facility at any time after the expiration of the eighteen-month  
262 period.

263 (j) The department may issue certificates of need to  
264 allow any existing freestanding long-term care facility in  
265 Tishomingo County and Hancock County that on July 1, 1995, is  
266 licensed with fewer than sixty (60) beds. For the purposes of  
267 this paragraph (j), the provisions of Section 41-7-193(1)  
268 requiring substantial compliance with the projection of need as



269 reported in the current State Health Plan are waived. From and  
270 after July 1, 1999, there shall be no prohibition or restrictions  
271 on participation in the Medicaid program (Section 43-13-101 et  
272 seq.) for the beds in the long-term care facilities that were  
273 authorized under this paragraph (j).

274 (k) The department may issue a certificate of need for  
275 the construction of a nursing facility at a continuing care  
276 retirement community in Lowndes County. The total number of beds  
277 that may be authorized under the authority of this paragraph (k)  
278 shall not exceed sixty (60) beds. From and after July 1, 2001,  
279 the prohibition on the facility participating in the Medicaid  
280 program (Section 43-13-101 et seq.) that was a condition of  
281 issuance of the certificate of need under this paragraph (k) shall  
282 be revised as follows: The nursing facility may participate in  
283 the Medicaid program from and after July 1, 2001, if the owner of  
284 the facility on July 1, 2001, agrees in writing that no more than  
285 thirty (30) of the beds at the facility will be certified for  
286 participation in the Medicaid program, and that no claim will be  
287 submitted for Medicaid reimbursement for more than thirty (30)  
288 patients in the facility in any month or for any patient in the  
289 facility who is in a bed that is not Medicaid-certified. This  
290 written agreement by the owner of the facility shall be a  
291 condition of licensure of the facility, and the agreement shall be  
292 fully binding on any subsequent owner of the facility if the  
293 ownership of the facility is transferred at any time after July 1,



294 2001. After this written agreement is executed, the Division of  
295 Medicaid and the State Department of Health shall not certify more  
296 than thirty (30) of the beds in the facility for participation in  
297 the Medicaid program. If the facility violates the terms of the  
298 written agreement by admitting or keeping in the facility on a  
299 regular or continuing basis more than thirty (30) patients who are  
300 participating in the Medicaid program, the State Department of  
301 Health shall revoke the license of the facility, at the time that  
302 the department determines, after a hearing complying with due  
303 process, that the facility has violated the written agreement.

304 (1) Provided that funds are specifically appropriated  
305 therefor by the Legislature, the department may issue a  
306 certificate of need to a rehabilitation hospital in Hinds County  
307 for the construction of a sixty-bed long-term care nursing  
308 facility dedicated to the care and treatment of persons with  
309 severe disabilities including persons with spinal cord and  
310 closed-head injuries and ventilator dependent patients. The  
311 provisions of Section 41-7-193(1) regarding substantial compliance  
312 with projection of need as reported in the current State Health  
313 Plan are waived for the purpose of this paragraph.

314 (m) The State Department of Health may issue a  
315 certificate of need to a county-owned hospital in the Second  
316 Judicial District of Panola County for the conversion of not more  
317 than seventy-two (72) hospital beds to nursing facility beds,  
318 provided that the recipient of the certificate of need agrees in



319 writing that none of the beds at the nursing facility will be  
320 certified for participation in the Medicaid program (Section  
321 43-13-101 et seq.), and that no claim will be submitted for  
322 Medicaid reimbursement in the nursing facility in any day or for  
323 any patient in the nursing facility. This written agreement by  
324 the recipient of the certificate of need shall be a condition of  
325 the issuance of the certificate of need under this paragraph, and  
326 the agreement shall be fully binding on any subsequent owner of  
327 the nursing facility if the ownership of the nursing facility is  
328 transferred at any time after the issuance of the certificate of  
329 need. After this written agreement is executed, the Division of  
330 Medicaid and the State Department of Health shall not certify any  
331 of the beds in the nursing facility for participation in the  
332 Medicaid program. If the nursing facility violates the terms of  
333 the written agreement by admitting or keeping in the nursing  
334 facility on a regular or continuing basis any patients who are  
335 participating in the Medicaid program, the State Department of  
336 Health shall revoke the license of the nursing facility, at the  
337 time that the department determines, after a hearing complying  
338 with due process, that the nursing facility has violated the  
339 condition upon which the certificate of need was issued, as  
340 provided in this paragraph and in the written agreement. If the  
341 certificate of need authorized under this paragraph is not issued  
342 within twelve (12) months after July 1, 2001, the department shall  
343 deny the application for the certificate of need and shall not



344 issue the certificate of need at any time after the twelve-month  
345 period, unless the issuance is contested. If the certificate of  
346 need is issued and substantial construction of the nursing  
347 facility beds has not commenced within eighteen (18) months after  
348 July 1, 2001, the State Department of Health, after a hearing  
349 complying with due process, shall revoke the certificate of need  
350 if it is still outstanding, and the department shall not issue a  
351 license for the nursing facility at any time after the  
352 eighteen-month period. However, if the issuance of the  
353 certificate of need is contested, the department shall require  
354 substantial construction of the nursing facility beds within six  
355 (6) months after final adjudication on the issuance of the  
356 certificate of need.

357 (n) The department may issue a certificate of need for  
358 the new construction, addition or conversion of skilled nursing  
359 facility beds in Madison County, provided that the recipient of  
360 the certificate of need agrees in writing that the skilled nursing  
361 facility will not at any time participate in the Medicaid program  
362 (Section 43-13-101 et seq.) or admit or keep any patients in the  
363 skilled nursing facility who are participating in the Medicaid  
364 program. This written agreement by the recipient of the  
365 certificate of need shall be fully binding on any subsequent owner  
366 of the skilled nursing facility, if the ownership of the facility  
367 is transferred at any time after the issuance of the certificate  
368 of need. Agreement that the skilled nursing facility will not



369 participate in the Medicaid program shall be a condition of the  
370 issuance of a certificate of need to any person under this  
371 paragraph (n), and if such skilled nursing facility at any time  
372 after the issuance of the certificate of need, regardless of the  
373 ownership of the facility, participates in the Medicaid program or  
374 admits or keeps any patients in the facility who are participating  
375 in the Medicaid program, the State Department of Health shall  
376 revoke the certificate of need, if it is still outstanding, and  
377 shall deny or revoke the license of the skilled nursing facility,  
378 at the time that the department determines, after a hearing  
379 complying with due process, that the facility has failed to comply  
380 with any of the conditions upon which the certificate of need was  
381 issued, as provided in this paragraph and in the written agreement  
382 by the recipient of the certificate of need. The total number of  
383 nursing facility beds that may be authorized by any certificate of  
384 need issued under this paragraph (n) shall not exceed sixty (60)  
385 beds. If the certificate of need authorized under this paragraph  
386 is not issued within twelve (12) months after July 1, 1998, the  
387 department shall deny the application for the certificate of need  
388 and shall not issue the certificate of need at any time after the  
389 twelve-month period, unless the issuance is contested. If the  
390 certificate of need is issued and substantial construction of the  
391 nursing facility beds has not commenced within eighteen (18)  
392 months after July 1, 1998, the State Department of Health, after a  
393 hearing complying with due process, shall revoke the certificate





394 of need if it is still outstanding, and the department shall not  
395 issue a license for the nursing facility at any time after the  
396 eighteen-month period. However, if the issuance of the  
397 certificate of need is contested, the department shall require  
398 substantial construction of the nursing facility beds within six  
399 (6) months after final adjudication on the issuance of the  
400 certificate of need.

