

By: Senator(s) Horhn

To: Public Health and Welfare

SENATE BILL NO. 2327

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 THE CONSTRUCTION OF A 60-BED NURSING FACILITY IN ANY UNDERSERVED
4 MINORITY ZIP CODE AREA IN THE STATE; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the
9 following activities without obtaining the required certificate of
10 need:

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

15 (b) The relocation of a health care facility or portion
16 thereof, or major medical equipment, unless such relocation of a
17 health care facility or portion thereof, or major medical
18 equipment, which does not involve a capital expenditure by or on
19 behalf of a health care facility, is within five thousand two



20 hundred eighty (5,280) feet from the main entrance of the health
21 care facility;

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



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

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

67 (e) The relocation of one or more health services from
68 one physical facility or site to another physical facility or
69 site, unless such relocation, which does not involve a capital



70 expenditure by or on behalf of a health care facility, (i) is to a
71 physical facility or site within five thousand two hundred eighty
72 (5,280) feet from the main entrance of the health care facility
73 where the health care service is located, or (ii) is the result of
74 an order of a court of appropriate jurisdiction or a result of
75 pending litigation in such court, or by order of the State
76 Department of Health, or by order of any other agency or legal
77 entity of the state, the federal government, or any political
78 subdivision of either, whose order is also approved by the State
79 Department of Health;

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

90 (g) Changes of ownership of existing health care
91 facilities in which a notice of intent is not filed with the State
92 Department of Health at least thirty (30) days prior to the date
93 such change of ownership occurs, or a change in services or bed
94 capacity as prescribed in paragraph (c) or (d) of this subsection



95 as a result of the change of ownership; an acquisition for less
96 than fair market value must be reviewed, if the acquisition at
97 fair market value would be subject to review;

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

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

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

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



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

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

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

135 (a) The department may issue a certificate of need to
136 any person proposing the new construction of any health care
137 facility defined in subparagraphs (iv) and (vi) of Section
138 41-7-173(h) as part of a life care retirement facility, in any
139 county bordering on the Gulf of Mexico in which is located a
140 National Aeronautics and Space Administration facility, not to
141 exceed forty (40) beds. From and after July 1, 1999, there shall
142 be no prohibition or restrictions on participation in the Medicaid



143 program (Section 43-13-101 et seq.) for the beds in the health
144 care facility that were authorized under this paragraph (a).

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

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



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

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

189 (e) The State Department of Health may issue a
190 certificate of need for the construction of a nursing facility or
191 the conversion of beds to nursing facility beds at a personal care
192 facility for the elderly in Lowndes County that is owned and



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

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

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

214 (h) The State Department of Health may issue a
215 certificate of need for the construction or expansion of nursing
216 facility beds or the conversion of other beds to nursing facility
217 beds in either Hancock, Harrison or Jackson County, not to exceed



218 sixty (60) beds. From and after July 1, 1999, there shall be no
219 prohibition or restrictions on participation in the Medicaid
220 program (Section 43-13-101 et seq.) for the beds in the facility
221 that were authorized under this paragraph (h).

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



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

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



268 after July 1, 1999, there shall be no prohibition or restrictions
269 on participation in the Medicaid program (Section 43-13-101 et
270 seq.) for the beds in the long-term care facilities that were
271 authorized under this paragraph (j).

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



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

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

312 (m) The State Department of Health may issue a
313 certificate of need to a county-owned hospital in the Second
314 Judicial District of Panola County for the conversion of not more
315 than seventy-two (72) hospital beds to nursing facility beds,
316 provided that the recipient of the certificate of need agrees in
317 writing that none of the beds at the nursing facility will be



318 certified for participation in the Medicaid program (Section
319 43-13-101 et seq.), and that no claim will be submitted for
320 Medicaid reimbursement in the nursing facility in any day or for
321 any patient in the nursing facility. This written agreement by
322 the recipient of the certificate of need shall be a condition of
323 the issuance of the certificate of need under this paragraph, and
324 the agreement shall be fully binding on any subsequent owner of
325 the nursing facility if the ownership of the nursing facility is
326 transferred at any time after the issuance of the certificate of
327 need. After this written agreement is executed, the Division of
328 Medicaid and the State Department of Health shall not certify any
329 of the beds in the nursing facility for participation in the
330 Medicaid program. If the nursing facility violates the terms of
331 the written agreement by admitting or keeping in the nursing
332 facility on a regular or continuing basis any patients who are
333 participating in the Medicaid program, the State Department of
334 Health shall revoke the license of the nursing facility, at the
335 time that the department determines, after a hearing complying
336 with due process, that the nursing facility has violated the
337 condition upon which the certificate of need was issued, as
338 provided in this paragraph and in the written agreement. If the
339 certificate of need authorized under this paragraph is not issued
340 within twelve (12) months after July 1, 2001, the department shall
341 deny the application for the certificate of need and shall not
342 issue the certificate of need at any time after the twelve-month



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

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



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



393 issue a license for the nursing facility at any time after the
394 eighteen-month period. However, if the issuance of the
395 certificate of need is contested, the department shall require
396 substantial construction of the nursing facility beds within six
397 (6) months after final adjudication on the issuance of the
398 certificate of need.

