

By: Representative Criswell

To: Public Health and Human Services

HOUSE BILL NO. 1409

1 AN ACT TO AMEND SECTIONS 41-7-173, 41-7-185, 41-7-191 AND
2 41-7-201, MISSISSIPPI CODE OF 1972, TO REMOVE HOME HEALTH AGENCIES
3 AND HOME HEALTH SERVICES FROM THE APPLICATION OF THE CERTIFICATE
4 OF NEED LAW; TO REPEAL SECTION 41-7-202, MISSISSIPPI CODE OF 1972,
5 AND AMEND SECTIONS 41-71-7 AND 41-71-19, MISSISSIPPI CODE OF 1972,
6 TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
9 amended as follows:

10 41-7-173. For the purposes of Section 41-7-171 et seq., the
11 following words shall have the meanings ascribed herein, unless
12 the context otherwise requires:

13 (a) "Affected person" means (i) the applicant; (ii) a
14 person residing within the geographic area to be served by the
15 applicant's proposal; (iii) a person who regularly uses health
16 care facilities or HMOs located in the geographic area of the
17 proposal which provide similar service to that which is proposed;
18 (iv) health care facilities and HMOs which have, prior to receipt
19 of the application under review, formally indicated an intention
20 to provide service similar to that of the proposal being



21 considered at a future date; (v) third-party payers who reimburse
22 health care facilities located in the geographical area of the
23 proposal; or (vi) any agency that establishes rates for health
24 care services or HMOs located in the geographic area of the
25 proposal.

26 (b) "Certificate of need" means a written order of the
27 State Department of Health setting forth the affirmative finding
28 that a proposal in prescribed application form, sufficiently
29 satisfies the plans, standards and criteria prescribed for such
30 service or other project by Section 41-7-171 et seq., and by rules
31 and regulations promulgated thereunder by the State Department of
32 Health.

33 (c) (i) "Capital expenditure," when pertaining to
34 defined major medical equipment, shall mean an expenditure which,
35 under generally accepted accounting principles consistently
36 applied, is not properly chargeable as an expense of operation and
37 maintenance and which exceeds One Million Five Hundred Thousand
38 Dollars (\$1,500,000.00).

39 (ii) "Capital expenditure," when pertaining to
40 other than major medical equipment, shall mean any expenditure
41 which under generally accepted accounting principles consistently
42 applied is not properly chargeable as an expense of operation and
43 maintenance and which exceeds, for clinical health services, as
44 defined in * * * paragraph (k) below, Five Million Dollars
45 (\$5,000,000.00), adjusted for inflation as published by the State



46 Department of Health or which exceeds, for nonclinical health
47 services, as defined in * * * paragraph (k) below, Ten Million
48 Dollars (\$10,000,000.00), adjusted for inflation as published by
49 the State Department of Health.

50 (iii) A "capital expenditure" shall include the
51 acquisition, whether by lease, sufferance, gift, devise, legacy,
52 settlement of a trust or other means, of any facility or part
53 thereof, or equipment for a facility, the expenditure for which
54 would have been considered a capital expenditure if acquired by
55 purchase. Transactions which are separated in time but are
56 planned to be undertaken within twelve (12) months of each other
57 and are components of an overall plan for meeting patient care
58 objectives shall, for purposes of this definition, be viewed in
59 their entirety without regard to their timing.

60 (iv) In those instances where a health care
61 facility or other provider of health services proposes to provide
62 a service in which the capital expenditure for major medical
63 equipment or other than major medical equipment or a combination
64 of the two (2) may have been split between separate parties, the
65 total capital expenditure required to provide the proposed service
66 shall be considered in determining the necessity of certificate of
67 need review and in determining the appropriate certificate of need
68 review fee to be paid. The capital expenditure associated with
69 facilities and equipment to provide services in Mississippi shall
70 be considered regardless of where the capital expenditure was



71 made, in state or out of state, and regardless of the domicile of
72 the party making the capital expenditure, in state or out of
73 state.

74 (d) "Change of ownership" includes, but is not limited
75 to, inter vivos gifts, purchases, transfers, lease arrangements,
76 cash and/or stock transactions or other comparable arrangements
77 whenever any person or entity acquires or controls a majority
78 interest of an existing health care facility, and/or the change of
79 ownership of major medical equipment, a health service, or an
80 institutional health service. Changes of ownership from
81 partnerships, single proprietorships or corporations to another
82 form of ownership are specifically included. However, "change of
83 ownership" shall not include any inherited interest acquired as a
84 result of a testamentary instrument or under the laws of descent
85 and distribution of the State of Mississippi.

