

By: Senator(s) Blackmon

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2657

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A
3 CERTIFICATE OF NEED FOR THE TRANSFER OF ANY AUTHORIZED
4 MEDICAID-ELIGIBLE NURSING HOME BED THAT HAS NOT BEEN PLACED IN
5 OPERATION AFTER A PERIOD OF ONE YEAR TO ANOTHER NURSING HOME IN
6 THE HEALTH SERVICE AREA WITH THE GREATEST NEED FOR LONG-TERM CARE
7 BEDS AS INDICATED IN THE STATE HEALTH PLAN, NOT TO EXCEED 10 BEDS
8 FOR ANY FACILITY; AND FOR RELATED PURPOSES.

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

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

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

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

19 (b) The relocation of a health care facility or portion
20 thereof, or major medical equipment, unless such relocation of a
21 health care facility or portion thereof, or major medical



22 equipment, which does not involve a capital expenditure by or on
23 behalf of a health care facility, is within five thousand two
24 hundred eighty (5,280) feet from the main entrance of the health
25 care facility;

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



47 delicensure of some of its beds without seeking certificate of
48 need approval;

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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



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

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



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



445 (6) months after final adjudication on the issuance of the
446 certificate of need.

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

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



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

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



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

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



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

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

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



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

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



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

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

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

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

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



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

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

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



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

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

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



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



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

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



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

703 (v) The State Department of Health is authorized and
704 directed to issue a certificate of need for the transfer of any
705 Medicaid-eligible nursing home bed that has been authorized for a
706 skilled nursing facility or intermediate care facility and has not
707 been placed in operation within one (1) year of being authorized
708 to another skilled or intermediate care facility in the state with
709 the greatest need for long-term care beds as indicated in the most
710 recent State Health Plan, not to exceed ten (10) beds for any one
711 (1) facility.

712 (3) The State Department of Health may grant approval for
713 and issue certificates of need to any person proposing the new
714 construction of, addition to, conversion of beds of or expansion
715 of any health care facility defined in subparagraph (x)
716 (psychiatric residential treatment facility) of Section
717 41-7-173(h). The total number of beds which may be authorized by



718 such certificates of need shall not exceed three hundred
719 thirty-four (334) beds for the entire state.

720 (a) Of the total number of beds authorized under this
721 subsection, the department shall issue a certificate of need to a
722 privately owned psychiatric residential treatment facility in
723 Simpson County for the conversion of sixteen (16) intermediate
724 care facility for the mentally retarded (ICF-MR) beds to
725 psychiatric residential treatment facility beds, provided that
726 facility agrees in writing that the facility shall give priority
727 for the use of those sixteen (16) beds to Mississippi residents
728 who are presently being treated in out-of-state facilities.

729 (b) Of the total number of beds authorized under this
730 subsection, the department may issue a certificate or certificates
731 of need for the construction or expansion of psychiatric
732 residential treatment facility beds or the conversion of other
733 beds to psychiatric residential treatment facility beds in Warren
734 County, not to exceed sixty (60) psychiatric residential treatment
735 facility beds, provided that the facility agrees in writing that
736 no more than thirty (30) of the beds at the psychiatric
737 residential treatment facility will be certified for participation
738 in the Medicaid program (Section 43-13-101 et seq.) for the use of
739 any patients other than those who are participating only in the
740 Medicaid program of another state, and that no claim will be
741 submitted to the Division of Medicaid for Medicaid reimbursement
742 for more than thirty (30) patients in the psychiatric residential



743 treatment facility in any day or for any patient in the
744 psychiatric residential treatment facility who is in a bed that is
745 not Medicaid-certified. This written agreement by the recipient
746 of the certificate of need shall be a condition of the issuance of
747 the certificate of need under this paragraph, and the agreement
748 shall be fully binding on any subsequent owner of the psychiatric
749 residential treatment facility if the ownership of the facility is
750 transferred at any time after the issuance of the certificate of
751 need. After this written agreement is executed, the Division of
752 Medicaid and the State Department of Health shall not certify more
753 than thirty (30) of the beds in the psychiatric residential
754 treatment facility for participation in the Medicaid program for
755 the use of any patients other than those who are participating
756 only in the Medicaid program of another state. If the psychiatric
757 residential treatment facility violates the terms of the written
758 agreement by admitting or keeping in the facility on a regular or
759 continuing basis more than thirty (30) patients who are
760 participating in the Mississippi Medicaid program, the State
761 Department of Health shall revoke the license of the facility, at
762 the time that the department determines, after a hearing complying
763 with due process, that the facility has violated the condition
764 upon which the certificate of need was issued, as provided in this
765 paragraph and in the written agreement.