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



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



443 (p) The department may issue a certificate of need for
444 the construction of a municipally owned nursing facility within
445 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
446 beds, provided that the recipient of the certificate of need
447 agrees in writing that the skilled nursing facility will not at
448 any time participate in the Medicaid program (Section 43-13-101 et
449 seq.) or admit or keep any patients in the skilled nursing
450 facility who are participating in the Medicaid program. This
451 written agreement by the recipient of the certificate of need
452 shall be fully binding on any subsequent owner of the skilled
453 nursing facility, if the ownership of the facility is transferred
454 at any time after the issuance of the certificate of need.
455 Agreement that the skilled nursing facility will not participate
456 in the Medicaid program shall be a condition of the issuance of a
457 certificate of need to any person under this paragraph (p), and if
458 such skilled nursing facility at any time after the issuance of
459 the certificate of need, regardless of the ownership of the
460 facility, participates in the Medicaid program or admits or keeps
461 any patients in the facility who are participating in the Medicaid
462 program, the State Department of Health shall revoke the
463 certificate of need, if it is still outstanding, and shall deny or
464 revoke the license of the skilled nursing facility, at the time
465 that the department determines, after a hearing complying with due
466 process, that the facility has failed to comply with any of the
467 conditions upon which the certificate of need was issued, as



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

488 (q) (i) Beginning on July 1, 1999, the State
489 Department of Health shall issue certificates of need during each
490 of the next four (4) fiscal years for the construction or
491 expansion of nursing facility beds or the conversion of other beds
492 to nursing facility beds in each county in the state having a need



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

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



518 the department also shall issue a certificate of need for new
519 nursing facility beds in Amite County and a certificate of need
520 for new nursing facility beds in Carroll County.

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

535 (iv) Subject to the provisions of subparagraph
536 (v), the certificate of need issued under subparagraph (ii) for
537 nursing facility beds in the two (2) counties from the state at
538 large during each fiscal year shall first be available for nursing
539 facility beds in the two (2) counties that have the highest need
540 in the state for those beds, as shown in the fiscal year 1999
541 State Health Plan, when considering the need on a statewide basis
542 and without regard to the Long-Term Care Planning Districts in



543 which the counties are located. If there are no applications for
544 a certificate of need for nursing facility beds in either of the
545 two (2) counties having the highest need for those beds on a
546 statewide basis by the date specified by the department, then the
547 certificate of need shall be available for nursing facility beds
548 in other counties from the state at large in descending order of
549 the need for those beds on a statewide basis, from the county with
550 the second highest need to the county with the lowest need, until
551 an application is received for nursing facility beds in an
552 eligible county from the state at large.

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



568 which counties have the highest need for nursing facility beds in
569 succeeding fiscal years.

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

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

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

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



592 Plan, to provide care exclusively to patients with Alzheimer's
593 disease.

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

610 (iii) The State Department of Health, in
611 consultation with the Department of Mental Health and the Division
612 of Medicaid, shall develop and prescribe the staffing levels,
613 space requirements and other standards and requirements that must
614 be met with regard to the nursing facility beds authorized under
615 this paragraph (r) to provide care exclusively to patients with
616 Alzheimer's disease.



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

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



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



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

676 (u) The State Department of Health shall issue a
677 certificate of need to a nonprofit venture for the establishment,
678 construction and operation of a skilled nursing facility of not
679 more than sixty (60) beds to provide skilled nursing care for
680 ventilator dependent or otherwise medically dependent pediatric
681 patients who require medical and nursing care or rehabilitation
682 services to be located in a county in which an academic medical
683 center and a children's hospital are located, and for any
684 construction and for the acquisition of equipment related to those
685 beds. The facility shall be authorized to keep such ventilator
686 dependent or otherwise medically dependent pediatric patients
687 beyond age twenty-one (21) in accordance with regulations of the
688 State Board of Health. For purposes of this paragraph (u), the
689 provisions of Section 41-7-193(1) requiring substantial compliance
690 with the projection of need as reported in the current State
691 Health Plan are waived, and the provisions of Section 41-7-197



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

699 (v) (i) The State Department of Health may issue a
700 certificate of need for the construction of a nursing facility in
701 an underserved minority zip code area, not to exceed sixty (60)
702 beds. For the purpose of this paragraph (v), the term "minority"
703 means Black, Hispanic, Asian or Pacific Islander, American Indian
704 or Alaskan native; and an "underserved minority zip code area"
705 means a United States Postal Service zip code area that:

706 1. Has a population of not less than thirty
707 thousand (30,000), according to the 2000 federal decennial census,
708 of which not less than seventy-five percent (75%) of the
709 population in the zip code area are racial minorities;

710 2. Is wholly or partially located in a county
711 that has a 2018 projected need for not less than four hundred
712 (400) additional nursing facility beds, according to the 2018
713 State Health Plan; and

714 3. Has no existing or approved nonpublic
715 nursing facility located in the zip code area.