86 (e) "Commencement of construction" means that all of
87 the following have been completed with respect to a proposal or
88 project proposing construction, renovating, remodeling or
89 alteration:

90 (i) A legally binding written contract has been
91 consummated by the proponent and a lawfully licensed contractor to
92 construct and/or complete the intent of the proposal within a
93 specified period of time in accordance with final architectural
94 plans which have been approved by the licensing authority of the
95 State Department of Health;



96 (ii) Any and all permits and/or approvals deemed
97 lawfully necessary by all authorities with responsibility for such
98 have been secured; and

99 (iii) Actual bona fide undertaking of the subject
100 proposal has commenced, and a progress payment of at least one
101 percent (1%) of the total cost price of the contract has been paid
102 to the contractor by the proponent, and the requirements of this
103 paragraph (e) have been certified to in writing by the State
104 Department of Health.

105 Force account expenditures, such as deposits, securities,
106 bonds, et cetera, may, in the discretion of the State Department
107 of Health, be excluded from any or all of the provisions of
108 defined commencement of construction.

109 (f) "Consumer" means an individual who is not a
110 provider of health care as defined in paragraph (q) of this
111 section.

112 (g) "Develop," when used in connection with health
113 services, means to undertake those activities which, on their
114 completion, will result in the offering of a new institutional
115 health service or the incurring of a financial obligation as
116 defined under applicable state law in relation to the offering of
117 such services.

118 (h) "Health care facility" includes hospitals,
119 psychiatric hospitals, chemical dependency hospitals, skilled
120 nursing facilities, end-stage renal disease (ESRD) facilities,



121 including freestanding hemodialysis units, intermediate care
122 facilities, ambulatory surgical facilities, intermediate care
123 facilities for the mentally retarded, home health agencies,
124 psychiatric residential treatment facilities, pediatric skilled
125 nursing facilities, long-term care hospitals, comprehensive
126 medical rehabilitation facilities, including facilities owned or
127 operated by the state or a political subdivision or
128 instrumentality of the state, but does not include Christian
129 Science sanatoriums operated or listed and certified by the First
130 Church of Christ, Scientist, Boston, Massachusetts. This
131 definition shall not apply to facilities for the private practice,
132 either independently or by incorporated medical groups, of
133 physicians, dentists or health care professionals except where
134 such facilities are an integral part of an institutional health
135 service. The various health care facilities listed in this
136 paragraph shall be defined as follows:

137 (i) "Hospital" means an institution which is
138 primarily engaged in providing to inpatients, by or under the
139 supervision of physicians, diagnostic services and therapeutic
140 services for medical diagnosis, treatment and care of injured,
141 disabled or sick persons, or rehabilitation services for the
142 rehabilitation of injured, disabled or sick persons. Such term
143 does not include psychiatric hospitals.

144 (ii) "Psychiatric hospital" means an institution
145 which is primarily engaged in providing to inpatients, by or under



146 the supervision of a physician, psychiatric services for the
147 diagnosis and treatment of persons with mental illness.

148 (iii) "Chemical dependency hospital" means an
149 institution which is primarily engaged in providing to inpatients,
150 by or under the supervision of a physician, medical and related
151 services for the diagnosis and treatment of chemical dependency
152 such as alcohol and drug abuse.

153 (iv) "Skilled nursing facility" means an
154 institution or a distinct part of an institution which is
155 primarily engaged in providing to inpatients skilled nursing care
156 and related services for patients who require medical or nursing
157 care or rehabilitation services for the rehabilitation of injured,
158 disabled or sick persons.

159 (v) "End-stage renal disease (ESRD) facilities"
160 means kidney disease treatment centers, which includes
161 freestanding hemodialysis units and limited care facilities. The
162 term "limited care facility" generally refers to an
163 off-hospital-premises facility, regardless of whether it is
164 provider or nonprovider operated, which is engaged primarily in
165 furnishing maintenance hemodialysis services to stabilized
166 patients.

167 (vi) "Intermediate care facility" means an
168 institution which provides, on a regular basis, health-related
169 care and services to individuals who do not require the degree of
170 care and treatment which a hospital or skilled nursing facility is



171 designed to provide, but who, because of their mental or physical
172 condition, require health-related care and services (above the
173 level of room and board).

