

By: Representative Yancey

To: Public Health and Human
Services

HOUSE BILL NO. 454

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A
3 CERTIFICATE OF NEED TO PROVIDE COMPREHENSIVE MEDICAL
4 REHABILITATION BEDS AND SERVICES IN A FREESTANDING FACILITY TO BE
5 LOCATED IN RANKIN COUNTY, WITH NOT MORE THAN FORTY BEDS; TO
6 PROVIDE THAT CERTAIN PROVISIONS OF THE STATE HEALTH PLAN SHALL BE
7 WAIVED OR INAPPLICABLE FOR THE PURPOSES OF THE ISSUANCE OF THIS
8 CERTIFICATE OF NEED; 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



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

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

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

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

(a) The department may issue a certificate of need to any person proposing the new construction of any health care facility defined in subparagraphs (iv) and (vi) of Section 41-7-173(h) as part of a life care retirement facility, in any county bordering on the Gulf of Mexico in which is located a National Aeronautics and Space Administration facility, not to 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



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

(i) The department may issue a certificate of need for the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (i), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the 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



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

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



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

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



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

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

Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (p), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time 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



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

(ii) Subject to the provisions of subparagraph (v), during each of the next four (4) fiscal years, the department shall issue six (6) certificates of need for new nursing facility beds, as follows: During fiscal years 2000, 2001 and 2002, one (1) certificate of need shall be issued for new nursing facility beds in the county in each of the four (4) Long-Term Care Planning Districts designated in the fiscal year 1999 State Health Plan that has the highest need in the district for those beds; and two (2) certificates of need shall be issued for new nursing facility beds in the two (2) counties from the state at large that have the highest need in the state for those beds, when considering the need on a statewide basis and without regard to the Long-Term Care Planning Districts in which the counties are located. During fiscal year 2003, one (1) certificate of need shall be issued for new nursing facility beds in any county having a need for fifty (50) or more additional nursing facility beds, as shown in the fiscal year 1999 State Health Plan, that has not received a 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



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

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

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



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

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



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

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

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



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



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

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

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

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



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

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



psychiatric or child/adolescent chemical dependency beds, or for the conversion of any other health care facility to a hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the addition of any child/adolescent psychiatric or child/adolescent chemical dependency beds in any hospital, psychiatric hospital or chemical dependency hospital, or for the conversion of any beds of another category in any hospital, psychiatric hospital or chemical dependency hospital to child/adolescent psychiatric or child/adolescent chemical dependency beds, except as hereinafter authorized:

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



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

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



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

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



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

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



941 beds converted pursuant to the authority of that certificate of
942 need.

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



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

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

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



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

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

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



1015 any patients in the facility who are participating in the Medicaid
1016 program, the State Department of Health shall revoke the
1017 certificate of need, if it is still outstanding, and shall deny or
1018 revoke the license of the long-term care hospital, at the time
1019 that the department determines, after a hearing complying with due
1020 process, that the facility has failed to comply with any of the
1021 conditions upon which the certificate of need was issued, as
1022 provided in this subsection and in the written agreement by the
1023 recipient of the certificate of need. For purposes of this
1024 subsection, the provisions of Section 41-7-193(1) requiring
1025 substantial compliance with the projection of need as reported in
1026 the current State Health Plan are waived.

1027 (7) The State Department of Health may issue a certificate
1028 of need to any hospital in the state to utilize a portion of its
1029 beds for the "swing-bed" concept. Any such hospital must be in
1030 conformance with the federal regulations regarding such swing-bed
1031 concept at the time it submits its application for a certificate
1032 of need to the State Department of Health, except that such
1033 hospital may have more licensed beds or a higher average daily
1034 census (ADC) than the maximum number specified in federal
1035 regulations for participation in the swing-bed program. Any
1036 hospital meeting all federal requirements for participation in the
1037 swing-bed program which receives such certificate of need shall
1038 render services provided under the swing-bed concept to any
1039 patient eligible for Medicare (Title XVIII of the Social Security