401 (o) The department may issue a certificate of need for  
402 the new construction, addition or conversion of skilled nursing  
403 facility beds in Leake County, provided that the recipient of the  
404 certificate of need agrees in writing that the skilled nursing  
405 facility will not at any time participate in the Medicaid program  
406 (Section 43-13-101 et seq.) or admit or keep any patients in the  
407 skilled nursing facility who are participating in the Medicaid  
408 program. This written agreement by the recipient of the  
409 certificate of need shall be fully binding on any subsequent owner  
410 of the skilled nursing facility, if the ownership of the facility  
411 is transferred at any time after the issuance of the certificate  
412 of need. Agreement that the skilled nursing facility will not  
413 participate in the Medicaid program shall be a condition of the  
414 issuance of a certificate of need to any person under this  
415 paragraph (o), and if such skilled nursing facility at any time  
416 after the issuance of the certificate of need, regardless of the  
417 ownership of the facility, participates in the Medicaid program or  
418 admits or keeps any patients in the facility who are participating



419 in the Medicaid program, the State Department of Health shall  
420 revoke the certificate of need, if it is still outstanding, and  
421 shall deny or revoke the license of the skilled nursing facility,  
422 at the time that the department determines, after a hearing  
423 complying with due process, that the facility has failed to comply  
424 with any of the conditions upon which the certificate of need was  
425 issued, as provided in this paragraph and in the written agreement  
426 by the recipient of the certificate of need. The total number of  
427 nursing facility beds that may be authorized by any certificate of  
428 need issued under this paragraph (o) shall not exceed sixty (60)  
429 beds. If the certificate of need authorized under this paragraph  
430 is not issued within twelve (12) months after July 1, 2001, the  
431 department shall deny the application for the certificate of need  
432 and shall not issue the certificate of need at any time after the  
433 twelve-month period, unless the issuance is contested. If the  
434 certificate of need is issued and substantial construction of the  
435 nursing facility beds has not commenced within eighteen (18)  
436 months after July 1, 2001, the State Department of Health, after a  
437 hearing complying with due process, shall revoke the certificate  
438 of need if it is still outstanding, and the department shall not  
439 issue a license for the nursing facility at any time after the  
440 eighteen-month period. However, if the issuance of the  
441 certificate of need is contested, the department shall require  
442 substantial construction of the nursing facility beds within six



443 (6) months after final adjudication on the issuance of the  
444 certificate of need.

445 (p) The department may issue a certificate of need for  
446 the construction of a municipally owned nursing facility within  
447 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
448 beds, provided that the recipient of the certificate of need  
449 agrees in writing that the skilled nursing facility will not at  
450 any time participate in the Medicaid program (Section 43-13-101 et  
451 seq.) or admit or keep any patients in the skilled nursing  
452 facility who are participating in the Medicaid program. This  
453 written agreement by the recipient of the certificate of need  
454 shall be fully binding on any subsequent owner of the skilled  
455 nursing facility, if the ownership of the facility is transferred  
456 at any time after the issuance of the certificate of need.

457 Agreement that the skilled nursing facility will not participate  
458 in the Medicaid program shall be a condition of the issuance of a  
459 certificate of need to any person under this paragraph (p), and if  
460 such skilled nursing facility at any time after the issuance of  
461 the certificate of need, regardless of the ownership of the  
462 facility, participates in the Medicaid program or admits or keeps  
463 any patients in the facility who are participating in the Medicaid  
464 program, the State Department of Health shall revoke the  
465 certificate of need, if it is still outstanding, and shall deny or  
466 revoke the license of the skilled nursing facility, at the time  
467 that the department determines, after a hearing complying with due



468 process, that the facility has failed to comply with any of the  
469 conditions upon which the certificate of need was issued, as  
470 provided in this paragraph and in the written agreement by the  
471 recipient of the certificate of need. The provision of Section  
472 41-7-193(1) regarding substantial compliance of the projection of  
473 need as reported in the current State Health Plan is waived for  
474 the purposes of this paragraph. If the certificate of need  
475 authorized under this paragraph is not issued within twelve (12)  
476 months after July 1, 1998, the department shall deny the  
477 application for the certificate of need and shall not issue the  
478 certificate of need at any time after the twelve-month period,  
479 unless the issuance is contested. If the certificate of need is  
480 issued and substantial construction of the nursing facility beds  
481 has not commenced within eighteen (18) months after July 1, 1998,  
482 the State Department of Health, after a hearing complying with due  
483 process, shall revoke the certificate of need if it is still  
484 outstanding, and the department shall not issue a license for the  
485 nursing facility at any time after the eighteen-month period.  
486 However, if the issuance of the certificate of need is contested,  
487 the department shall require substantial construction of the  
488 nursing facility beds within six (6) months after final  
489 adjudication on the issuance of the certificate of need.

490 (q) (i) Beginning on July 1, 1999, the State  
491 Department of Health shall issue certificates of need during each  
492 of the next four (4) fiscal years for the construction or



493 expansion of nursing facility beds or the conversion of other beds  
494 to nursing facility beds in each county in the state having a need  
495 for fifty (50) or more additional nursing facility beds, as shown  
496 in the fiscal year 1999 State Health Plan, in the manner provided  
497 in this paragraph (q). The total number of nursing facility beds  
498 that may be authorized by any certificate of need authorized under  
499 this paragraph (q) shall not exceed sixty (60) beds.