716 (ii) If a certificate of need issued under this
717 paragraph (v) authorizes a nursing facility to be constructed in a
718 United States Postal Service zip code area that is located in more
719 than one (1) county, the nursing facility must be constructed in
720 that portion of the zip code area located in the county that has a
721 2018 projected need for not less than four hundred (400)
722 additional nursing facility beds, according to the 2018 State
723 Health Plan.

724 (iii) In the certificate of need review process
725 under this paragraph (v), the department shall give first priority
726 for the certificate of need to applicants that:

727 1. Currently own and operate one (1) nursing
728 facility in the State of Mississippi;

729 2. Have demonstrated a history of quality of
730 care within the preceding twenty-four (24) months and have not
731 received any of the following sanctions:

732 a. Termination of Medicaid and/or
733 Medicare certification;

734 b. Denial, suspension or revocation of
735 nursing facility license;

736 c. Cumulative Medicaid and/or Medicare
737 civil monetary penalties totaling more than Five Thousand Dollars
738 (\$5,000.00); or

739 d. Denial of payment for new admissions;



740 3. Mississippi Department of Health finds no
741 clear pattern of substantial or repeated state licensure and
742 Medicaid certification sanctions, including administrative
743 penalties and/or other sanctions;

744 4. As of January 1, 2019, have implemented
745 all certificates of need that they, or any partner or co-owner,
746 have previously received; and

747 5. Are nonprofit corporations.

748 (3) The State Department of Health may grant approval for
749 and issue certificates of need to any person proposing the new
750 construction of, addition to, conversion of beds of or expansion
751 of any health care facility defined in subparagraph (x)
752 (psychiatric residential treatment facility) of Section
753 41-7-173(h). The total number of beds which may be authorized by
754 such certificates of need shall not exceed three hundred
755 thirty-four (334) beds for the entire state.

756 (a) Of the total number of beds authorized under this
757 subsection, the department shall issue a certificate of need to a
758 privately owned psychiatric residential treatment facility in
759 Simpson County for the conversion of sixteen (16) intermediate
760 care facility for the mentally retarded (ICF-MR) beds to
761 psychiatric residential treatment facility beds, provided that
762 facility agrees in writing that the facility shall give priority
763 for the use of those sixteen (16) beds to Mississippi residents
764 who are presently being treated in out-of-state facilities.



765 (b) Of the total number of beds authorized under this
766 subsection, the department may issue a certificate or certificates
767 of need for the construction or expansion of psychiatric
768 residential treatment facility beds or the conversion of other
769 beds to psychiatric residential treatment facility beds in Warren
770 County, not to exceed sixty (60) psychiatric residential treatment
771 facility beds, provided that the facility agrees in writing that
772 no more than thirty (30) of the beds at the psychiatric
773 residential treatment facility will be certified for participation
774 in the Medicaid program (Section 43-13-101 et seq.) for the use of
775 any patients other than those who are participating only in the
776 Medicaid program of another state, and that no claim will be
777 submitted to the Division of Medicaid for Medicaid reimbursement
778 for more than thirty (30) patients in the psychiatric residential
779 treatment facility in any day or for any patient in the
780 psychiatric residential treatment facility who is in a bed that is
781 not Medicaid-certified. This written agreement by the recipient
782 of the certificate of need shall be a condition of the issuance of
783 the certificate of need under this paragraph, and the agreement
784 shall be fully binding on any subsequent owner of the psychiatric
785 residential treatment facility if the ownership of the facility is
786 transferred at any time after the issuance of the certificate of
787 need. After this written agreement is executed, the Division of
788 Medicaid and the State Department of Health shall not certify more
789 than thirty (30) of the beds in the psychiatric residential



790 treatment facility for participation in the Medicaid program for
791 the use of any patients other than those who are participating
792 only in the Medicaid program of another state. If the psychiatric
793 residential treatment facility violates the terms of the written
794 agreement by admitting or keeping in the facility on a regular or
795 continuing basis more than thirty (30) patients who are
796 participating in the Mississippi Medicaid program, the State
797 Department of Health shall revoke the license of the facility, at
798 the time that the department determines, after a hearing complying
799 with due process, that the facility has violated the condition
800 upon which the certificate of need was issued, as provided in this
801 paragraph and in the written agreement.