1040 Act) who is certified by a physician to be in need of such
1041 services, and no such hospital shall permit any patient who is
1042 eligible for both Medicaid and Medicare or eligible only for
1043 Medicaid to stay in the swing beds of the hospital for more than
1044 thirty (30) days per admission unless the hospital receives prior
1045 approval for such patient from the Division of Medicaid, Office of
1046 the Governor. Any hospital having more licensed beds or a higher
1047 average daily census (ADC) than the maximum number specified in
1048 federal regulations for participation in the swing-bed program
1049 which receives such certificate of need shall develop a procedure
1050 to insure that before a patient is allowed to stay in the swing
1051 beds of the hospital, there are no vacant nursing home beds
1052 available for that patient located within a fifty-mile radius of
1053 the hospital. When any such hospital has a patient staying in the
1054 swing beds of the hospital and the hospital receives notice from a
1055 nursing home located within such radius that there is a vacant bed
1056 available for that patient, the hospital shall transfer the
1057 patient to the nursing home within a reasonable time after receipt
1058 of the notice. Any hospital which is subject to the requirements
1059 of the two (2) preceding sentences of this subsection may be
1060 suspended from participation in the swing-bed program for a
1061 reasonable period of time by the State Department of Health if the
1062 department, after a hearing complying with due process, determines
1063 that the hospital has failed to comply with any of those
1064 requirements.



1065 (8) The Department of Health shall not grant approval for or
1066 issue a certificate of need to any person proposing the new
1067 construction of, addition to or expansion of a health care
1068 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1069 except as hereinafter provided: The department may issue a
1070 certificate of need to a nonprofit corporation located in Madison
1071 County, Mississippi, for the construction, expansion or conversion
1072 of not more than twenty (20) beds in a community living program
1073 for developmentally disabled adults in a facility as defined in
1074 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1075 subsection (8), the provisions of Section 41-7-193(1) requiring
1076 substantial compliance with the projection of need as reported in
1077 the current State Health Plan and the provisions of Section
1078 41-7-197 requiring a formal certificate of need hearing process
1079 are waived. There shall be no prohibition or restrictions on
1080 participation in the Medicaid program for the person receiving the
1081 certificate of need authorized under this subsection (8).

1082 (9) The Department of Health shall not grant approval for or
1083 issue a certificate of need to any person proposing the
1084 establishment of, or expansion of the currently approved territory
1085 of, or the contracting to establish a home office, subunit or
1086 branch office within the space operated as a health care facility
1087 as defined in Section 41-7-173(h) (i) through (viii) by a health
1088 care facility as defined in subparagraph (ix) of Section
1089 41-7-173(h).



1090 (10) Health care facilities owned and/or operated by the
1091 state or its agencies are exempt from the restraints in this
1092 section against issuance of a certificate of need if such addition
1093 or expansion consists of repairing or renovation necessary to
1094 comply with the state licensure law. This exception shall not
1095 apply to the new construction of any building by such state
1096 facility. This exception shall not apply to any health care
1097 facilities owned and/or operated by counties, municipalities,
1098 districts, unincorporated areas, other defined persons, or any
1099 combination thereof.

1100 (11) The new construction, renovation or expansion of or
1101 addition to any health care facility defined in subparagraph (ii)
1102 (psychiatric hospital), subparagraph (iv) (skilled nursing
1103 facility), subparagraph (vi) (intermediate care facility),
1104 subparagraph (viii) (intermediate care facility for the mentally
1105 retarded) and subparagraph (x) (psychiatric residential treatment
1106 facility) of Section 41-7-173(h) which is owned by the State of
1107 Mississippi and under the direction and control of the State
1108 Department of Mental Health, and the addition of new beds or the
1109 conversion of beds from one category to another in any such
1110 defined health care facility which is owned by the State of
1111 Mississippi and under the direction and control of the State
1112 Department of Mental Health, shall not require the issuance of a
1113 certificate of need under Section 41-7-171 et seq.,



1114 notwithstanding any provision in Section 41-7-171 et seq. to the
1115 contrary.