766 The State Department of Health, on or before July 1, 2002,
767 shall transfer the certificate of need authorized under the



768 authority of this paragraph (b), or reissue the certificate of
769 need if it has expired, to River Region Health System.

770 (c) Of the total number of beds authorized under this
771 subsection, the department shall issue a certificate of need to a
772 hospital currently operating Medicaid-certified acute psychiatric
773 beds for adolescents in DeSoto County, for the establishment of a
774 forty-bed psychiatric residential treatment facility in DeSoto
775 County, provided that the hospital agrees in writing (i) that the
776 hospital shall give priority for the use of those forty (40) beds
777 to Mississippi residents who are presently being treated in
778 out-of-state facilities, and (ii) that no more than fifteen (15)
779 of the beds at the psychiatric residential treatment facility will
780 be certified for participation in the Medicaid program (Section
781 43-13-101 et seq.), and that no claim will be submitted for
782 Medicaid reimbursement for more than fifteen (15) patients in the
783 psychiatric residential treatment facility in any day or for any
784 patient in the psychiatric residential treatment facility who is
785 in a bed that is not Medicaid-certified. This written agreement
786 by the recipient of the certificate of need shall be a condition
787 of the issuance of the certificate of need under this paragraph,
788 and the agreement shall be fully binding on any subsequent owner
789 of the psychiatric residential treatment facility if the ownership
790 of the facility is transferred at any time after the issuance of
791 the certificate of need. After this written agreement is
792 executed, the Division of Medicaid and the State Department of



793 Health shall not certify more than fifteen (15) of the beds in the
794 psychiatric residential treatment facility for participation in
795 the Medicaid program. If the psychiatric residential treatment
796 facility violates the terms of the written agreement by admitting
797 or keeping in the facility on a regular or continuing basis more
798 than fifteen (15) patients who are participating in the Medicaid
799 program, the State Department of Health shall revoke the license
800 of the facility, at the time that the department determines, after
801 a hearing complying with due process, that the facility has
802 violated the condition upon which the certificate of need was
803 issued, as provided in this paragraph and in the written
804 agreement.

805 (d) Of the total number of beds authorized under this
806 subsection, the department may issue a certificate or certificates
807 of need for the construction or expansion of psychiatric
808 residential treatment facility beds or the conversion of other
809 beds to psychiatric treatment facility beds, not to exceed thirty
810 (30) psychiatric residential treatment facility beds, in either
811 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
812 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

813 (e) Of the total number of beds authorized under this
814 subsection (3) the department shall issue a certificate of need to
815 a privately owned, nonprofit psychiatric residential treatment
816 facility in Hinds County for an eight-bed expansion of the
817 facility, provided that the facility agrees in writing that the



818 facility shall give priority for the use of those eight (8) beds
819 to Mississippi residents who are presently being treated in
820 out-of-state facilities.

821 (f) The department shall issue a certificate of need to
822 a one-hundred-thirty-four-bed specialty hospital located on
823 twenty-nine and forty-four one-hundredths (29.44) commercial acres
824 at 5900 Highway 39 North in Meridian (Lauderdale County),
825 Mississippi, for the addition, construction or expansion of
826 child/adolescent psychiatric residential treatment facility beds
827 in Lauderdale County. As a condition of issuance of the
828 certificate of need under this paragraph, the facility shall give
829 priority in admissions to the child/adolescent psychiatric
830 residential treatment facility beds authorized under this
831 paragraph to patients who otherwise would require out-of-state
832 placement. The Division of Medicaid, in conjunction with the
833 Department of Human Services, shall furnish the facility a list of
834 all out-of-state patients on a quarterly basis. Furthermore,
835 notice shall also be provided to the parent, custodial parent or
836 guardian of each out-of-state patient notifying them of the
837 priority status granted by this paragraph. For purposes of this
838 paragraph, the provisions of Section 41-7-193(1) requiring
839 substantial compliance with the projection of need as reported in
840 the current State Health Plan are waived. The total number of
841 child/adolescent psychiatric residential treatment facility beds
842 that may be authorized under the authority of this paragraph shall



843 be sixty (60) beds. There shall be no prohibition or restrictions
844 on participation in the Medicaid program (Section 43-13-101 et
845 seq.) for the person receiving the certificate of need authorized
846 under this paragraph or for the beds converted pursuant to the
847 authority of that certificate of need.