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

806 (c) Of the total number of beds authorized under this
807 subsection, the department shall issue a certificate of need to a
808 hospital currently operating Medicaid-certified acute psychiatric
809 beds for adolescents in DeSoto County, for the establishment of a
810 forty-bed psychiatric residential treatment facility in DeSoto
811 County, provided that the hospital agrees in writing (i) that the
812 hospital shall give priority for the use of those forty (40) beds
813 to Mississippi residents who are presently being treated in
814 out-of-state facilities, and (ii) that no more than fifteen (15)



815 of the beds at the psychiatric residential treatment facility will
816 be certified for participation in the Medicaid program (Section
817 43-13-101 et seq.), and that no claim will be submitted for
818 Medicaid reimbursement for more than fifteen (15) patients in the
819 psychiatric residential treatment facility in any day or for any
820 patient in the psychiatric residential treatment facility who is
821 in a bed that is not Medicaid-certified. This written agreement
822 by the recipient of the certificate of need shall be a condition
823 of the issuance of the certificate of need under this paragraph,
824 and the agreement shall be fully binding on any subsequent owner
825 of the psychiatric residential treatment facility if the ownership
826 of the facility is transferred at any time after the issuance of
827 the certificate of need. After this written agreement is
828 executed, the Division of Medicaid and the State Department of
829 Health shall not certify more than fifteen (15) of the beds in the
830 psychiatric residential treatment facility for participation in
831 the Medicaid program. If the psychiatric residential treatment
832 facility violates the terms of the written agreement by admitting
833 or keeping in the facility on a regular or continuing basis more
834 than fifteen (15) patients who are participating in the Medicaid
835 program, the State Department of Health shall revoke the license
836 of the facility, at the time that the department determines, after
837 a hearing complying with due process, that the facility has
838 violated the condition upon which the certificate of need was



839 issued, as provided in this paragraph and in the written
840 agreement.

841 (d) Of the total number of beds authorized under this
842 subsection, the department may issue a certificate or certificates
843 of need for the construction or expansion of psychiatric
844 residential treatment facility beds or the conversion of other
845 beds to psychiatric treatment facility beds, not to exceed thirty
846 (30) psychiatric residential treatment facility beds, in either
847 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
848 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

849 (e) Of the total number of beds authorized under this
850 subsection (3) the department shall issue a certificate of need to
851 a privately owned, nonprofit psychiatric residential treatment
852 facility in Hinds County for an eight-bed expansion of the
853 facility, provided that the facility agrees in writing that the
854 facility shall give priority for the use of those eight (8) beds
855 to Mississippi residents who are presently being treated in
856 out-of-state facilities.

857 (f) The department shall issue a certificate of need to
858 a one-hundred-thirty-four-bed specialty hospital located on
859 twenty-nine and forty-four one-hundredths (29.44) commercial acres
860 at 5900 Highway 39 North in Meridian (Lauderdale County),
861 Mississippi, for the addition, construction or expansion of
862 child/adolescent psychiatric residential treatment facility beds
863 in Lauderdale County. As a condition of issuance of the



864 certificate of need under this paragraph, the facility shall give
865 priority in admissions to the child/adolescent psychiatric
866 residential treatment facility beds authorized under this
867 paragraph to patients who otherwise would require out-of-state
868 placement. The Division of Medicaid, in conjunction with the
869 Department of Human Services, shall furnish the facility a list of
870 all out-of-state patients on a quarterly basis. Furthermore,
871 notice shall also be provided to the parent, custodial parent or
872 guardian of each out-of-state patient notifying them of the
873 priority status granted by this paragraph. For purposes of this
874 paragraph, the provisions of Section 41-7-193(1) requiring
875 substantial compliance with the projection of need as reported in
876 the current State Health Plan are waived. The total number of
877 child/adolescent psychiatric residential treatment facility beds
878 that may be authorized under the authority of this paragraph shall
879 be sixty (60) beds. There shall be no prohibition or restrictions
880 on participation in the Medicaid program (Section 43-13-101 et
881 seq.) for the person receiving the certificate of need authorized
882 under this paragraph or for the beds converted pursuant to the
883 authority of that certificate of need.

884 (4) (a) From and after July 1, 1993, the department shall
885 not issue a certificate of need to any person for the new
886 construction of any hospital, psychiatric hospital or chemical
887 dependency hospital that will contain any child/adolescent
888 psychiatric or child/adolescent chemical dependency beds, or for



889 the conversion of any other health care facility to a hospital,
890 psychiatric hospital or chemical dependency hospital that will
891 contain any child/adolescent psychiatric or child/adolescent
892 chemical dependency beds, or for the addition of any
893 child/adolescent psychiatric or child/adolescent chemical
894 dependency beds in any hospital, psychiatric hospital or chemical
895 dependency hospital, or for the conversion of any beds of another
896 category in any hospital, psychiatric hospital or chemical
897 dependency hospital to child/adolescent psychiatric or
898 child/adolescent chemical dependency beds, except as hereinafter
899 authorized:

900 (i) The department may issue certificates of need
901 to any person for any purpose described in this subsection,
902 provided that the hospital, psychiatric hospital or chemical
903 dependency hospital does not participate in the Medicaid program
904 (Section 43-13-101 et seq.) at the time of the application for the
905 certificate of need and the owner of the hospital, psychiatric
906 hospital or chemical dependency hospital agrees in writing that
907 the hospital, psychiatric hospital or chemical dependency hospital
908 will not at any time participate in the Medicaid program or admit
909 or keep any patients who are participating in the Medicaid program
910 in the hospital, psychiatric hospital or chemical dependency
911 hospital. This written agreement by the recipient of the
912 certificate of need shall be fully binding on any subsequent owner
913 of the hospital, psychiatric hospital or chemical dependency