174 (vii) "Ambulatory surgical facility" means a
175 facility primarily organized or established for the purpose of
176 performing surgery for outpatients and is a separate identifiable
177 legal entity from any other health care facility. Such term does
178 not include the offices of private physicians or dentists, whether
179 for individual or group practice, and does not include any
180 abortion facility as defined in Section 41-75-1(f).

181 (viii) "Intermediate care facility for the
182 mentally retarded" means an intermediate care facility that
183 provides health or rehabilitative services in a planned program of
184 activities to persons with an intellectual disability, also
185 including, but not limited to, cerebral palsy and other conditions
186 covered by the Federal Developmentally Disabled Assistance and
187 Bill of Rights Act, Public Law 94-103.

188 (ix) * * * [Deleted]

189 (x) "Psychiatric residential treatment facility"
190 means any nonhospital establishment with permanent licensed
191 facilities which provides a twenty-four-hour program of care by
192 qualified therapists, including, but not limited to, duly licensed
193 mental health professionals, psychiatrists, psychologists,
194 psychotherapists and licensed certified social workers, for
195 emotionally disturbed children and adolescents referred to such



196 facility by a court, local school district or by the Department of
197 Human Services, who are not in an acute phase of illness requiring
198 the services of a psychiatric hospital, and are in need of such
199 restorative treatment services. For purposes of this
200 subparagraph, the term "emotionally disturbed" means a condition
201 exhibiting one or more of the following characteristics over a
202 long period of time and to a marked degree, which adversely
203 affects educational performance:

- 204 1. An inability to learn which cannot be
205 explained by intellectual, sensory or health factors;
- 206 2. An inability to build or maintain
207 satisfactory relationships with peers and teachers;
- 208 3. Inappropriate types of behavior or
209 feelings under normal circumstances;
- 210 4. A general pervasive mood of unhappiness or
211 depression; or
- 212 5. A tendency to develop physical symptoms or
213 fears associated with personal or school problems. An
214 establishment furnishing primarily domiciliary care is not within
215 this definition.

216 (xi) "Pediatric skilled nursing facility" means an
217 institution or a distinct part of an institution that is primarily
218 engaged in providing to inpatients skilled nursing care and
219 related services for persons under twenty-one (21) years of age



220 who require medical or nursing care or rehabilitation services for
221 the rehabilitation of injured, disabled or sick persons.

222 (xii) "Long-term care hospital" means a
223 freestanding, Medicare-certified hospital that has an average
224 length of inpatient stay greater than twenty-five (25) days, which
225 is primarily engaged in providing chronic or long-term medical
226 care to patients who do not require more than three (3) hours of
227 rehabilitation or comprehensive rehabilitation per day, and has a
228 transfer agreement with an acute care medical center and a
229 comprehensive medical rehabilitation facility. Long-term care
230 hospitals shall not use rehabilitation, comprehensive medical
231 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
232 nursing home, skilled nursing facility or sub-acute care facility
233 in association with its name.

234 (xiii) "Comprehensive medical rehabilitation
235 facility" means a hospital or hospital unit that is licensed
236 and/or certified as a comprehensive medical rehabilitation
237 facility which provides specialized programs that are accredited
238 by the Commission on Accreditation of Rehabilitation Facilities
239 and supervised by a physician board certified or board eligible in
240 physiatry or other doctor of medicine or osteopathy with at least
241 two (2) years of training in the medical direction of a
242 comprehensive rehabilitation program that:

243 1. Includes evaluation and treatment of
244 individuals with physical disabilities;



- 245 2. Emphasizes education and training of
246 individuals with disabilities;
- 247 3. Incorporates at least the following core
248 disciplines:
- 249 * * *a. Physical Therapy;
 - 250 * * *b. Occupational Therapy;
 - 251 * * *c. Speech and Language Therapy;
 - 252 * * *d. Rehabilitation Nursing; and
- 253 4. Incorporates at least three (3) of the
254 following disciplines:
- 255 * * *a. Psychology;
 - 256 * * *b. Audiology;
 - 257 * * *c. Respiratory Therapy;
 - 258 * * *d. Therapeutic Recreation;
 - 259 * * *e. Orthotics;
 - 260 * * *f. Prosthetics;
 - 261 * * *g. Special Education;
 - 262 * * *h. Vocational Rehabilitation;
 - 263 * * *i. Psychotherapy;
 - 264 * * *j. Social Work;
 - 265 * * *k. Rehabilitation Engineering.