500 (ii) Subject to the provisions of subparagraph  
501 (v), during each of the next four (4) fiscal years, the department  
502 shall issue six (6) certificates of need for new nursing facility  
503 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
504 (1) certificate of need shall be issued for new nursing facility  
505 beds in the county in each of the four (4) Long-Term Care Planning  
506 Districts designated in the fiscal year 1999 State Health Plan  
507 that has the highest need in the district for those beds; and two  
508 (2) certificates of need shall be issued for new nursing facility  
509 beds in the two (2) counties from the state at large that have the  
510 highest need in the state for those beds, when considering the  
511 need on a statewide basis and without regard to the Long-Term Care  
512 Planning Districts in which the counties are located. During  
513 fiscal year 2003, one (1) certificate of need shall be issued for  
514 new nursing facility beds in any county having a need for fifty  
515 (50) or more additional nursing facility beds, as shown in the  
516 fiscal year 1999 State Health Plan, that has not received a  
517 certificate of need under this paragraph (q) during the three (3)



518 previous fiscal years. During fiscal year 2000, in addition to  
519 the six (6) certificates of need authorized in this subparagraph,  
520 the department also shall issue a certificate of need for new  
521 nursing facility beds in Amite County and a certificate of need  
522 for new nursing facility beds in Carroll County.

523 (iii) Subject to the provisions of subparagraph  
524 (v), the certificate of need issued under subparagraph (ii) for  
525 nursing facility beds in each Long-Term Care Planning District  
526 during each fiscal year shall first be available for nursing  
527 facility beds in the county in the district having the highest  
528 need for those beds, as shown in the fiscal year 1999 State Health  
529 Plan. If there are no applications for a certificate of need for  
530 nursing facility beds in the county having the highest need for  
531 those beds by the date specified by the department, then the  
532 certificate of need shall be available for nursing facility beds  
533 in other counties in the district in descending order of the need  
534 for those beds, from the county with the second highest need to  
535 the county with the lowest need, until an application is received  
536 for nursing facility beds in an eligible county in the district.

537 (iv) Subject to the provisions of subparagraph  
538 (v), the certificate of need issued under subparagraph (ii) for  
539 nursing facility beds in the two (2) counties from the state at  
540 large during each fiscal year shall first be available for nursing  
541 facility beds in the two (2) counties that have the highest need  
542 in the state for those beds, as shown in the fiscal year 1999



543 State Health Plan, when considering the need on a statewide basis  
544 and without regard to the Long-Term Care Planning Districts in  
545 which the counties are located. If there are no applications for  
546 a certificate of need for nursing facility beds in either of the  
547 two (2) counties having the highest need for those beds on a  
548 statewide basis by the date specified by the department, then the  
549 certificate of need shall be available for nursing facility beds  
550 in other counties from the state at large in descending order of  
551 the need for those beds on a statewide basis, from the county with  
552 the second highest need to the county with the lowest need, until  
553 an application is received for nursing facility beds in an  
554 eligible county from the state at large.

555 (v) If a certificate of need is authorized to be  
556 issued under this paragraph (q) for nursing facility beds in a  
557 county on the basis of the need in the Long-Term Care Planning  
558 District during any fiscal year of the four-year period, a  
559 certificate of need shall not also be available under this  
560 paragraph (q) for additional nursing facility beds in that county  
561 on the basis of the need in the state at large, and that county  
562 shall be excluded in determining which counties have the highest  
563 need for nursing facility beds in the state at large for that  
564 fiscal year. After a certificate of need has been issued under  
565 this paragraph (q) for nursing facility beds in a county during  
566 any fiscal year of the four-year period, a certificate of need  
567 shall not be available again under this paragraph (q) for



568 additional nursing facility beds in that county during the  
569 four-year period, and that county shall be excluded in determining  
570 which counties have the highest need for nursing facility beds in  
571 succeeding fiscal years.

572 (vi) If more than one (1) application is made for  
573 a certificate of need for nursing home facility beds available  
574 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
575 County, and one (1) of the applicants is a county-owned hospital  
576 located in the county where the nursing facility beds are  
577 available, the department shall give priority to the county-owned  
578 hospital in granting the certificate of need if the following  
579 conditions are met:

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

583 2. The county-owned hospital's qualifications  
584 for the certificate of need, as shown in its application and as  
585 determined by the department, are at least equal to the  
586 qualifications of the other applicants for the certificate of  
587 need.

588 (r) (i) Beginning on July 1, 1999, the State  
589 Department of Health shall issue certificates of need during each  
590 of the next two (2) fiscal years for the construction or expansion  
591 of nursing facility beds or the conversion of other beds to  
592 nursing facility beds in each of the four (4) Long-Term Care





593 Planning Districts designated in the fiscal year 1999 State Health  
594 Plan, to provide care exclusively to patients with Alzheimer's  
595 disease.

596 (ii) Not more than twenty (20) beds may be  
597 authorized by any certificate of need issued under this paragraph  
598 (r), and not more than a total of sixty (60) beds may be  
599 authorized in any Long-Term Care Planning District by all  
600 certificates of need issued under this paragraph (r). However,  
601 the total number of beds that may be authorized by all  
602 certificates of need issued under this paragraph (r) during any  
603 fiscal year shall not exceed one hundred twenty (120) beds, and  
604 the total number of beds that may be authorized in any Long-Term  
605 Care Planning District during any fiscal year shall not exceed  
606 forty (40) beds. Of the certificates of need that are issued for  
607 each Long-Term Care Planning District during the next two (2)  
608 fiscal years, at least one (1) shall be issued for beds in the  
609 northern part of the district, at least one (1) shall be issued  
610 for beds in the central part of the district, and at least one (1)  
611 shall be issued for beds in the southern part of the district.

612 (iii) The State Department of Health, in  
613 consultation with the Department of Mental Health and the Division  
614 of Medicaid, shall develop and prescribe the staffing levels,  
615 space requirements and other standards and requirements that must  
616 be met with regard to the nursing facility beds authorized under



617 this paragraph (r) to provide care exclusively to patients with  
618 Alzheimer's disease.

619 (s) The State Department of Health may issue a  
620 certificate of need to a nonprofit skilled nursing facility using  
621 the Green House model of skilled nursing care and located in Yazoo  
622 City, Yazoo County, Mississippi, for the construction, expansion  
623 or conversion of not more than nineteen (19) nursing facility  
624 beds. For purposes of this paragraph (s), the provisions of  
625 Section 41-7-193(1) requiring substantial compliance with the  
626 projection of need as reported in the current State Health Plan  
627 and the provisions of Section 41-7-197 requiring a formal  
628 certificate of need hearing process are waived. There shall be no  
629 prohibition or restrictions on participation in the Medicaid  
630 program for the person receiving the certificate of need  
631 authorized under this paragraph (s).