914 hospital, if the ownership of the facility is transferred at any
915 time after the issuance of the certificate of need. Agreement
916 that the hospital, psychiatric hospital or chemical dependency
917 hospital will not participate in the Medicaid program shall be a
918 condition of the issuance of a certificate of need to any person
919 under this subparagraph (i), and if such hospital, psychiatric
920 hospital or chemical dependency hospital at any time after the
921 issuance of the certificate of need, regardless of the ownership
922 of the facility, participates in the Medicaid program or admits or
923 keeps any patients in the hospital, psychiatric hospital or
924 chemical dependency hospital who are participating in the Medicaid
925 program, the State Department of Health shall revoke the
926 certificate of need, if it is still outstanding, and shall deny or
927 revoke the license of the hospital, psychiatric hospital or
928 chemical dependency hospital, at the time that the department
929 determines, after a hearing complying with due process, that the
930 hospital, psychiatric hospital or chemical dependency hospital has
931 failed to comply with any of the conditions upon which the
932 certificate of need was issued, as provided in this subparagraph
933 (i) and in the written agreement by the recipient of the
934 certificate of need.

935 (ii) The department may issue a certificate of
936 need for the conversion of existing beds in a county hospital in
937 Choctaw County from acute care beds to child/adolescent chemical
938 dependency beds. For purposes of this subparagraph (ii), the



939 provisions of Section 41-7-193(1) requiring substantial compliance
940 with the projection of need as reported in the current State
941 Health Plan are waived. The total number of beds that may be
942 authorized under authority of this subparagraph shall not exceed
943 twenty (20) beds. There shall be no prohibition or restrictions
944 on participation in the Medicaid program (Section 43-13-101 et
945 seq.) for the hospital receiving the certificate of need
946 authorized under this subparagraph or for the beds converted
947 pursuant to the authority of that certificate of need.

948 (iii) The department may issue a certificate or
949 certificates of need for the construction or expansion of
950 child/adolescent psychiatric beds or the conversion of other beds
951 to child/adolescent psychiatric beds in Warren County. For
952 purposes of this subparagraph (iii), the provisions of Section
953 41-7-193(1) requiring substantial compliance with the projection
954 of need as reported in the current State Health Plan are waived.
955 The total number of beds that may be authorized under the
956 authority of this subparagraph shall not exceed twenty (20) beds.
957 There shall be no prohibition or restrictions on participation in
958 the Medicaid program (Section 43-13-101 et seq.) for the person
959 receiving the certificate of need authorized under this
960 subparagraph or for the beds converted pursuant to the authority
961 of that certificate of need.

962 If by January 1, 2002, there has been no significant
963 commencement of construction of the beds authorized under this



964 subparagraph (iii), or no significant action taken to convert
965 existing beds to the beds authorized under this subparagraph, then
966 the certificate of need that was previously issued under this
967 subparagraph shall expire. If the previously issued certificate
968 of need expires, the department may accept applications for
969 issuance of another certificate of need for the beds authorized
970 under this subparagraph, and may issue a certificate of need to
971 authorize the construction, expansion or conversion of the beds
972 authorized under this subparagraph.

973 (iv) The department shall issue a certificate of
974 need to the Region 7 Mental Health/Retardation Commission for the
975 construction or expansion of child/adolescent psychiatric beds or
976 the conversion of other beds to child/adolescent psychiatric beds
977 in any of the counties served by the commission. For purposes of
978 this subparagraph (iv), the provisions of Section 41-7-193(1)
979 requiring substantial compliance with the projection of need as
980 reported in the current State Health Plan are waived. The total
981 number of beds that may be authorized under the authority of this
982 subparagraph shall not exceed twenty (20) beds. There shall be no
983 prohibition or restrictions on participation in the Medicaid
984 program (Section 43-13-101 et seq.) for the person receiving the
985 certificate of need authorized under this subparagraph or for the
986 beds converted pursuant to the authority of that certificate of
987 need.



988 (v) The department may issue a certificate of need
989 to any county hospital located in Leflore County for the
990 construction or expansion of adult psychiatric beds or the
991 conversion of other beds to adult psychiatric beds, not to exceed
992 twenty (20) beds, provided that the recipient of the certificate
993 of need agrees in writing that the adult psychiatric beds will not
994 at any time be certified for participation in the Medicaid program
995 and that the hospital will not admit or keep any patients who are
996 participating in the Medicaid program in any of such adult
997 psychiatric beds. This written agreement by the recipient of the
998 certificate of need shall be fully binding on any subsequent owner
999 of the hospital if the ownership of the hospital is transferred at
1000 any time after the issuance of the certificate of need. Agreement
1001 that the adult psychiatric beds will not be certified for
1002 participation in the Medicaid program shall be a condition of the
1003 issuance of a certificate of need to any person under this
1004 subparagraph (v), and if such hospital at any time after the
1005 issuance of the certificate of need, regardless of the ownership
1006 of the hospital, has any of such adult psychiatric beds certified
1007 for participation in the Medicaid program or admits or keeps any
1008 Medicaid patients in such adult psychiatric beds, the State
1009 Department of Health shall revoke the certificate of need, if it
1010 is still outstanding, and shall deny or revoke the license of the
1011 hospital at the time that the department determines, after a
1012 hearing complying with due process, that the hospital has failed



1013 to comply with any of the conditions upon which the certificate of
1014 need was issued, as provided in this subparagraph and in the
1015 written agreement by the recipient of the certificate of need.