266 These specialized programs include, but are not limited to:
267 spinal cord injury programs, head injury programs and infant and
268 early childhood development programs.



269 (i) "Health maintenance organization" or "HMO" means a
270 public or private organization organized under the laws of this
271 state or the federal government which:

272 (i) Provides or otherwise makes available to
273 enrolled participants health care services, including
274 substantially the following basic health care services: usual
275 physician services, hospitalization, laboratory, x-ray, emergency
276 and preventive services, and out-of-area coverage;

277 (ii) Is compensated (except for copayments) for
278 the provision of the basic health care services listed in
279 subparagraph (i) of this paragraph to enrolled participants on a
280 predetermined basis; and

281 (iii) Provides physician services primarily:

282 1. Directly through physicians who are either
283 employees or partners of such organization; or

284 2. Through arrangements with individual
285 physicians or one or more groups of physicians (organized on a
286 group practice or individual practice basis).

287 (j) "Health service area" means a geographic area of
288 the state designated in the State Health Plan as the area to be
289 used in planning for specified health facilities and services and
290 to be used when considering certificate of need applications to
291 provide health facilities and services.

292 (k) "Health services" means clinically related (i.e.,
293 diagnostic, treatment or rehabilitative) services and includes



294 alcohol, drug abuse * * * and mental health * * * services.
295 "Clinical health services" shall only include those activities
296 which contemplate any change in the existing bed complement of any
297 health care facility through the addition or conversion of any
298 beds, under Section 41-7-191(1)(c) or propose to offer any health
299 services if those services have not been provided on a regular
300 basis by the proposed provider of such services within the period
301 of twelve (12) months prior to the time such services would be
302 offered, under Section 41-7-191(1)(d). "Nonclinical health
303 services" shall be all other services which do not involve any
304 change in the existing bed complement or offering health services
305 as described above.

306 (1) "Institutional health services" shall mean health
307 services provided in or through health care facilities and shall
308 include the entities in or through which such services are
309 provided.

310 (m) "Major medical equipment" means medical equipment
311 designed for providing medical or any health-related service which
312 costs in excess of One Million Five Hundred Thousand Dollars
313 (\$1,500,000.00). However, this definition shall not be applicable
314 to clinical laboratories if they are determined by the State
315 Department of Health to be independent of any physician's office,
316 hospital or other health care facility or otherwise not so defined
317 by federal or state law, or rules and regulations promulgated
318 thereunder.



319 (n) "State Department of Health" or "department" shall
320 mean the state agency created under Section 41-3-15, which shall
321 be considered to be the State Health Planning and Development
322 Agency, as defined in paragraph (u) of this section.

323 (o) "Offer," when used in connection with health
324 services, means that it has been determined by the State
325 Department of Health that the health care facility is capable of
326 providing specified health services.

327 (p) "Person" means an individual, a trust or estate,
328 partnership, corporation (including associations, joint-stock
329 companies and insurance companies), the state or a political
330 subdivision or instrumentality of the state.

331 (q) "Provider" shall mean any person who is a provider
332 or representative of a provider of health care services requiring
333 a certificate of need under Section 41-7-171 et seq., or who has
334 any financial or indirect interest in any provider of services.

335 (r) "Radiation therapy services" means the treatment of
336 cancer and other diseases using ionizing radiation of either high
337 energy photons (x-rays or gamma rays) or charged particles
338 (electrons, protons or heavy nuclei). However, for purposes of a
339 certificate of need, radiation therapy services shall not include
340 low energy, superficial, external beam x-ray treatment of
341 superficial skin lesions.

342 (s) "Secretary" means the Secretary of Health and Human
343 Services, and any officer or employee of the Department of Health



344 and Human Services to whom the authority involved has been
345 delegated.

346 (t) "State Health Plan" means the sole and official
347 statewide health plan for Mississippi which identifies priority
348 state health needs and establishes standards and criteria for
349 health-related activities which require certificate of need review
350 in compliance with Section 41-7-191.

351 (u) "State Health Planning and Development Agency"
352 means the agency of state government designated to perform health
353 planning and resource development programs for the State of
354 Mississippi.

