

By: Representative Criswell

To: Public Health and Human Services

HOUSE BILL NO. 605

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE MORATORIUM ON THE ISSUANCE OF CERTIFICATES OF NEED
3 FOR HOME HEALTH AGENCIES; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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



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

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



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



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



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

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



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

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



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

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

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



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

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



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

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

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

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

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



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

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

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



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

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



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



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

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



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

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

706 (a) Of the total number of beds authorized under this
707 subsection, the department shall issue a certificate of need to a
708 privately owned psychiatric residential treatment facility in
709 Simpson County for the conversion of sixteen (16) intermediate
710 care facility for the mentally retarded (ICF-MR) beds to
711 psychiatric residential treatment facility beds, provided that
712 facility agrees in writing that the facility shall give priority
713 for the use of those sixteen (16) beds to Mississippi residents
714 who are presently being treated in out-of-state facilities.



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



740 treatment facility for participation in the Medicaid program for
741 the use of any patients other than those who are participating
742 only in the Medicaid program of another state. If the psychiatric
743 residential treatment facility violates the terms of the written
744 agreement by admitting or keeping in the facility on a regular or
745 continuing basis more than thirty (30) patients who are
746 participating in the Mississippi Medicaid program, the State
747 Department of Health shall revoke the license of the facility, at
748 the time that the department determines, after a hearing complying
749 with due process, that the facility has violated the condition
750 upon which the certificate of need was issued, as provided in this
751 paragraph and in the written agreement.

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

756 (c) Of the total number of beds authorized under this
757 subsection, the department shall issue a certificate of need to a
758 hospital currently operating Medicaid-certified acute psychiatric
759 beds for adolescents in DeSoto County, for the establishment of a
760 forty-bed psychiatric residential treatment facility in DeSoto
761 County, provided that the hospital agrees in writing (i) that the
762 hospital shall give priority for the use of those forty (40) beds
763 to Mississippi residents who are presently being treated in
764 out-of-state facilities, and (ii) that no more than fifteen (15)



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



789 issued, as provided in this paragraph and in the written
790 agreement.

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

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

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



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

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



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

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



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

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



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

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

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



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

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



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



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

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

980 (b) From and after July 1, 1990, no hospital,
981 psychiatric hospital or chemical dependency hospital shall be
982 authorized to add any child/adolescent psychiatric or
983 child/adolescent chemical dependency beds or convert any beds of
984 another category to child/adolescent psychiatric or
985 child/adolescent chemical dependency beds without a certificate of
986 need under the authority of subsection (1)(c) of this section.



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

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



1012 certificate of need, if it is still outstanding, and shall deny or
1013 revoke the license of the long-term care hospital, at the time
1014 that the department determines, after a hearing complying with due
1015 process, that the facility has failed to comply with any of the
1016 conditions upon which the certificate of need was issued, as
1017 provided in this subsection and in the written agreement by the
1018 recipient of the certificate of need. For purposes of this
1019 subsection, the provisions of Section 41-7-193(1) requiring
1020 substantial compliance with the projection of need as reported in
1021 the current State Health Plan are waived.

1022 (7) The State Department of Health may issue a certificate
1023 of need to any hospital in the state to utilize a portion of its
1024 beds for the "swing-bed" concept. Any such hospital must be in
1025 conformance with the federal regulations regarding such swing-bed
1026 concept at the time it submits its application for a certificate
1027 of need to the State Department of Health, except that such
1028 hospital may have more licensed beds or a higher average daily
1029 census (ADC) than the maximum number specified in federal
1030 regulations for participation in the swing-bed program. Any
1031 hospital meeting all federal requirements for participation in the
1032 swing-bed program which receives such certificate of need shall
1033 render services provided under the swing-bed concept to any
1034 patient eligible for Medicare (Title XVIII of the Social Security
1035 Act) who is certified by a physician to be in need of such
1036 services, and no such hospital shall permit any patient who is



1037 eligible for both Medicaid and Medicare or eligible only for
1038 Medicaid to stay in the swing beds of the hospital for more than
1039 thirty (30) days per admission unless the hospital receives prior
1040 approval for such patient from the Division of Medicaid, Office of
1041 the Governor. Any hospital having more licensed beds or a higher
1042 average daily census (ADC) than the maximum number specified in
1043 federal regulations for participation in the swing-bed program
1044 which receives such certificate of need shall develop a procedure
1045 to insure that before a patient is allowed to stay in the swing
1046 beds of the hospital, there are no vacant nursing home beds
1047 available for that patient located within a fifty-mile radius of
1048 the hospital. When any such hospital has a patient staying in the
1049 swing beds of the hospital and the hospital receives notice from a
1050 nursing home located within such radius that there is a vacant bed
1051 available for that patient, the hospital shall transfer the
1052 patient to the nursing home within a reasonable time after receipt
1053 of the notice. Any hospital which is subject to the requirements
1054 of the two (2) preceding sentences of this subsection may be
1055 suspended from participation in the swing-bed program for a
1056 reasonable period of time by the State Department of Health if the
1057 department, after a hearing complying with due process, determines
1058 that the hospital has failed to comply with any of those
1059 requirements.