1016 (vi) The department may issue a certificate or
1017 certificates of need for the expansion of child psychiatric beds
1018 or the conversion of other beds to child psychiatric beds at the
1019 University of Mississippi Medical Center. For purposes of this
1020 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1021 substantial compliance with the projection of need as reported in
1022 the current State Health Plan are waived. The total number of
1023 beds that may be authorized under the authority of this
1024 subparagraph shall not exceed fifteen (15) beds. There shall be
1025 no prohibition or restrictions on participation in the Medicaid
1026 program (Section 43-13-101 et seq.) for the hospital receiving the
1027 certificate of need authorized under this subparagraph or for the
1028 beds converted pursuant to the authority of that certificate of
1029 need.

1030 (b) From and after July 1, 1990, no hospital,
1031 psychiatric hospital or chemical dependency hospital shall be
1032 authorized to add any child/adolescent psychiatric or
1033 child/adolescent chemical dependency beds or convert any beds of
1034 another category to child/adolescent psychiatric or
1035 child/adolescent chemical dependency beds without a certificate of
1036 need under the authority of subsection (1)(c) of this section.



1037 (5) The department may issue a certificate of need to a
1038 county hospital in Winston County for the conversion of fifteen
1039 (15) acute care beds to geriatric psychiatric care beds.

1040 (6) The State Department of Health shall issue a certificate
1041 of need to a Mississippi corporation qualified to manage a
1042 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1043 Harrison County, not to exceed eighty (80) beds, including any
1044 necessary renovation or construction required for licensure and
1045 certification, provided that the recipient of the certificate of
1046 need agrees in writing that the long-term care hospital will not
1047 at any time participate in the Medicaid program (Section 43-13-101
1048 et seq.) or admit or keep any patients in the long-term care
1049 hospital who are participating in the Medicaid program. This
1050 written agreement by the recipient of the certificate of need
1051 shall be fully binding on any subsequent owner of the long-term
1052 care hospital, if the ownership of the facility is transferred at
1053 any time after the issuance of the certificate of need. Agreement
1054 that the long-term care hospital will not participate in the
1055 Medicaid program shall be a condition of the issuance of a
1056 certificate of need to any person under this subsection (6), and
1057 if such long-term care hospital at any time after the issuance of
1058 the certificate of need, regardless of the ownership of the
1059 facility, participates in the Medicaid program or admits or keeps
1060 any patients in the facility who are participating in the Medicaid
1061 program, the State Department of Health shall revoke the



1062 certificate of need, if it is still outstanding, and shall deny or
1063 revoke the license of the long-term care hospital, at the time
1064 that the department determines, after a hearing complying with due
1065 process, that the facility has failed to comply with any of the
1066 conditions upon which the certificate of need was issued, as
1067 provided in this subsection and in the written agreement by the
1068 recipient of the certificate of need. For purposes of this
1069 subsection, the provisions of Section 41-7-193(1) requiring
1070 substantial compliance with the projection of need as reported in
1071 the current State Health Plan are waived.

1072 (7) The State Department of Health may issue a certificate
1073 of need to any hospital in the state to utilize a portion of its
1074 beds for the "swing-bed" concept. Any such hospital must be in
1075 conformance with the federal regulations regarding such swing-bed
1076 concept at the time it submits its application for a certificate
1077 of need to the State Department of Health, except that such
1078 hospital may have more licensed beds or a higher average daily
1079 census (ADC) than the maximum number specified in federal
1080 regulations for participation in the swing-bed program. Any
1081 hospital meeting all federal requirements for participation in the
1082 swing-bed program which receives such certificate of need shall
1083 render services provided under the swing-bed concept to any
1084 patient eligible for Medicare (Title XVIII of the Social Security
1085 Act) who is certified by a physician to be in need of such
1086 services, and no such hospital shall permit any patient who is



1087 eligible for both Medicaid and Medicare or eligible only for
1088 Medicaid to stay in the swing beds of the hospital for more than
1089 thirty (30) days per admission unless the hospital receives prior
1090 approval for such patient from the Division of Medicaid, Office of
1091 the Governor. Any hospital having more licensed beds or a higher
1092 average daily census (ADC) than the maximum number specified in
1093 federal regulations for participation in the swing-bed program
1094 which receives such certificate of need shall develop a procedure
1095 to insure that before a patient is allowed to stay in the swing
1096 beds of the hospital, there are no vacant nursing home beds
1097 available for that patient located within a fifty-mile radius of
1098 the hospital. When any such hospital has a patient staying in the
1099 swing beds of the hospital and the hospital receives notice from a
1100 nursing home located within such radius that there is a vacant bed
1101 available for that patient, the hospital shall transfer the
1102 patient to the nursing home within a reasonable time after receipt
1103 of the notice. Any hospital which is subject to the requirements
1104 of the two (2) preceding sentences of this subsection may be
1105 suspended from participation in the swing-bed program for a
1106 reasonable period of time by the State Department of Health if the
1107 department, after a hearing complying with due process, determines
1108 that the hospital has failed to comply with any of those
1109 requirements.