848 (4) (a) From and after July 1, 1993, the department shall
849 not issue a certificate of need to any person for the new
850 construction of any hospital, psychiatric hospital or chemical
851 dependency hospital that will contain any child/adolescent
852 psychiatric or child/adolescent chemical dependency beds, or for
853 the conversion of any other health care facility to a hospital,
854 psychiatric hospital or chemical dependency hospital that will
855 contain any child/adolescent psychiatric or child/adolescent
856 chemical dependency beds, or for the addition of any
857 child/adolescent psychiatric or child/adolescent chemical
858 dependency beds in any hospital, psychiatric hospital or chemical
859 dependency hospital, or for the conversion of any beds of another
860 category in any hospital, psychiatric hospital or chemical
861 dependency hospital to child/adolescent psychiatric or
862 child/adolescent chemical dependency beds, except as hereinafter
863 authorized:

864 (i) The department may issue certificates of need
865 to any person for any purpose described in this subsection,
866 provided that the hospital, psychiatric hospital or chemical
867 dependency hospital does not participate in the Medicaid program



868 (Section 43-13-101 et seq.) at the time of the application for the
869 certificate of need and the owner of the hospital, psychiatric
870 hospital or chemical dependency hospital agrees in writing that
871 the hospital, psychiatric hospital or chemical dependency hospital
872 will not at any time participate in the Medicaid program or admit
873 or keep any patients who are participating in the Medicaid program
874 in the hospital, psychiatric hospital or chemical dependency
875 hospital. This written agreement by the recipient of the
876 certificate of need shall be fully binding on any subsequent owner
877 of the hospital, psychiatric hospital or chemical dependency
878 hospital, if the ownership of the facility is transferred at any
879 time after the issuance of the certificate of need. Agreement
880 that the hospital, psychiatric hospital or chemical dependency
881 hospital will not participate in the Medicaid program shall be a
882 condition of the issuance of a certificate of need to any person
883 under this subparagraph (i), and if such hospital, psychiatric
884 hospital or chemical dependency hospital at any time after the
885 issuance of the certificate of need, regardless of the ownership
886 of the facility, participates in the Medicaid program or admits or
887 keeps any patients in the hospital, psychiatric hospital or
888 chemical dependency hospital who are participating in the Medicaid
889 program, the State Department of Health shall revoke the
890 certificate of need, if it is still outstanding, and shall deny or
891 revoke the license of the hospital, psychiatric hospital or
892 chemical dependency hospital, at the time that the department



893 determines, after a hearing complying with due process, that the
894 hospital, psychiatric hospital or chemical dependency hospital has
895 failed to comply with any of the conditions upon which the
896 certificate of need was issued, as provided in this subparagraph
897 (i) and in the written agreement by the recipient of the
898 certificate of need.

899 (ii) The department may issue a certificate of
900 need for the conversion of existing beds in a county hospital in
901 Choctaw County from acute care beds to child/adolescent chemical
902 dependency beds. For purposes of this subparagraph (ii), the
903 provisions of Section 41-7-193(1) requiring substantial compliance
904 with the projection of need as reported in the current State
905 Health Plan are waived. The total number of beds that may be
906 authorized under authority of this subparagraph shall not exceed
907 twenty (20) beds. There shall be no prohibition or restrictions
908 on participation in the Medicaid program (Section 43-13-101 et
909 seq.) for the hospital receiving the certificate of need
910 authorized under this subparagraph or for the beds converted
911 pursuant to the authority of that certificate of need.

912 (iii) The department may issue a certificate or
913 certificates of need for the construction or expansion of
914 child/adolescent psychiatric beds or the conversion of other beds
915 to child/adolescent psychiatric beds in Warren County. For
916 purposes of this subparagraph (iii), the provisions of Section
917 41-7-193(1) requiring substantial compliance with the projection



918 of need as reported in the current State Health Plan are waived.
919 The total number of beds that may be authorized under the
920 authority of this subparagraph shall not exceed twenty (20) beds.
921 There shall be no prohibition or restrictions on participation in
922 the Medicaid program (Section 43-13-101 et seq.) for the person
923 receiving the certificate of need authorized under this
924 subparagraph or for the beds converted pursuant to the authority
925 of that certificate of need.