1060 (8) The Department of Health shall not grant approval for or
1061 issue a certificate of need to any person proposing the new



1062 construction of, addition to or expansion of a health care
1063 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1064 except as hereinafter provided: The department may issue a
1065 certificate of need to a nonprofit corporation located in Madison
1066 County, Mississippi, for the construction, expansion or conversion
1067 of not more than twenty (20) beds in a community living program
1068 for developmentally disabled adults in a facility as defined in
1069 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1070 subsection (8), the provisions of Section 41-7-193(1) requiring
1071 substantial compliance with the projection of need as reported in
1072 the current State Health Plan and the provisions of Section
1073 41-7-197 requiring a formal certificate of need hearing process
1074 are waived. There shall be no prohibition or restrictions on
1075 participation in the Medicaid program for the person receiving the
1076 certificate of need authorized under this subsection (8).

1077 (9) * * * [Deleted]

1078 (10) Health care facilities owned and/or operated by the
1079 state or its agencies are exempt from the restraints in this
1080 section against issuance of a certificate of need if such addition
1081 or expansion consists of repairing or renovation necessary to
1082 comply with the state licensure law. This exception shall not
1083 apply to the new construction of any building by such state
1084 facility. This exception shall not apply to any health care
1085 facilities owned and/or operated by counties, municipalities,



1086 districts, unincorporated areas, other defined persons, or any
1087 combination thereof.

1088 (11) The new construction, renovation or expansion of or
1089 addition to any health care facility defined in subparagraph (ii)
1090 (psychiatric hospital), subparagraph (iv) (skilled nursing
1091 facility), subparagraph (vi) (intermediate care facility),
1092 subparagraph (viii) (intermediate care facility for the mentally
1093 retarded) and subparagraph (x) (psychiatric residential treatment
1094 facility) of Section 41-7-173(h) which is owned by the State of
1095 Mississippi and under the direction and control of the State
1096 Department of Mental Health, and the addition of new beds or the
1097 conversion of beds from one category to another in any such
1098 defined health care facility which is owned by the State of
1099 Mississippi and under the direction and control of the State
1100 Department of Mental Health, shall not require the issuance of a
1101 certificate of need under Section 41-7-171 et seq.,
1102 notwithstanding any provision in Section 41-7-171 et seq. to the
1103 contrary.

1104 (12) The new construction, renovation or expansion of or
1105 addition to any veterans homes or domiciliaries for eligible
1106 veterans of the State of Mississippi as authorized under Section
1107 35-1-19 shall not require the issuance of a certificate of need,
1108 notwithstanding any provision in Section 41-7-171 et seq. to the
1109 contrary.



1110 (13) The repair or the rebuilding of an existing, operating
1111 health care facility that sustained significant damage from a
1112 natural disaster that occurred after April 15, 2014, in an area
1113 that is proclaimed a disaster area or subject to a state of
1114 emergency by the Governor or by the President of the United States
1115 shall be exempt from all of the requirements of the Mississippi
1116 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1117 rules and regulations promulgated under that law, subject to the
1118 following conditions:

1119 (a) The repair or the rebuilding of any such damaged
1120 health care facility must be within one (1) mile of the
1121 pre-disaster location of the campus of the damaged health care
1122 facility, except that any temporary post-disaster health care
1123 facility operating location may be within five (5) miles of the
1124 pre-disaster location of the damaged health care facility;

1125 (b) The repair or the rebuilding of the damaged health
1126 care facility (i) does not increase or change the complement of
1127 its bed capacity that it had before the Governor's or the
1128 President's proclamation, (ii) does not increase or change its
1129 levels and types of health care services that it provided before
1130 the Governor's or the President's proclamation, and (iii) does not
1131 rebuild in a different county; however, this paragraph does not
1132 restrict or prevent a health care facility from decreasing its bed
1133 capacity that it had before the Governor's or the President's
1134 proclamation, or from decreasing the levels of or decreasing or



1135 eliminating the types of health care services that it provided
1136 before the Governor's or the President's proclamation, when the
1137 damaged health care facility is repaired or rebuilt;

1138 (c) The exemption from Certificate of Need Law provided
1139 under this subsection (13) is valid for only five (5) years from
1140 the date of the Governor's or the President's proclamation. If
1141 actual construction has not begun within that five-year period,
1142 the exemption provided under this subsection is inapplicable; and

1143 (d) The Division of Health Facilities Licensure and
1144 Certification of the State Department of Health shall provide the
1145 same oversight for the repair or the rebuilding of the damaged
1146 health care facility that it provides to all health care facility
1147 construction projects in the state.