1116 (12) The new construction, renovation or expansion of or
1117 addition to any veterans homes or domiciliaries for eligible
1118 veterans of the State of Mississippi as authorized under Section
1119 35-1-19 shall not require the issuance of a certificate of need,
1120 notwithstanding any provision in Section 41-7-171 et seq. to the
1121 contrary.

1122 (13) The repair or the rebuilding of an existing, operating
1123 health care facility that sustained significant damage from a
1124 natural disaster that occurred after April 15, 2014, in an area
1125 that is proclaimed a disaster area or subject to a state of
1126 emergency by the Governor or by the President of the United States
1127 shall be exempt from all of the requirements of the Mississippi
1128 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1129 rules and regulations promulgated under that law, subject to the
1130 following conditions:

1131 (a) The repair or the rebuilding of any such damaged
1132 health care facility must be within one (1) mile of the
1133 pre-disaster location of the campus of the damaged health care
1134 facility, except that any temporary post-disaster health care
1135 facility operating location may be within five (5) miles of the
1136 pre-disaster location of the damaged health care facility;

1137 (b) The repair or the rebuilding of the damaged health
1138 care facility (i) does not increase or change the complement of



1139 its bed capacity that it had before the Governor's or the
1140 President's proclamation, (ii) does not increase or change its
1141 levels and types of health care services that it provided before
1142 the Governor's or the President's proclamation, and (iii) does not
1143 rebuild in a different county; however, this paragraph does not
1144 restrict or prevent a health care facility from decreasing its bed
1145 capacity that it had before the Governor's or the President's
1146 proclamation, or from decreasing the levels of or decreasing or
1147 eliminating the types of health care services that it provided
1148 before the Governor's or the President's proclamation, when the
1149 damaged health care facility is repaired or rebuilt;

1150 (c) The exemption from Certificate of Need Law provided
1151 under this subsection (13) is valid for only five (5) years from
1152 the date of the Governor's or the President's proclamation. If
1153 actual construction has not begun within that five-year period,
1154 the exemption provided under this subsection is inapplicable; and

1155 (d) The Division of Health Facilities Licensure and
1156 Certification of the State Department of Health shall provide the
1157 same oversight for the repair or the rebuilding of the damaged
1158 health care facility that it provides to all health care facility
1159 construction projects in the state.

1160 For the purposes of this subsection (13), "significant
1161 damage" to a health care facility means damage to the health care
1162 facility requiring an expenditure of at least One Million Dollars
1163 (\$1,000,000.00).



1164 (14) The State Department of Health shall issue a
1165 certificate of need to any hospital which is currently licensed
1166 for two hundred fifty (250) or more acute care beds and is located
1167 in any general hospital service area not having a comprehensive
1168 cancer center, for the establishment and equipping of such a
1169 center which provides facilities and services for outpatient
1170 radiation oncology therapy, outpatient medical oncology therapy,
1171 and appropriate support services including the provision of
1172 radiation therapy services. The provisions of Section 41-7-193(1)
1173 regarding substantial compliance with the projection of need as
1174 reported in the current State Health Plan are waived for the
1175 purpose of this subsection.

1176 (15) The State Department of Health may authorize the
1177 transfer of hospital beds, not to exceed sixty (60) beds, from the
1178 North Panola Community Hospital to the South Panola Community
1179 Hospital. The authorization for the transfer of those beds shall
1180 be exempt from the certificate of need review process.