355 **SECTION 2.** Section 41-7-185, Mississippi Code of 1972, is
356 amended as follows:

357 41-7-185. In carrying out its functions under Section
358 41-7-171 et seq., the State Department of Health is hereby
359 empowered to:

360 (a) Make applications for and accept funds from the
361 secretary and other federal and state agencies and to receive and
362 administer such other funds for the planning or provision of
363 health facilities or health care as are appropriate to the
364 accomplishment of the purposes of Section 41-7-171 et seq. * * *l
365 and to contract with the secretary to accept funds to administer
366 planning activities on the community, regional or state level;

367 (b) With the approval of the secretary, delegate to or
368 contract with any mutually agreeable department, division or



369 agency of the state, the federal government, or any political
370 subdivision of either, or any private corporation, organization or
371 association chartered by the Secretary of State of Mississippi,
372 authority for administering any programs, duties or functions
373 provided for in Section 41-7-171 * * * et seq.;

374 (c) Prescribe and promulgate such reasonable rules and
375 regulations as may be necessary to the implementation of the
376 purposes of Section 41-7-171 * * * et seq., complying with Section
377 25-43-1 * * * et seq.;

378 (d) Require providers of institutional health
379 services * * * provided through * * * any other provider of health
380 care requiring a certificate of need to submit or make available
381 statistical information or such other information requested by the
382 State Department of Health, but not information that would
383 constitute an unwarranted invasion of the personal privacy of any
384 individual person or place the provider in jeopardy of legal
385 action by a third party;

386 (e) Conduct such other hearing or hearings in addition
387 to those provided for in Section 41-7-197, and enter such further
388 order or orders, and with approval of the Governor enter into such
389 agreement or agreements with the secretary as may be reasonably
390 necessary to the realization by the people of Mississippi of the
391 full benefits of Acts of Congress;

392 (f) In its discretion, contract with the secretary, or
393 terminate any such contract, for the administration of the



394 provisions, programs, duties and functions of Section 1122 of
395 Public Law 92-603; but the State Department of Health shall not be
396 relieved of matters of accountability, obligation or
397 responsibility that accrued to the department by virtue of prior
398 contracts and/or statutes;

399 (g) Prepare, review at least triennially, and revise,
400 as necessary, a State Health Plan, as defined in Section 41-7-173,
401 which shall be approved by the Governor before it becomes
402 effective.

403 **SECTION 3.** Section 41-7-191, Mississippi Code of 1972, is
404 amended as follows:

405 41-7-191. (1) No person shall engage in any of the
406 following activities without obtaining the required certificate of
407 need:

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

412 (b) The relocation of a health care facility or portion
413 thereof, or major medical equipment, unless such relocation of a
414 health care facility or portion thereof, or major medical
415 equipment, which does not involve a capital expenditure by or on
416 behalf of a health care facility, is within five thousand two
417 hundred eighty (5,280) feet from the main entrance of the health
418 care facility;



419 (c) Any change in the existing bed complement of any
420 health care facility through the addition or conversion of any
421 beds or the alteration, modernizing or refurbishing of any unit or
422 department in which the beds may be located; however, if a health
423 care facility has voluntarily delicensed some of its existing bed
424 complement, it may later relicense some or all of its delicensed
425 beds without the necessity of having to acquire a certificate of
426 need. The State Department of Health shall maintain a record of
427 the delicensing health care facility and its voluntarily
428 delicensed beds and continue counting those beds as part of the
429 state's total bed count for health care planning purposes. If a
430 health care facility that has voluntarily delicensed some of its
431 beds later desires to relicense some or all of its voluntarily
432 delicensed beds, it shall notify the State Department of Health of
433 its intent to increase the number of its licensed beds. The State
434 Department of Health shall survey the health care facility within
435 thirty (30) days of that notice and, if appropriate, issue the
436 health care facility a new license reflecting the new contingent
437 of beds. However, in no event may a health care facility that has
438 voluntarily delicensed some of its beds be reissued a license to
439 operate beds in excess of its bed count before the voluntary
440 delicensure of some of its beds without seeking certificate of
441 need approval;

442 (d) Offering of the following health services if those
443 services have not been provided on a regular basis by the proposed



444 provider of such services within the period of twelve (12) months
445 prior to the time such services would be offered:

446 (i) Open-heart surgery services;

447 (ii) Cardiac catheterization services;

448 (iii) Comprehensive inpatient rehabilitation

449 services;

450 (iv) Licensed psychiatric services;

451 (v) Licensed chemical dependency services;

452 (vi) Radiation therapy services;