632 (t) The State Department of Health shall issue  
633 certificates of need to the owner of a nursing facility in  
634 operation at the time of Hurricane Katrina in Hancock County that  
635 was not operational on December 31, 2005, because of damage  
636 sustained from Hurricane Katrina to authorize the following: (i)  
637 the construction of a new nursing facility in Harrison County;  
638 (ii) the relocation of forty-nine (49) nursing facility beds from  
639 the Hancock County facility to the new Harrison County facility;  
640 (iii) the establishment of not more than twenty (20) non-Medicaid  
641 nursing facility beds at the Hancock County facility; and (iv) the



642 establishment of not more than twenty (20) non-Medicaid beds at  
643 the new Harrison County facility. The certificates of need that  
644 authorize the non-Medicaid nursing facility beds under  
645 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
646 subject to the following conditions: The owner of the Hancock  
647 County facility and the new Harrison County facility must agree in  
648 writing that no more than fifty (50) of the beds at the Hancock  
649 County facility and no more than forty-nine (49) of the beds at  
650 the Harrison County facility will be certified for participation  
651 in the Medicaid program, and that no claim will be submitted for  
652 Medicaid reimbursement for more than fifty (50) patients in the  
653 Hancock County facility in any month, or for more than forty-nine  
654 (49) patients in the Harrison County facility in any month, or for  
655 any patient in either facility who is in a bed that is not  
656 Medicaid-certified. This written agreement by the owner of the  
657 nursing facilities shall be a condition of the issuance of the  
658 certificates of need under this paragraph (t), and the agreement  
659 shall be fully binding on any later owner or owners of either  
660 facility if the ownership of either facility is transferred at any  
661 time after the certificates of need are issued. After this  
662 written agreement is executed, the Division of Medicaid and the  
663 State Department of Health shall not certify more than fifty (50)  
664 of the beds at the Hancock County facility or more than forty-nine  
665 (49) of the beds at the Harrison County facility for participation  
666 in the Medicaid program. If the Hancock County facility violates



667 the terms of the written agreement by admitting or keeping in the  
668 facility on a regular or continuing basis more than fifty (50)  
669 patients who are participating in the Medicaid program, or if the  
670 Harrison County facility violates the terms of the written  
671 agreement by admitting or keeping in the facility on a regular or  
672 continuing basis more than forty-nine (49) patients who are  
673 participating in the Medicaid program, the State Department of  
674 Health shall revoke the license of the facility that is in  
675 violation of the agreement, at the time that the department  
676 determines, after a hearing complying with due process, that the  
677 facility has violated the agreement.

678 (u) The State Department of Health shall issue a  
679 certificate of need to a nonprofit venture for the establishment,  
680 construction and operation of a skilled nursing facility of not  
681 more than sixty (60) beds to provide skilled nursing care for  
682 ventilator dependent or otherwise medically dependent pediatric  
683 patients who require medical and nursing care or rehabilitation  
684 services to be located in a county in which an academic medical  
685 center and a children's hospital are located, and for any  
686 construction and for the acquisition of equipment related to those  
687 beds. The facility shall be authorized to keep such ventilator  
688 dependent or otherwise medically dependent pediatric patients  
689 beyond age twenty-one (21) in accordance with regulations of the  
690 State Board of Health. For purposes of this paragraph (u), the  
691 provisions of Section 41-7-193(1) requiring substantial compliance



692 with the projection of need as reported in the current State  
693 Health Plan are waived, and the provisions of Section 41-7-197  
694 requiring a formal certificate of need hearing process are waived.  
695 The beds authorized by this paragraph shall be counted as  
696 pediatric skilled nursing facility beds for health planning  
697 purposes under Section 41-7-171 et seq. There shall be no  
698 prohibition of or restrictions on participation in the Medicaid  
699 program for the person receiving the certificate of need  
700 authorized by this paragraph.

701 (3) The State Department of Health may grant approval for  
702 and issue certificates of need to any person proposing the new  
703 construction of, addition to, conversion of beds of or expansion  
704 of any health care facility defined in subparagraph (x)  
705 (psychiatric residential treatment facility) of Section  
706 41-7-173(h). The total number of beds which may be authorized by  
707 such certificates of need shall not exceed three hundred  
708 thirty-four (334) beds for the entire state.

709 (a) Of the total number of beds authorized under this  
710 subsection, the department shall issue a certificate of need to a  
711 privately owned psychiatric residential treatment facility in  
712 Simpson County for the conversion of sixteen (16) intermediate  
713 care facility for the mentally retarded (ICF-MR) beds to  
714 psychiatric residential treatment facility beds, provided that  
715 facility agrees in writing that the facility shall give priority



716 for the use of those sixteen (16) beds to Mississippi residents  
717 who are presently being treated in out-of-state facilities.

718 (b) Of the total number of beds authorized under this  
719 subsection, the department may issue a certificate or certificates  
720 of need for the construction or expansion of psychiatric  
721 residential treatment facility beds or the conversion of other  
722 beds to psychiatric residential treatment facility beds in Warren  
723 County, not to exceed sixty (60) psychiatric residential treatment  
724 facility beds, provided that the facility agrees in writing that  
725 no more than thirty (30) of the beds at the psychiatric  
726 residential treatment facility will be certified for participation  
727 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
728 any patients other than those who are participating only in the  
729 Medicaid program of another state, and that no claim will be  
730 submitted to the Division of Medicaid for Medicaid reimbursement  
731 for more than thirty (30) patients in the psychiatric residential  
732 treatment facility in any day or for any patient in the  
733 psychiatric residential treatment facility who is in a bed that is  
734 not Medicaid-certified. This written agreement by the recipient  
735 of the certificate of need shall be a condition of the issuance of  
736 the certificate of need under this paragraph, and the agreement  
737 shall be fully binding on any subsequent owner of the psychiatric  
738 residential treatment facility if the ownership of the facility is  
739 transferred at any time after the issuance of the certificate of  
740 need. After this written agreement is executed, the Division of



741 Medicaid and the State Department of Health shall not certify more  
742 than thirty (30) of the beds in the psychiatric residential  
743 treatment facility for participation in the Medicaid program for  
744 the use of any patients other than those who are participating  
745 only in the Medicaid program of another state. If the psychiatric  
746 residential treatment facility violates the terms of the written  
747 agreement by admitting or keeping in the facility on a regular or  
748 continuing basis more than thirty (30) patients who are  
749 participating in the Mississippi Medicaid program, the State  
750 Department of Health shall revoke the license of the facility, at  
751 the time that the department determines, after a hearing complying  
752 with due process, that the facility has violated the condition  
753 upon which the certificate of need was issued, as provided in this  
754 paragraph and in the written agreement.

755         The State Department of Health, on or before July 1, 2002,  
756 shall transfer the certificate of need authorized under the  
757 authority of this paragraph (b), or reissue the certificate of  
758 need if it has expired, to River Region Health System.