1181 (16) The State Department of Health shall issue any
1182 certificates of need necessary for Mississippi State University
1183 and a public or private health care provider to jointly acquire
1184 and operate a linear accelerator and a magnetic resonance imaging
1185 unit. Those certificates of need shall cover all capital
1186 expenditures related to the project between Mississippi State
1187 University and the health care provider, including, but not
1188 limited to, the acquisition of the linear accelerator, the



1189 magnetic resonance imaging unit and other radiological modalities;
1190 the offering of linear accelerator and magnetic resonance imaging
1191 services; and the cost of construction of facilities in which to
1192 locate these services. The linear accelerator and the magnetic
1193 resonance imaging unit shall be (a) located in the City of
1194 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1195 Mississippi State University and the public or private health care
1196 provider selected by Mississippi State University through a
1197 request for proposals (RFP) process in which Mississippi State
1198 University selects, and the Board of Trustees of State
1199 Institutions of Higher Learning approves, the health care provider
1200 that makes the best overall proposal; (c) available to Mississippi
1201 State University for research purposes two-thirds (2/3) of the
1202 time that the linear accelerator and magnetic resonance imaging
1203 unit are operational; and (d) available to the public or private
1204 health care provider selected by Mississippi State University and
1205 approved by the Board of Trustees of State Institutions of Higher
1206 Learning one-third (1/3) of the time for clinical, diagnostic and
1207 treatment purposes. For purposes of this subsection, the
1208 provisions of Section 41-7-193(1) requiring substantial compliance
1209 with the projection of need as reported in the current State
1210 Health Plan are waived.

1211 (17) The State Department of Health shall issue a
1212 certificate of need for the construction of an acute care hospital
1213 in Kemper County, not to exceed twenty-five (25) beds, which shall



1214 be named the "John C. Stennis Memorial Hospital." In issuing the
1215 certificate of need under this subsection, the department shall
1216 give priority to a hospital located in Lauderdale County that has
1217 two hundred fifteen (215) beds. For purposes of this subsection,
1218 the provisions of Section 41-7-193(1) requiring substantial
1219 compliance with the projection of need as reported in the current
1220 State Health Plan and the provisions of Section 41-7-197 requiring
1221 a formal certificate of need hearing process are waived. There
1222 shall be no prohibition or restrictions on participation in the
1223 Medicaid program (Section 43-13-101 et seq.) for the person or
1224 entity receiving the certificate of need authorized under this
1225 subsection or for the beds constructed under the authority of that
1226 certificate of need.

1227 (18) The planning, design, construction, renovation,
1228 addition, furnishing and equipping of a clinical research unit at
1229 any health care facility defined in Section 41-7-173(h) that is
1230 under the direction and control of the University of Mississippi
1231 Medical Center and located in Jackson, Mississippi, and the
1232 addition of new beds or the conversion of beds from one (1)
1233 category to another in any such clinical research unit, shall not
1234 require the issuance of a certificate of need under Section
1235 41-7-171 et seq., notwithstanding any provision in Section
1236 41-7-171 et seq. to the contrary.

1237 (19) [Repealed]



(20) The State Department of Health shall issue a single certificate of need upon an application for provision of comprehensive medical rehabilitation beds and services, to an applicant that will provide both Level I and Level II services (as those terms are defined in Chapter 6 of the 2018 State Health Plan), in a freestanding facility to be located in Rankin County, with not more than forty (40) beds. The application must request only that number of Level I beds as is within the recognized need in the 2018 State Health Plan, with the remaining beds up to a total of forty (40) to be Level II beds. Any application filed under this section shall otherwise comply with all certificate of need requirements as set forth in the CON Review Manual and the State Health Plan in effect at the time of the application, except that the requirement for the minimum number of beds to be sixty (60) and the forty-five (45) mile restriction applicable to Level II beds shall be waived. Furthermore, to the extent, if any, that the applicable State Health Plan would restrict a freestanding facility comprised of a combination of Level I and II beds, such restriction shall be inapplicable to an application filed under this subsection.

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



1263 **SECTION 2.** This act shall take effect and be in force from
1264 and after July 1, 2020.