926 If by January 1, 2002, there has been no significant
927 commencement of construction of the beds authorized under this
928 subparagraph (iii), or no significant action taken to convert
929 existing beds to the beds authorized under this subparagraph, then
930 the certificate of need that was previously issued under this
931 subparagraph shall expire. If the previously issued certificate
932 of need expires, the department may accept applications for
933 issuance of another certificate of need for the beds authorized
934 under this subparagraph, and may issue a certificate of need to
935 authorize the construction, expansion or conversion of the beds
936 authorized under this subparagraph.

937 (iv) The department shall issue a certificate of
938 need to the Region 7 Mental Health/Retardation Commission for the
939 construction or expansion of child/adolescent psychiatric beds or
940 the conversion of other beds to child/adolescent psychiatric beds
941 in any of the counties served by the commission. For purposes of
942 this subparagraph (iv), the provisions of Section 41-7-193(1)



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

952 (v) The department may issue a certificate of need
953 to any county hospital located in Leflore County for the
954 construction or expansion of adult psychiatric beds or the
955 conversion of other beds to adult psychiatric beds, not to exceed
956 twenty (20) beds, provided that the recipient of the certificate
957 of need agrees in writing that the adult psychiatric beds will not
958 at any time be certified for participation in the Medicaid program
959 and that the hospital will not admit or keep any patients who are
960 participating in the Medicaid program in any of such adult
961 psychiatric beds. This written agreement by the recipient of the
962 certificate of need shall be fully binding on any subsequent owner
963 of the hospital if the ownership of the hospital is transferred at
964 any time after the issuance of the certificate of need. Agreement
965 that the adult psychiatric beds will not be certified for
966 participation in the Medicaid program shall be a condition of the
967 issuance of a certificate of need to any person under this



968 subparagraph (v), and if such hospital at any time after the
969 issuance of the certificate of need, regardless of the ownership
970 of the hospital, has any of such adult psychiatric beds certified
971 for participation in the Medicaid program or admits or keeps any
972 Medicaid patients in such adult psychiatric beds, the State
973 Department of Health shall revoke the certificate of need, if it
974 is still outstanding, and shall deny or revoke the license of the
975 hospital at the time that the department determines, after a
976 hearing complying with due process, that the hospital has failed
977 to comply with any of the conditions upon which the certificate of
978 need was issued, as provided in this subparagraph and in the
979 written agreement by the recipient of the certificate of need.

980 (vi) The department may issue a certificate or
981 certificates of need for the expansion of child psychiatric beds
982 or the conversion of other beds to child psychiatric beds at the
983 University of Mississippi Medical Center. For purposes of this
984 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
985 substantial compliance with the projection of need as reported in
986 the current State Health Plan are waived. The total number of
987 beds that may be authorized under the authority of this
988 subparagraph shall not exceed fifteen (15) beds. There shall be
989 no prohibition or restrictions on participation in the Medicaid
990 program (Section 43-13-101 et seq.) for the hospital receiving the
991 certificate of need authorized under this subparagraph or for the



992 beds converted pursuant to the authority of that certificate of
993 need.

994 (b) From and after July 1, 1990, no hospital,
995 psychiatric hospital or chemical dependency hospital shall be
996 authorized to add any child/adolescent psychiatric or
997 child/adolescent chemical dependency beds or convert any beds of
998 another category to child/adolescent psychiatric or
999 child/adolescent chemical dependency beds without a certificate of
1000 need under the authority of subsection (1)(c) of this section.

1001 (5) The department may issue a certificate of need to a
1002 county hospital in Winston County for the conversion of fifteen
1003 (15) acute care beds to geriatric psychiatric care beds.