759         (c) Of the total number of beds authorized under this  
760 subsection, the department shall issue a certificate of need to a  
761 hospital currently operating Medicaid-certified acute psychiatric  
762 beds for adolescents in DeSoto County, for the establishment of a  
763 forty-bed psychiatric residential treatment facility in DeSoto  
764 County, provided that the hospital agrees in writing (i) that the  
765 hospital shall give priority for the use of those forty (40) beds



766 to Mississippi residents who are presently being treated in  
767 out-of-state facilities, and (ii) that no more than fifteen (15)  
768 of the beds at the psychiatric residential treatment facility will  
769 be certified for participation in the Medicaid program (Section  
770 43-13-101 et seq.), and that no claim will be submitted for  
771 Medicaid reimbursement for more than fifteen (15) patients in the  
772 psychiatric residential treatment facility in any day or for any  
773 patient in the psychiatric residential treatment facility who is  
774 in a bed that is not Medicaid-certified. This written agreement  
775 by the recipient of the certificate of need shall be a condition  
776 of the issuance of the certificate of need under this paragraph,  
777 and the agreement shall be fully binding on any subsequent owner  
778 of the psychiatric residential treatment facility if the ownership  
779 of the facility is transferred at any time after the issuance of  
780 the certificate of need. After this written agreement is  
781 executed, the Division of Medicaid and the State Department of  
782 Health shall not certify more than fifteen (15) of the beds in the  
783 psychiatric residential treatment facility for participation in  
784 the Medicaid program. If the psychiatric residential treatment  
785 facility violates the terms of the written agreement by admitting  
786 or keeping in the facility on a regular or continuing basis more  
787 than fifteen (15) patients who are participating in the Medicaid  
788 program, the State Department of Health shall revoke the license  
789 of the facility, at the time that the department determines, after  
790 a hearing complying with due process, that the facility has





791 violated the condition upon which the certificate of need was  
792 issued, as provided in this paragraph and in the written  
793 agreement.

794 (d) Of the total number of beds authorized under this  
795 subsection, the department may issue a certificate or certificates  
796 of need for the construction or expansion of psychiatric  
797 residential treatment facility beds or the conversion of other  
798 beds to psychiatric treatment facility beds, not to exceed thirty  
799 (30) psychiatric residential treatment facility beds, in either  
800 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
801 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

802 (e) Of the total number of beds authorized under this  
803 subsection (3) the department shall issue a certificate of need to  
804 a privately owned, nonprofit psychiatric residential treatment  
805 facility in Hinds County for an eight-bed expansion of the  
806 facility, provided that the facility agrees in writing that the  
807 facility shall give priority for the use of those eight (8) beds  
808 to Mississippi residents who are presently being treated in  
809 out-of-state facilities.

810 (f) The department shall issue a certificate of need to  
811 a one-hundred-thirty-four-bed specialty hospital located on  
812 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
813 at 5900 Highway 39 North in Meridian (Lauderdale County),  
814 Mississippi, for the addition, construction or expansion of  
815 child/adolescent psychiatric residential treatment facility beds



816 in Lauderdale County. As a condition of issuance of the  
817 certificate of need under this paragraph, the facility shall give  
818 priority in admissions to the child/adolescent psychiatric  
819 residential treatment facility beds authorized under this  
820 paragraph to patients who otherwise would require out-of-state  
821 placement. The Division of Medicaid, in conjunction with the  
822 Department of Human Services, shall furnish the facility a list of  
823 all out-of-state patients on a quarterly basis. Furthermore,  
824 notice shall also be provided to the parent, custodial parent or  
825 guardian of each out-of-state patient notifying them of the  
826 priority status granted by this paragraph. For purposes of this  
827 paragraph, the provisions of Section 41-7-193(1) requiring  
828 substantial compliance with the projection of need as reported in  
829 the current State Health Plan are waived. The total number of  
830 child/adolescent psychiatric residential treatment facility beds  
831 that may be authorized under the authority of this paragraph shall  
832 be sixty (60) beds. There shall be no prohibition or restrictions  
833 on participation in the Medicaid program (Section 43-13-101 et  
834 seq.) for the person receiving the certificate of need authorized  
835 under this paragraph or for the beds converted pursuant to the  
836 authority of that certificate of need.

837 (4) (a) From and after July 1, 1993, the department shall  
838 not issue a certificate of need to any person for the new  
839 construction of any hospital, psychiatric hospital or chemical  
840 dependency hospital that will contain any child/adolescent



841 psychiatric or child/adolescent chemical dependency beds, or for  
842 the conversion of any other health care facility to a hospital,  
843 psychiatric hospital or chemical dependency hospital that will  
844 contain any child/adolescent psychiatric or child/adolescent  
845 chemical dependency beds, or for the addition of any  
846 child/adolescent psychiatric or child/adolescent chemical  
847 dependency beds in any hospital, psychiatric hospital or chemical  
848 dependency hospital, or for the conversion of any beds of another  
849 category in any hospital, psychiatric hospital or chemical  
850 dependency hospital to child/adolescent psychiatric or  
851 child/adolescent chemical dependency beds, except as hereinafter  
852 authorized:

853                   (i) The department may issue certificates of need  
854 to any person for any purpose described in this subsection,  
855 provided that the hospital, psychiatric hospital or chemical  
856 dependency hospital does not participate in the Medicaid program  
857 (Section 43-13-101 et seq.) at the time of the application for the  
858 certificate of need and the owner of the hospital, psychiatric  
859 hospital or chemical dependency hospital agrees in writing that  
860 the hospital, psychiatric hospital or chemical dependency hospital  
861 will not at any time participate in the Medicaid program or admit  
862 or keep any patients who are participating in the Medicaid program  
863 in the hospital, psychiatric hospital or chemical dependency  
864 hospital. This written agreement by the recipient of the  
865 certificate of need shall be fully binding on any subsequent owner



866 of the hospital, psychiatric hospital or chemical dependency  
867 hospital, if the ownership of the facility is transferred at any  
868 time after the issuance of the certificate of need. Agreement  
869 that the hospital, psychiatric hospital or chemical dependency  
870 hospital will not participate in the Medicaid program shall be a  
871 condition of the issuance of a certificate of need to any person  
872 under this subparagraph (i), and if such hospital, psychiatric  
873 hospital or chemical dependency hospital at any time after the  
874 issuance of the certificate of need, regardless of the ownership  
875 of the facility, participates in the Medicaid program or admits or  
876 keeps any patients in the hospital, psychiatric hospital or  
877 chemical dependency hospital who are participating in the Medicaid  
878 program, the State Department of Health shall revoke the  
879 certificate of need, if it is still outstanding, and shall deny or  
880 revoke the license of the hospital, psychiatric hospital or  
881 chemical dependency hospital, at the time that the department  
882 determines, after a hearing complying with due process, that the  
883 hospital, psychiatric hospital or chemical dependency hospital has  
884 failed to comply with any of the conditions upon which the  
885 certificate of need was issued, as provided in this subparagraph  
886 (i) and in the written agreement by the recipient of the  
887 certificate of need.