1110 (8) The Department of Health shall not grant approval for or
1111 issue a certificate of need to any person proposing the new



1112 construction of, addition to or expansion of a health care
1113 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1114 except as hereinafter provided: The department may issue a
1115 certificate of need to a nonprofit corporation located in Madison
1116 County, Mississippi, for the construction, expansion or conversion
1117 of not more than twenty (20) beds in a community living program
1118 for developmentally disabled adults in a facility as defined in
1119 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1120 subsection (8), the provisions of Section 41-7-193(1) requiring
1121 substantial compliance with the projection of need as reported in
1122 the current State Health Plan and the provisions of Section
1123 41-7-197 requiring a formal certificate of need hearing process
1124 are waived. There shall be no prohibition or restrictions on
1125 participation in the Medicaid program for the person receiving the
1126 certificate of need authorized under this subsection (8).

1127 (9) The Department of Health shall not grant approval for or
1128 issue a certificate of need to any person proposing the
1129 establishment of, or expansion of the currently approved territory
1130 of, or the contracting to establish a home office, subunit or
1131 branch office within the space operated as a health care facility
1132 as defined in Section 41-7-173(h) (i) through (viii) by a health
1133 care facility as defined in subparagraph (ix) of Section
1134 41-7-173(h).

1135 (10) Health care facilities owned and/or operated by the
1136 state or its agencies are exempt from the restraints in this



1137 section against issuance of a certificate of need if such addition
1138 or expansion consists of repairing or renovation necessary to
1139 comply with the state licensure law. This exception shall not
1140 apply to the new construction of any building by such state
1141 facility. This exception shall not apply to any health care
1142 facilities owned and/or operated by counties, municipalities,
1143 districts, unincorporated areas, other defined persons, or any
1144 combination thereof.

1145 (11) The new construction, renovation or expansion of or
1146 addition to any health care facility defined in subparagraph (ii)
1147 (psychiatric hospital), subparagraph (iv) (skilled nursing
1148 facility), subparagraph (vi) (intermediate care facility),
1149 subparagraph (viii) (intermediate care facility for the mentally
1150 retarded) and subparagraph (x) (psychiatric residential treatment
1151 facility) of Section 41-7-173(h) which is owned by the State of
1152 Mississippi and under the direction and control of the State
1153 Department of Mental Health, and the addition of new beds or the
1154 conversion of beds from one category to another in any such
1155 defined health care facility which is owned by the State of
1156 Mississippi and under the direction and control of the State
1157 Department of Mental Health, shall not require the issuance of a
1158 certificate of need under Section 41-7-171 et seq.,
1159 notwithstanding any provision in Section 41-7-171 et seq. to the
1160 contrary.



1161 (12) The new construction, renovation or expansion of or
1162 addition to any veterans homes or domiciliaries for eligible
1163 veterans of the State of Mississippi as authorized under Section
1164 35-1-19 shall not require the issuance of a certificate of need,
1165 notwithstanding any provision in Section 41-7-171 et seq. to the
1166 contrary.

1167 (13) The repair or the rebuilding of an existing, operating
1168 health care facility that sustained significant damage from a
1169 natural disaster that occurred after April 15, 2014, in an area
1170 that is proclaimed a disaster area or subject to a state of
1171 emergency by the Governor or by the President of the United States
1172 shall be exempt from all of the requirements of the Mississippi
1173 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1174 rules and regulations promulgated under that law, subject to the
1175 following conditions:

1176 (a) The repair or the rebuilding of any such damaged
1177 health care facility must be within one (1) mile of the
1178 pre-disaster location of the campus of the damaged health care
1179 facility, except that any temporary post-disaster health care
1180 facility operating location may be within five (5) miles of the
1181 pre-disaster location of the damaged health care facility;

1182 (b) The repair or the rebuilding of the damaged health
1183 care facility (i) does not increase or change the complement of
1184 its bed capacity that it had before the Governor's or the
1185 President's proclamation, (ii) does not increase or change its



1186 levels and types of health care services that it provided before
1187 the Governor's or the President's proclamation, and (iii) does not
1188 rebuild in a different county; however, this paragraph does not
1189 restrict or prevent a health care facility from decreasing its bed
1190 capacity that it had before the Governor's or the President's
1191 proclamation, or from decreasing the levels of or decreasing or
1192 eliminating the types of health care services that it provided
1193 before the Governor's or the President's proclamation, when the
1194 damaged health care facility is repaired or rebuilt;

1195 (c) The exemption from Certificate of Need Law provided
1196 under this subsection (13) is valid for only five (5) years from
1197 the date of the Governor's or the President's proclamation. If
1198 actual construction has not begun within that five-year period,
1199 the exemption provided under this subsection is inapplicable; and

1200 (d) The Division of Health Facilities Licensure and
1201 Certification of the State Department of Health shall provide the
1202 same oversight for the repair or the rebuilding of the damaged
1203 health care facility that it provides to all health care facility
1204 construction projects in the state.