1004 (6) The State Department of Health shall issue a certificate
1005 of need to a Mississippi corporation qualified to manage a
1006 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1007 Harrison County, not to exceed eighty (80) beds, including any
1008 necessary renovation or construction required for licensure and
1009 certification, provided that the recipient of the certificate of
1010 need agrees in writing that the long-term care hospital will not
1011 at any time participate in the Medicaid program (Section 43-13-101
1012 et seq.) or admit or keep any patients in the long-term care
1013 hospital who are participating in the Medicaid program. This
1014 written agreement by the recipient of the certificate of need
1015 shall be fully binding on any subsequent owner of the long-term
1016 care hospital, if the ownership of the facility is transferred at



1017 any time after the issuance of the certificate of need. Agreement
1018 that the long-term care hospital will not participate in the
1019 Medicaid program shall be a condition of the issuance of a
1020 certificate of need to any person under this subsection (6), and
1021 if such long-term care hospital at any time after the issuance of
1022 the certificate of need, regardless of the ownership of the
1023 facility, participates in the Medicaid program or admits or keeps
1024 any patients in the facility who are participating in the Medicaid
1025 program, the State Department of Health shall revoke the
1026 certificate of need, if it is still outstanding, and shall deny or
1027 revoke the license of the long-term care hospital, at the time
1028 that the department determines, after a hearing complying with due
1029 process, that the facility has failed to comply with any of the
1030 conditions upon which the certificate of need was issued, as
1031 provided in this subsection and in the written agreement by the
1032 recipient of the certificate of need. For purposes of this
1033 subsection, the provisions of Section 41-7-193(1) requiring
1034 substantial compliance with the projection of need as reported in
1035 the current State Health Plan are waived.

1036 (7) The State Department of Health may issue a certificate
1037 of need to any hospital in the state to utilize a portion of its
1038 beds for the "swing-bed" concept. Any such hospital must be in
1039 conformance with the federal regulations regarding such swing-bed
1040 concept at the time it submits its application for a certificate
1041 of need to the State Department of Health, except that such



1042 hospital may have more licensed beds or a higher average daily
1043 census (ADC) than the maximum number specified in federal
1044 regulations for participation in the swing-bed program. Any
1045 hospital meeting all federal requirements for participation in the
1046 swing-bed program which receives such certificate of need shall
1047 render services provided under the swing-bed concept to any
1048 patient eligible for Medicare (Title XVIII of the Social Security
1049 Act) who is certified by a physician to be in need of such
1050 services, and no such hospital shall permit any patient who is
1051 eligible for both Medicaid and Medicare or eligible only for
1052 Medicaid to stay in the swing beds of the hospital for more than
1053 thirty (30) days per admission unless the hospital receives prior
1054 approval for such patient from the Division of Medicaid, Office of
1055 the Governor. Any hospital having more licensed beds or a higher
1056 average daily census (ADC) than the maximum number specified in
1057 federal regulations for participation in the swing-bed program
1058 which receives such certificate of need shall develop a procedure
1059 to insure that before a patient is allowed to stay in the swing
1060 beds of the hospital, there are no vacant nursing home beds
1061 available for that patient located within a fifty-mile radius of
1062 the hospital. When any such hospital has a patient staying in the
1063 swing beds of the hospital and the hospital receives notice from a
1064 nursing home located within such radius that there is a vacant bed
1065 available for that patient, the hospital shall transfer the
1066 patient to the nursing home within a reasonable time after receipt



1067 of the notice. Any hospital which is subject to the requirements
1068 of the two (2) preceding sentences of this subsection may be
1069 suspended from participation in the swing-bed program for a
1070 reasonable period of time by the State Department of Health if the
1071 department, after a hearing complying with due process, determines
1072 that the hospital has failed to comply with any of those
1073 requirements.

1074 (8) The Department of Health shall not grant approval for or
1075 issue a certificate of need to any person proposing the new
1076 construction of, addition to or expansion of a health care
1077 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1078 except as hereinafter provided: The department may issue a
1079 certificate of need to a nonprofit corporation located in Madison
1080 County, Mississippi, for the construction, expansion or conversion
1081 of not more than twenty (20) beds in a community living program
1082 for developmentally disabled adults in a facility as defined in
1083 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1084 subsection (8), the provisions of Section 41-7-193(1) requiring
1085 substantial compliance with the projection of need as reported in
1086 the current State Health Plan and the provisions of Section
1087 41-7-197 requiring a formal certificate of need hearing process
1088 are waived. There shall be no prohibition or restrictions on
1089 participation in the Medicaid program for the person receiving the
1090 certificate of need authorized under this subsection (8).