888 (ii) The department may issue a certificate of  
889 need for the conversion of existing beds in a county hospital in  
890 Choctaw County from acute care beds to child/adolescent chemical



891 dependency beds. For purposes of this subparagraph (ii), the  
892 provisions of Section 41-7-193(1) requiring substantial compliance  
893 with the projection of need as reported in the current State  
894 Health Plan are waived. The total number of beds that may be  
895 authorized under authority of this subparagraph shall not exceed  
896 twenty (20) beds. There shall be no prohibition or restrictions  
897 on participation in the Medicaid program (Section 43-13-101 et  
898 seq.) for the hospital receiving the certificate of need  
899 authorized under this subparagraph or for the beds converted  
900 pursuant to the authority of that certificate of need.

901 (iii) The department may issue a certificate or  
902 certificates of need for the construction or expansion of  
903 child/adolescent psychiatric beds or the conversion of other beds  
904 to child/adolescent psychiatric beds in Warren County. For  
905 purposes of this subparagraph (iii), the provisions of Section  
906 41-7-193(1) requiring substantial compliance with the projection  
907 of need as reported in the current State Health Plan are waived.  
908 The total number of beds that may be authorized under the  
909 authority of this subparagraph shall not exceed twenty (20) beds.  
910 There shall be no prohibition or restrictions on participation in  
911 the Medicaid program (Section 43-13-101 et seq.) for the person  
912 receiving the certificate of need authorized under this  
913 subparagraph or for the beds converted pursuant to the authority  
914 of that certificate of need.



915           If by January 1, 2002, there has been no significant  
916 commencement of construction of the beds authorized under this  
917 subparagraph (iii), or no significant action taken to convert  
918 existing beds to the beds authorized under this subparagraph, then  
919 the certificate of need that was previously issued under this  
920 subparagraph shall expire. If the previously issued certificate  
921 of need expires, the department may accept applications for  
922 issuance of another certificate of need for the beds authorized  
923 under this subparagraph, and may issue a certificate of need to  
924 authorize the construction, expansion or conversion of the beds  
925 authorized under this subparagraph.

926                       (iv) The department shall issue a certificate of  
927 need to the Region 7 Mental Health/Retardation Commission for the  
928 construction or expansion of child/adolescent psychiatric beds or  
929 the conversion of other beds to child/adolescent psychiatric beds  
930 in any of the counties served by the commission. For purposes of  
931 this subparagraph (iv), the provisions of Section 41-7-193(1)  
932 requiring substantial compliance with the projection of need as  
933 reported in the current State Health Plan are waived. The total  
934 number of beds that may be authorized under the authority of this  
935 subparagraph shall not exceed twenty (20) beds. There shall be no  
936 prohibition or restrictions on participation in the Medicaid  
937 program (Section 43-13-101 et seq.) for the person receiving the  
938 certificate of need authorized under this subparagraph or for the



939 beds converted pursuant to the authority of that certificate of  
940 need.

941 (v) The department may issue a certificate of need  
942 to any county hospital located in Leflore County for the  
943 construction or expansion of adult psychiatric beds or the  
944 conversion of other beds to adult psychiatric beds, not to exceed  
945 twenty (20) beds, provided that the recipient of the certificate  
946 of need agrees in writing that the adult psychiatric beds will not  
947 at any time be certified for participation in the Medicaid program  
948 and that the hospital will not admit or keep any patients who are  
949 participating in the Medicaid program in any of such adult  
950 psychiatric beds. This written agreement by the recipient of the  
951 certificate of need shall be fully binding on any subsequent owner  
952 of the hospital if the ownership of the hospital is transferred at  
953 any time after the issuance of the certificate of need. Agreement  
954 that the adult psychiatric beds will not be certified for  
955 participation in the Medicaid program shall be a condition of the  
956 issuance of a certificate of need to any person under this  
957 subparagraph (v), and if such hospital at any time after the  
958 issuance of the certificate of need, regardless of the ownership  
959 of the hospital, has any of such adult psychiatric beds certified  
960 for participation in the Medicaid program or admits or keeps any  
961 Medicaid patients in such adult psychiatric beds, the State  
962 Department of Health shall revoke the certificate of need, if it  
963 is still outstanding, and shall deny or revoke the license of the



964 hospital at the time that the department determines, after a  
965 hearing complying with due process, that the hospital has failed  
966 to comply with any of the conditions upon which the certificate of  
967 need was issued, as provided in this subparagraph and in the  
968 written agreement by the recipient of the certificate of need.

969 (vi) The department may issue a certificate or  
970 certificates of need for the expansion of child psychiatric beds  
971 or the conversion of other beds to child psychiatric beds at the  
972 University of Mississippi Medical Center. For purposes of this  
973 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
974 substantial compliance with the projection of need as reported in  
975 the current State Health Plan are waived. The total number of  
976 beds that may be authorized under the authority of this  
977 subparagraph shall not exceed fifteen (15) beds. There shall be  
978 no prohibition or restrictions on participation in the Medicaid  
979 program (Section 43-13-101 et seq.) for the hospital receiving the  
980 certificate of need authorized under this subparagraph or for the  
981 beds converted pursuant to the authority of that certificate of  
982 need.

983 (b) From and after July 1, 1990, no hospital,  
984 psychiatric hospital or chemical dependency hospital shall be  
985 authorized to add any child/adolescent psychiatric or  
986 child/adolescent chemical dependency beds or convert any beds of  
987 another category to child/adolescent psychiatric or





988 child/adolescent chemical dependency beds without a certificate of  
989 need under the authority of subsection (1)(c) of this section.