1148 For the purposes of this subsection (13), "significant
1149 damage" to a health care facility means damage to the health care
1150 facility requiring an expenditure of at least One Million Dollars
1151 (\$1,000,000.00).

1152 (14) The State Department of Health shall issue a
1153 certificate of need to any hospital which is currently licensed
1154 for two hundred fifty (250) or more acute care beds and is located
1155 in any general hospital service area not having a comprehensive
1156 cancer center, for the establishment and equipping of such a
1157 center which provides facilities and services for outpatient
1158 radiation oncology therapy, outpatient medical oncology therapy,
1159 and appropriate support services including the provision of



1160 radiation therapy services. The provisions of Section 41-7-193(1)
1161 regarding substantial compliance with the projection of need as
1162 reported in the current State Health Plan are waived for the
1163 purpose of this subsection.

1164 (15) The State Department of Health may authorize the
1165 transfer of hospital beds, not to exceed sixty (60) beds, from the
1166 North Panola Community Hospital to the South Panola Community
1167 Hospital. The authorization for the transfer of those beds shall
1168 be exempt from the certificate of need review process.

1169 (16) The State Department of Health shall issue any
1170 certificates of need necessary for Mississippi State University
1171 and a public or private health care provider to jointly acquire
1172 and operate a linear accelerator and a magnetic resonance imaging
1173 unit. Those certificates of need shall cover all capital
1174 expenditures related to the project between Mississippi State
1175 University and the health care provider, including, but not
1176 limited to, the acquisition of the linear accelerator, the
1177 magnetic resonance imaging unit and other radiological modalities;
1178 the offering of linear accelerator and magnetic resonance imaging
1179 services; and the cost of construction of facilities in which to
1180 locate these services. The linear accelerator and the magnetic
1181 resonance imaging unit shall be (a) located in the City of
1182 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1183 Mississippi State University and the public or private health care
1184 provider selected by Mississippi State University through a



1185 request for proposals (RFP) process in which Mississippi State
1186 University selects, and the Board of Trustees of State
1187 Institutions of Higher Learning approves, the health care provider
1188 that makes the best overall proposal; (c) available to Mississippi
1189 State University for research purposes two-thirds (2/3) of the
1190 time that the linear accelerator and magnetic resonance imaging
1191 unit are operational; and (d) available to the public or private
1192 health care provider selected by Mississippi State University and
1193 approved by the Board of Trustees of State Institutions of Higher
1194 Learning one-third (1/3) of the time for clinical, diagnostic and
1195 treatment purposes. For purposes of this subsection, the
1196 provisions of Section 41-7-193(1) requiring substantial compliance
1197 with the projection of need as reported in the current State
1198 Health Plan are waived.

1199 (17) The State Department of Health shall issue a
1200 certificate of need for the construction of an acute care hospital
1201 in Kemper County, not to exceed twenty-five (25) beds, which shall
1202 be named the "John C. Stennis Memorial Hospital." In issuing the
1203 certificate of need under this subsection, the department shall
1204 give priority to a hospital located in Lauderdale County that has
1205 two hundred fifteen (215) beds. For purposes of this subsection,
1206 the provisions of Section 41-7-193(1) requiring substantial
1207 compliance with the projection of need as reported in the current
1208 State Health Plan and the provisions of Section 41-7-197 requiring
1209 a formal certificate of need hearing process are waived. There



1210 shall be no prohibition or restrictions on participation in the
1211 Medicaid program (Section 43-13-101 et seq.) for the person or
1212 entity receiving the certificate of need authorized under this
1213 subsection or for the beds constructed under the authority of that
1214 certificate of need.

1215 (18) The planning, design, construction, renovation,
1216 addition, furnishing and equipping of a clinical research unit at
1217 any health care facility defined in Section 41-7-173(h) that is
1218 under the direction and control of the University of Mississippi
1219 Medical Center and located in Jackson, Mississippi, and the
1220 addition of new beds or the conversion of beds from one (1)
1221 category to another in any such clinical research unit, shall not
1222 require the issuance of a certificate of need under Section
1223 41-7-171 et seq., notwithstanding any provision in Section
1224 41-7-171 et seq. to the contrary.

1225 (19) [Repealed]

1226 (20) Nothing in this section or in any other provision of
1227 Section 41-7-171 et seq. shall prevent any nursing facility from
1228 designating an appropriate number of existing beds in the facility
1229 as beds for providing care exclusively to patients with
1230 Alzheimer's disease.

1231 **SECTION 2.** This act shall take effect and be in force from
1232 and after July 1, 2020.