453 (vii) Diagnostic imaging services of an invasive

454 nature, i.e. invasive digital angiography;

455 (viii) Nursing home care as defined in

456 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

457 (ix) * * * [Deleted]

458 (x) Swing-bed services;

459 (xi) Ambulatory surgical services;

460 (xii) Magnetic resonance imaging services;

461 (xiii) [Deleted]

462 (xiv) Long-term care hospital services;

463 (xv) Positron emission tomography (PET) services;

464 (e) The relocation of one or more health services from
465 one physical facility or site to another physical facility or
466 site, unless such relocation, which does not involve a capital
467 expenditure by or on behalf of a health care facility, (i) is to a
468 physical facility or site within five thousand two hundred eighty



469 (5,280) feet from the main entrance of the health care facility
470 where the health care service is located, or (ii) is the result of
471 an order of a court of appropriate jurisdiction or a result of
472 pending litigation in such court, or by order of the State
473 Department of Health, or by order of any other agency or legal
474 entity of the state, the federal government, or any political
475 subdivision of either, whose order is also approved by the State
476 Department of Health;

477 (f) The acquisition or otherwise control of any major
478 medical equipment for the provision of medical services; however,
479 (i) the acquisition of any major medical equipment used only for
480 research purposes, and (ii) the acquisition of major medical
481 equipment to replace medical equipment for which a facility is
482 already providing medical services and for which the State
483 Department of Health has been notified before the date of such
484 acquisition shall be exempt from this paragraph; an acquisition
485 for less than fair market value must be reviewed, if the
486 acquisition at fair market value would be subject to review;

487 (g) Changes of ownership of existing health care
488 facilities in which a notice of intent is not filed with the State
489 Department of Health at least thirty (30) days prior to the date
490 such change of ownership occurs, or a change in services or bed
491 capacity as prescribed in paragraph (c) or (d) of this subsection
492 as a result of the change of ownership; an acquisition for less



493 than fair market value must be reviewed, if the acquisition at
494 fair market value would be subject to review;

495 (h) The change of ownership of any health care facility
496 defined in subparagraphs (iv), (vi) and (viii) of Section
497 41-7-173(h), in which a notice of intent as described in paragraph
498 (g) has not been filed and if the Executive Director, Division of
499 Medicaid, Office of the Governor, has not certified in writing
500 that there will be no increase in allowable costs to Medicaid from
501 revaluation of the assets or from increased interest and
502 depreciation as a result of the proposed change of ownership;

503 (i) Any activity described in paragraphs (a) through
504 (h) if undertaken by any person if that same activity would
505 require certificate of need approval if undertaken by a health
506 care facility;

507 (j) Any capital expenditure or deferred capital
508 expenditure by or on behalf of a health care facility not covered
509 by paragraphs (a) through (h);

510 (k) * * * [Deleted]

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

516 (m) Reopening a health care facility that has ceased to
517 operate for a period of sixty (60) months or more, which reopening



518 requires a certificate of need for the establishment of a new
519 health care facility.

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

527 (a) The department may issue a certificate of need to
528 any person proposing the new construction of any health care
529 facility defined in subparagraphs (iv) and (vi) of Section
530 41-7-173(h) as part of a life care retirement facility, in any
531 county bordering on the Gulf of Mexico in which is located a
532 National Aeronautics and Space Administration facility, not to
533 exceed forty (40) beds. From and after July 1, 1999, there shall
534 be no prohibition or restrictions on participation in the Medicaid
535 program (Section 43-13-101 et seq.) for the beds in the health
536 care facility that were authorized under this paragraph (a).

537 (b) The department may issue certificates of need in
538 Harrison County to provide skilled nursing home care for
539 Alzheimer's disease patients and other patients, not to exceed one
540 hundred fifty (150) beds. From and after July 1, 1999, there
541 shall be no prohibition or restrictions on participation in the



542 Medicaid program (Section 43-13-101 et seq.) for the beds in the
543 nursing facilities that were authorized under this paragraph (b).