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

993 (6) The State Department of Health shall issue a certificate  
994 of need to a Mississippi corporation qualified to manage a  
995 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
996 Harrison County, not to exceed eighty (80) beds, including any  
997 necessary renovation or construction required for licensure and  
998 certification, provided that the recipient of the certificate of  
999 need agrees in writing that the long-term care hospital will not  
1000 at any time participate in the Medicaid program (Section 43-13-101  
1001 et seq.) or admit or keep any patients in the long-term care  
1002 hospital who are participating in the Medicaid program. This  
1003 written agreement by the recipient of the certificate of need  
1004 shall be fully binding on any subsequent owner of the long-term  
1005 care hospital, if the ownership of the facility is transferred at  
1006 any time after the issuance of the certificate of need. Agreement  
1007 that the long-term care hospital will not participate in the  
1008 Medicaid program shall be a condition of the issuance of a  
1009 certificate of need to any person under this subsection (6), and  
1010 if such long-term care hospital at any time after the issuance of  
1011 the certificate of need, regardless of the ownership of the  
1012 facility, participates in the Medicaid program or admits or keeps



1013 any patients in the facility who are participating in the Medicaid  
1014 program, the State Department of Health shall revoke the  
1015 certificate of need, if it is still outstanding, and shall deny or  
1016 revoke the license of the long-term care hospital, at the time  
1017 that the department determines, after a hearing complying with due  
1018 process, that the facility has failed to comply with any of the  
1019 conditions upon which the certificate of need was issued, as  
1020 provided in this subsection and in the written agreement by the  
1021 recipient of the certificate of need. For purposes of this  
1022 subsection, the provisions of Section 41-7-193(1) requiring  
1023 substantial compliance with the projection of need as reported in  
1024 the current State Health Plan are waived.

1025 (7) The State Department of Health may issue a certificate  
1026 of need to any hospital in the state to utilize a portion of its  
1027 beds for the "swing-bed" concept. Any such hospital must be in  
1028 conformance with the federal regulations regarding such swing-bed  
1029 concept at the time it submits its application for a certificate  
1030 of need to the State Department of Health, except that such  
1031 hospital may have more licensed beds or a higher average daily  
1032 census (ADC) than the maximum number specified in federal  
1033 regulations for participation in the swing-bed program. Any  
1034 hospital meeting all federal requirements for participation in the  
1035 swing-bed program which receives such certificate of need shall  
1036 render services provided under the swing-bed concept to any  
1037 patient eligible for Medicare (Title XVIII of the Social Security



1038 Act) who is certified by a physician to be in need of such  
1039 services, and no such hospital shall permit any patient who is  
1040 eligible for both Medicaid and Medicare or eligible only for  
1041 Medicaid to stay in the swing beds of the hospital for more than  
1042 thirty (30) days per admission unless the hospital receives prior  
1043 approval for such patient from the Division of Medicaid, Office of  
1044 the Governor. Any hospital having more licensed beds or a higher  
1045 average daily census (ADC) than the maximum number specified in  
1046 federal regulations for participation in the swing-bed program  
1047 which receives such certificate of need shall develop a procedure  
1048 to insure that before a patient is allowed to stay in the swing  
1049 beds of the hospital, there are no vacant nursing home beds  
1050 available for that patient located within a fifty-mile radius of  
1051 the hospital. When any such hospital has a patient staying in the  
1052 swing beds of the hospital and the hospital receives notice from a  
1053 nursing home located within such radius that there is a vacant bed  
1054 available for that patient, the hospital shall transfer the  
1055 patient to the nursing home within a reasonable time after receipt  
1056 of the notice. Any hospital which is subject to the requirements  
1057 of the two (2) preceding sentences of this subsection may be  
1058 suspended from participation in the swing-bed program for a  
1059 reasonable period of time by the State Department of Health if the  
1060 department, after a hearing complying with due process, determines  
1061 that the hospital has failed to comply with any of those  
1062 requirements.



1063 (8) The Department of Health shall not grant approval for or  
1064 issue a certificate of need to any person proposing the new  
1065 construction of, addition to or expansion of a health care  
1066 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1067 except as hereinafter provided: The department may issue a  
1068 certificate of need to a nonprofit corporation located in Madison  
1069 County, Mississippi, for the construction, expansion or conversion  
1070 of not more than twenty (20) beds in a community living program  
1071 for developmentally disabled adults in a facility as defined in  
1072 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1073 subsection (8), the provisions of Section 41-7-193(1) requiring  
1074 substantial compliance with the projection of need as reported in  
1075 the current State Health Plan and the provisions of Section  
1076 41-7-197 requiring a formal certificate of need hearing process  
1077 are waived. There shall be no prohibition or restrictions on  
1078 participation in the Medicaid program for the person receiving the  
1079 certificate of need authorized under this subsection (8).

1080 (9) The Department of Health shall not grant approval for or  
1081 issue a certificate of need to any person proposing the  
1082 establishment of, or expansion of the currently approved territory  
1083 of, or the contracting to establish a home office, subunit or  
1084 branch office within the space operated as a health care facility  
1085 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1086 care facility as defined in subparagraph (ix) of Section  
1087 41-7-173(h), except as hereinafter provided: The department may



1088 issue up to five (5) certificates of need to the recipients of the  
1089 five (5) new hospice licenses issued under Section 41-85-7(3), for  
1090 those hospice licensees to provide home health services to (a)  
1091 persons of any age who are eligible for home health services, but  
1092 with a focus on providing services to pediatric patients, (b)  
1093 persons who were initially eligible for hospice services but later  
1094 become ineligible and would have to be discharged to a home health  
1095 agency, and (c) persons who are referred to a home health agency  
1096 for palliative care but are not eligible for hospice services.

1097 (10) Health care facilities owned and/or operated by the  
1098 state or its agencies are exempt from the restraints in this  
1099 section against issuance of a certificate of need if such addition  
1100 or expansion consists of repairing or renovation necessary to  
1101 comply with the state licensure law. This exception shall not  
1102 apply to the new construction of any building by such state  
1103 facility. This exception shall not apply to any health care  
1104 facilities owned and/or operated by counties, municipalities,  
1105 districts, unincorporated areas, other defined persons, or any  
1106 combination thereof.

1107 (11) The new construction, renovation or expansion of or  
1108 addition to any health care facility defined in subparagraph (ii)  
1109 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1110 facility), subparagraph (vi) (intermediate care facility),  
1111 subparagraph (viii) (intermediate care facility for the mentally  
1112 retarded) and subparagraph (x) (psychiatric residential treatment



1113 facility) of Section 41-7-173(h) which is owned by the State of  
1114 Mississippi and under the direction and control of the State  
1115 Department of Mental Health, and the addition of new beds or the  
1116 conversion of beds from one category to another in any such  
1117 defined health care facility which is owned by the State of  
1118 Mississippi and under the direction and control of the State  
1119 Department of Mental Health, shall not require the issuance of a  
1120 certificate of need under Section 41-7-171 et seq.,  
1121 notwithstanding any provision in Section 41-7-171 et seq. to the  
1122 contrary.

1123 (12) The new construction, renovation or expansion of or  
1124 addition to any veterans homes or domiciliaries for eligible  
1125 veterans of the State of Mississippi as authorized under Section  
1126 35-1-19 shall not require the issuance of a certificate of need,  
1127 notwithstanding any provision in Section 41-7-171 et seq. to the  
1128 contrary.