1205 For the purposes of this subsection (13), "significant
1206 damage" to a health care facility means damage to the health care
1207 facility requiring an expenditure of at least One Million Dollars
1208 (\$1,000,000.00).

1209 (14) The State Department of Health shall issue a
1210 certificate of need to any hospital which is currently licensed



1211 for two hundred fifty (250) or more acute care beds and is located
1212 in any general hospital service area not having a comprehensive
1213 cancer center, for the establishment and equipping of such a
1214 center which provides facilities and services for outpatient
1215 radiation oncology therapy, outpatient medical oncology therapy,
1216 and appropriate support services including the provision of
1217 radiation therapy services. The provisions of Section 41-7-193(1)
1218 regarding substantial compliance with the projection of need as
1219 reported in the current State Health Plan are waived for the
1220 purpose of this subsection.

1221 (15) The State Department of Health may authorize the
1222 transfer of hospital beds, not to exceed sixty (60) beds, from the
1223 North Panola Community Hospital to the South Panola Community
1224 Hospital. The authorization for the transfer of those beds shall
1225 be exempt from the certificate of need review process.

1226 (16) The State Department of Health shall issue any
1227 certificates of need necessary for Mississippi State University
1228 and a public or private health care provider to jointly acquire
1229 and operate a linear accelerator and a magnetic resonance imaging
1230 unit. Those certificates of need shall cover all capital
1231 expenditures related to the project between Mississippi State
1232 University and the health care provider, including, but not
1233 limited to, the acquisition of the linear accelerator, the
1234 magnetic resonance imaging unit and other radiological modalities;
1235 the offering of linear accelerator and magnetic resonance imaging



1236 services; and the cost of construction of facilities in which to
1237 locate these services. The linear accelerator and the magnetic
1238 resonance imaging unit shall be (a) located in the City of
1239 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1240 Mississippi State University and the public or private health care
1241 provider selected by Mississippi State University through a
1242 request for proposals (RFP) process in which Mississippi State
1243 University selects, and the Board of Trustees of State
1244 Institutions of Higher Learning approves, the health care provider
1245 that makes the best overall proposal; (c) available to Mississippi
1246 State University for research purposes two-thirds (2/3) of the
1247 time that the linear accelerator and magnetic resonance imaging
1248 unit are operational; and (d) available to the public or private
1249 health care provider selected by Mississippi State University and
1250 approved by the Board of Trustees of State Institutions of Higher
1251 Learning one-third (1/3) of the time for clinical, diagnostic and
1252 treatment purposes. For purposes of this subsection, the
1253 provisions of Section 41-7-193(1) requiring substantial compliance
1254 with the projection of need as reported in the current State
1255 Health Plan are waived.

1256 (17) The State Department of Health shall issue a
1257 certificate of need for the construction of an acute care hospital
1258 in Kemper County, not to exceed twenty-five (25) beds, which shall
1259 be named the "John C. Stennis Memorial Hospital." In issuing the
1260 certificate of need under this subsection, the department shall



1261 give priority to a hospital located in Lauderdale County that has
1262 two hundred fifteen (215) beds. For purposes of this subsection,
1263 the provisions of Section 41-7-193(1) requiring substantial
1264 compliance with the projection of need as reported in the current
1265 State Health Plan and the provisions of Section 41-7-197 requiring
1266 a formal certificate of need hearing process are waived. There
1267 shall be no prohibition or restrictions on participation in the
1268 Medicaid program (Section 43-13-101 et seq.) for the person or
1269 entity receiving the certificate of need authorized under this
1270 subsection or for the beds constructed under the authority of that
1271 certificate of need.

1272 (18) The planning, design, construction, renovation,
1273 addition, furnishing and equipping of a clinical research unit at
1274 any health care facility defined in Section 41-7-173(h) that is
1275 under the direction and control of the University of Mississippi
1276 Medical Center and located in Jackson, Mississippi, and the
1277 addition of new beds or the conversion of beds from one (1)
1278 category to another in any such clinical research unit, shall not
1279 require the issuance of a certificate of need under Section
1280 41-7-171 et seq., notwithstanding any provision in Section
1281 41-7-171 et seq. to the contrary.

1282 (19) [Repealed]

1283 (20) Nothing in this section or in any other provision of
1284 Section 41-7-171 et seq. shall prevent any nursing facility from
1285 designating an appropriate number of existing beds in the facility



1286 as beds for providing care exclusively to patients with
1287 Alzheimer's disease.

1288 **SECTION 2.** This act shall take effect and be in force from
1289 and after July 1, 2019.