1091 (9) The Department of Health shall not grant approval for or
1092 issue a certificate of need to any person proposing the
1093 establishment of, or expansion of the currently approved territory
1094 of, or the contracting to establish a home office, subunit or
1095 branch office within the space operated as a health care facility
1096 as defined in Section 41-7-173(h) (i) through (viii) by a health
1097 care facility as defined in subparagraph (ix) of Section
1098 41-7-173(h).

1099 (10) Health care facilities owned and/or operated by the
1100 state or its agencies are exempt from the restraints in this
1101 section against issuance of a certificate of need if such addition
1102 or expansion consists of repairing or renovation necessary to
1103 comply with the state licensure law. This exception shall not
1104 apply to the new construction of any building by such state
1105 facility. This exception shall not apply to any health care
1106 facilities owned and/or operated by counties, municipalities,
1107 districts, unincorporated areas, other defined persons, or any
1108 combination thereof.

1109 (11) The new construction, renovation or expansion of or
1110 addition to any health care facility defined in subparagraph (ii)
1111 (psychiatric hospital), subparagraph (iv) (skilled nursing
1112 facility), subparagraph (vi) (intermediate care facility),
1113 subparagraph (viii) (intermediate care facility for the mentally
1114 retarded) and subparagraph (x) (psychiatric residential treatment
1115 facility) of Section 41-7-173(h) which is owned by the State of



1116 Mississippi and under the direction and control of the State
1117 Department of Mental Health, and the addition of new beds or the
1118 conversion of beds from one category to another in any such
1119 defined health care facility which is owned by the State of
1120 Mississippi and under the direction and control of the State
1121 Department of Mental Health, shall not require the issuance of a
1122 certificate of need under Section 41-7-171 et seq.,
1123 notwithstanding any provision in Section 41-7-171 et seq. to the
1124 contrary.

1125 (12) The new construction, renovation or expansion of or
1126 addition to any veterans homes or domiciliaries for eligible
1127 veterans of the State of Mississippi as authorized under Section
1128 35-1-19 shall not require the issuance of a certificate of need,
1129 notwithstanding any provision in Section 41-7-171 et seq. to the
1130 contrary.

1131 (13) The repair or the rebuilding of an existing, operating
1132 health care facility that sustained significant damage from a
1133 natural disaster that occurred after April 15, 2014, in an area
1134 that is proclaimed a disaster area or subject to a state of
1135 emergency by the Governor or by the President of the United States
1136 shall be exempt from all of the requirements of the Mississippi
1137 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1138 rules and regulations promulgated under that law, subject to the
1139 following conditions:



1140 (a) The repair or the rebuilding of any such damaged
1141 health care facility must be within one (1) mile of the
1142 pre-disaster location of the campus of the damaged health care
1143 facility, except that any temporary post-disaster health care
1144 facility operating location may be within five (5) miles of the
1145 pre-disaster location of the damaged health care facility;

1146 (b) The repair or the rebuilding of the damaged health
1147 care facility (i) does not increase or change the complement of
1148 its bed capacity that it had before the Governor's or the
1149 President's proclamation, (ii) does not increase or change its
1150 levels and types of health care services that it provided before
1151 the Governor's or the President's proclamation, and (iii) does not
1152 rebuild in a different county; however, this paragraph does not
1153 restrict or prevent a health care facility from decreasing its bed
1154 capacity that it had before the Governor's or the President's
1155 proclamation, or from decreasing the levels of or decreasing or
1156 eliminating the types of health care services that it provided
1157 before the Governor's or the President's proclamation, when the
1158 damaged health care facility is repaired or rebuilt;

1159 (c) The exemption from Certificate of Need Law provided
1160 under this subsection (13) is valid for only five (5) years from
1161 the date of the Governor's or the President's proclamation. If
1162 actual construction has not begun within that five-year period,
1163 the exemption provided under this subsection is inapplicable; and



1164 (d) The Division of Health Facilities Licensure and
1165 Certification of the State Department of Health shall provide the
1166 same oversight for the repair or the rebuilding of the damaged
1167 health care facility that it provides to all health care facility
1168 construction projects in the state.

1169 For the purposes of this subsection (13), "significant
1170 damage" to a health care facility means damage to the health care
1171 facility requiring an expenditure of at least One Million Dollars
1172 (\$1,000,000.00).