1129 (13) The repair or the rebuilding of an existing, operating  
1130 health care facility that sustained significant damage from a  
1131 natural disaster that occurred after April 15, 2014, in an area  
1132 that is proclaimed a disaster area or subject to a state of  
1133 emergency by the Governor or by the President of the United States  
1134 shall be exempt from all of the requirements of the Mississippi  
1135 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1136 rules and regulations promulgated under that law, subject to the  
1137 following conditions:



1138           (a) The repair or the rebuilding of any such damaged  
1139 health care facility must be within one (1) mile of the  
1140 pre-disaster location of the campus of the damaged health care  
1141 facility, except that any temporary post-disaster health care  
1142 facility operating location may be within five (5) miles of the  
1143 pre-disaster location of the damaged health care facility;

1144           (b) The repair or the rebuilding of the damaged health  
1145 care facility (i) does not increase or change the complement of  
1146 its bed capacity that it had before the Governor's or the  
1147 President's proclamation, (ii) does not increase or change its  
1148 levels and types of health care services that it provided before  
1149 the Governor's or the President's proclamation, and (iii) does not  
1150 rebuild in a different county; however, this paragraph does not  
1151 restrict or prevent a health care facility from decreasing its bed  
1152 capacity that it had before the Governor's or the President's  
1153 proclamation, or from decreasing the levels of or decreasing or  
1154 eliminating the types of health care services that it provided  
1155 before the Governor's or the President's proclamation, when the  
1156 damaged health care facility is repaired or rebuilt;

1157           (c) The exemption from Certificate of Need Law provided  
1158 under this subsection (13) is valid for only five (5) years from  
1159 the date of the Governor's or the President's proclamation. If  
1160 actual construction has not begun within that five-year period,  
1161 the exemption provided under this subsection is inapplicable; and



1162 (d) The Division of Health Facilities Licensure and  
1163 Certification of the State Department of Health shall provide the  
1164 same oversight for the repair or the rebuilding of the damaged  
1165 health care facility that it provides to all health care facility  
1166 construction projects in the state.

1167 For the purposes of this subsection (13), "significant  
1168 damage" to a health care facility means damage to the health care  
1169 facility requiring an expenditure of at least One Million Dollars  
1170 (\$1,000,000.00).

1171 (14) The State Department of Health shall issue a  
1172 certificate of need to any hospital which is currently licensed  
1173 for two hundred fifty (250) or more acute care beds and is located  
1174 in any general hospital service area not having a comprehensive  
1175 cancer center, for the establishment and equipping of such a  
1176 center which provides facilities and services for outpatient  
1177 radiation oncology therapy, outpatient medical oncology therapy,  
1178 and appropriate support services including the provision of  
1179 radiation therapy services. The provisions of Section 41-7-193(1)  
1180 regarding substantial compliance with the projection of need as  
1181 reported in the current State Health Plan are waived for the  
1182 purpose of this subsection.

1183 (15) The State Department of Health may authorize the  
1184 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1185 North Panola Community Hospital to the South Panola Community





1186 Hospital. The authorization for the transfer of those beds shall  
1187 be exempt from the certificate of need review process.

1188 (16) The State Department of Health shall issue any  
1189 certificates of need necessary for Mississippi State University  
1190 and a public or private health care provider to jointly acquire  
1191 and operate a linear accelerator and a magnetic resonance imaging  
1192 unit. Those certificates of need shall cover all capital  
1193 expenditures related to the project between Mississippi State  
1194 University and the health care provider, including, but not  
1195 limited to, the acquisition of the linear accelerator, the  
1196 magnetic resonance imaging unit and other radiological modalities;  
1197 the offering of linear accelerator and magnetic resonance imaging  
1198 services; and the cost of construction of facilities in which to  
1199 locate these services. The linear accelerator and the magnetic  
1200 resonance imaging unit shall be (a) located in the City of  
1201 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1202 Mississippi State University and the public or private health care  
1203 provider selected by Mississippi State University through a  
1204 request for proposals (RFP) process in which Mississippi State  
1205 University selects, and the Board of Trustees of State  
1206 Institutions of Higher Learning approves, the health care provider  
1207 that makes the best overall proposal; (c) available to Mississippi  
1208 State University for research purposes two-thirds (2/3) of the  
1209 time that the linear accelerator and magnetic resonance imaging  
1210 unit are operational; and (d) available to the public or private



1211 health care provider selected by Mississippi State University and  
1212 approved by the Board of Trustees of State Institutions of Higher  
1213 Learning one-third (1/3) of the time for clinical, diagnostic and  
1214 treatment purposes. For purposes of this subsection, the  
1215 provisions of Section 41-7-193(1) requiring substantial compliance  
1216 with the projection of need as reported in the current State  
1217 Health Plan are waived.

1218 (17) The State Department of Health shall issue a  
1219 certificate of need for the construction of an acute care hospital  
1220 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1221 be named the "John C. Stennis Memorial Hospital." In issuing the  
1222 certificate of need under this subsection, the department shall  
1223 give priority to a hospital located in Lauderdale County that has  
1224 two hundred fifteen (215) beds. For purposes of this subsection,  
1225 the provisions of Section 41-7-193(1) requiring substantial  
1226 compliance with the projection of need as reported in the current  
1227 State Health Plan and the provisions of Section 41-7-197 requiring  
1228 a formal certificate of need hearing process are waived. There  
1229 shall be no prohibition or restrictions on participation in the  
1230 Medicaid program (Section 43-13-101 et seq.) for the person or  
1231 entity receiving the certificate of need authorized under this  
1232 subsection or for the beds constructed under the authority of that  
1233 certificate of need.

1234 (18) The planning, design, construction, renovation,  
1235 addition, furnishing and equipping of a clinical research unit at



1236 any health care facility defined in Section 41-7-173(h) that is  
1237 under the direction and control of the University of Mississippi  
1238 Medical Center and located in Jackson, Mississippi, and the  
1239 addition of new beds or the conversion of beds from one (1)  
1240 category to another in any such clinical research unit, shall not  
1241 require the issuance of a certificate of need under Section  
1242 41-7-171 et seq., notwithstanding any provision in Section  
1243 41-7-171 et seq. to the contrary.

1244 (19) [Repealed]

1245 (20) Nothing in this section or in any other provision of  
1246 Section 41-7-171 et seq. shall prevent any nursing facility from  
1247 designating an appropriate number of existing beds in the facility  
1248 as beds for providing care exclusively to patients with  
1249 Alzheimer's disease.

1250 **SECTION 2.** This act shall take effect and be in force from  
1251 and after July 1, 2019.