1173 (14) The State Department of Health shall issue a
1174 certificate of need to any hospital which is currently licensed
1175 for two hundred fifty (250) or more acute care beds and is located
1176 in any general hospital service area not having a comprehensive
1177 cancer center, for the establishment and equipping of such a
1178 center which provides facilities and services for outpatient
1179 radiation oncology therapy, outpatient medical oncology therapy,
1180 and appropriate support services including the provision of
1181 radiation therapy services. The provisions of Section 41-7-193(1)
1182 regarding substantial compliance with the projection of need as
1183 reported in the current State Health Plan are waived for the
1184 purpose of this subsection.

1185 (15) The State Department of Health may authorize the
1186 transfer of hospital beds, not to exceed sixty (60) beds, from the
1187 North Panola Community Hospital to the South Panola Community



1188 Hospital. The authorization for the transfer of those beds shall
1189 be exempt from the certificate of need review process.

1190 (16) The State Department of Health shall issue any
1191 certificates of need necessary for Mississippi State University
1192 and a public or private health care provider to jointly acquire
1193 and operate a linear accelerator and a magnetic resonance imaging
1194 unit. Those certificates of need shall cover all capital
1195 expenditures related to the project between Mississippi State
1196 University and the health care provider, including, but not
1197 limited to, the acquisition of the linear accelerator, the
1198 magnetic resonance imaging unit and other radiological modalities;
1199 the offering of linear accelerator and magnetic resonance imaging
1200 services; and the cost of construction of facilities in which to
1201 locate these services. The linear accelerator and the magnetic
1202 resonance imaging unit shall be (a) located in the City of
1203 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1204 Mississippi State University and the public or private health care
1205 provider selected by Mississippi State University through a
1206 request for proposals (RFP) process in which Mississippi State
1207 University selects, and the Board of Trustees of State
1208 Institutions of Higher Learning approves, the health care provider
1209 that makes the best overall proposal; (c) available to Mississippi
1210 State University for research purposes two-thirds (2/3) of the
1211 time that the linear accelerator and magnetic resonance imaging
1212 unit are operational; and (d) available to the public or private



1213 health care provider selected by Mississippi State University and
1214 approved by the Board of Trustees of State Institutions of Higher
1215 Learning one-third (1/3) of the time for clinical, diagnostic and
1216 treatment purposes. For purposes of this subsection, the
1217 provisions of Section 41-7-193(1) requiring substantial compliance
1218 with the projection of need as reported in the current State
1219 Health Plan are waived.

1220 (17) The State Department of Health shall issue a
1221 certificate of need for the construction of an acute care hospital
1222 in Kemper County, not to exceed twenty-five (25) beds, which shall
1223 be named the "John C. Stennis Memorial Hospital." In issuing the
1224 certificate of need under this subsection, the department shall
1225 give priority to a hospital located in Lauderdale County that has
1226 two hundred fifteen (215) beds. For purposes of this subsection,
1227 the provisions of Section 41-7-193(1) requiring substantial
1228 compliance with the projection of need as reported in the current
1229 State Health Plan and the provisions of Section 41-7-197 requiring
1230 a formal certificate of need hearing process are waived. There
1231 shall be no prohibition or restrictions on participation in the
1232 Medicaid program (Section 43-13-101 et seq.) for the person or
1233 entity receiving the certificate of need authorized under this
1234 subsection or for the beds constructed under the authority of that
1235 certificate of need.

1236 (18) The planning, design, construction, renovation,
1237 addition, furnishing and equipping of a clinical research unit at



1238 any health care facility defined in Section 41-7-173(h) that is
1239 under the direction and control of the University of Mississippi
1240 Medical Center and located in Jackson, Mississippi, and the
1241 addition of new beds or the conversion of beds from one (1)
1242 category to another in any such clinical research unit, shall not
1243 require the issuance of a certificate of need under Section
1244 41-7-171 et seq., notwithstanding any provision in Section
1245 41-7-171 et seq. to the contrary.

1246 (19) [Repealed]

1247 (20) Nothing in this section or in any other provision of
1248 Section 41-7-171 et seq. shall prevent any nursing facility from
1249 designating an appropriate number of existing beds in the facility
1250 as beds for providing care exclusively to patients with
1251 Alzheimer's disease.

1252 **SECTION 2.** This act shall take effect and be in force from
1253 and after July 1, 2019.