544 (c) The department may issue a certificate of need for
545 the addition to or expansion of any skilled nursing facility that
546 is part of an existing continuing care retirement community
547 located in Madison County, provided that the recipient of the
548 certificate of need agrees in writing that the skilled nursing
549 facility will not at any time participate in the Medicaid program
550 (Section 43-13-101 et seq.) or admit or keep any patients in the
551 skilled nursing facility who are participating in the Medicaid
552 program. This written agreement by the recipient of the
553 certificate of need shall be fully binding on any subsequent owner
554 of the skilled nursing facility, if the ownership of the facility
555 is transferred at any time after the issuance of the certificate
556 of need. Agreement that the skilled nursing facility will not
557 participate in the Medicaid program shall be a condition of the
558 issuance of a certificate of need to any person under this
559 paragraph (c), and if such skilled nursing facility at any time
560 after the issuance of the certificate of need, regardless of the
561 ownership of the facility, participates in the Medicaid program or
562 admits or keeps any patients in the facility who are participating
563 in the Medicaid program, the State Department of Health shall
564 revoke the certificate of need, if it is still outstanding, and
565 shall deny or revoke the license of the skilled nursing facility,
566 at the time that the department determines, after a hearing



567 complying with due process, that the facility has failed to comply
568 with any of the conditions upon which the certificate of need was
569 issued, as provided in this paragraph and in the written agreement
570 by the recipient of the certificate of need. The total number of
571 beds that may be authorized under the authority of this paragraph
572 (c) shall not exceed sixty (60) beds.

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

581 (e) The State Department of Health may issue a
582 certificate of need for the construction of a nursing facility or
583 the conversion of beds to nursing facility beds at a personal care
584 facility for the elderly in Lowndes County that is owned and
585 operated by a Mississippi nonprofit corporation, not to exceed
586 sixty (60) beds. From and after July 1, 1999, there shall be no
587 prohibition or restrictions on participation in the Medicaid
588 program (Section 43-13-101 et seq.) for the beds in the nursing
589 facility that were authorized under this paragraph (e).

590 (f) The State Department of Health may issue a
591 certificate of need for conversion of a county hospital facility



592 in Itawamba County to a nursing facility, not to exceed sixty (60)
593 beds, including any necessary construction, renovation or
594 expansion. From and after July 1, 1999, there shall be no
595 prohibition or restrictions on participation in the Medicaid
596 program (Section 43-13-101 et seq.) for the beds in the nursing
597 facility that were authorized under this paragraph (f).

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

606 (h) The State Department of Health may issue a
607 certificate of need for the construction or expansion of nursing
608 facility beds or the conversion of other beds to nursing facility
609 beds in either Hancock, Harrison or Jackson County, not to exceed
610 sixty (60) beds. From and after July 1, 1999, there shall be no
611 prohibition or restrictions on participation in the Medicaid
612 program (Section 43-13-101 et seq.) for the beds in the facility
613 that were authorized under this paragraph (h).

614 (i) The department may issue a certificate of need for
615 the new construction of a skilled nursing facility in Leake
616 County, provided that the recipient of the certificate of need



617 agrees in writing that the skilled nursing facility will not at
618 any time participate in the Medicaid program (Section 43-13-101 et
619 seq.) or admit or keep any patients in the skilled nursing
620 facility who are participating in the Medicaid program. This
621 written agreement by the recipient of the certificate of need
622 shall be fully binding on any subsequent owner of the skilled
623 nursing facility, if the ownership of the facility is transferred
624 at any time after the issuance of the certificate of need.
625 Agreement that the skilled nursing facility will not participate
626 in the Medicaid program shall be a condition of the issuance of a
627 certificate of need to any person under this paragraph (i), and if
628 such skilled nursing facility at any time after the issuance of
629 the certificate of need, regardless of the ownership of the
630 facility, participates in the Medicaid program or admits or keeps
631 any patients in the facility who are participating in the Medicaid
632 program, the State Department of Health shall revoke the
633 certificate of need, if it is still outstanding, and shall deny or
634 revoke the license of the skilled nursing facility, at the time
635 that the department determines, after a hearing complying with due
636 process, that the facility has failed to comply with any of the
637 conditions upon which the certificate of need was issued, as
638 provided in this paragraph and in the written agreement by the
639 recipient of the certificate of need. The provision of Section
640 41-7-193(1) regarding substantial compliance of the projection of
641 need as reported in the current State Health Plan is waived for



642 the purposes of this paragraph. The total number of nursing
643 facility beds that may be authorized by any certificate of need
644 issued under this paragraph (i) shall not exceed sixty (60) beds.
645 If the skilled nursing facility authorized by the certificate of
646 need issued under this paragraph is not constructed and fully
647 operational within eighteen (18) months after July 1, 1994, the
648 State Department of Health, after a hearing complying with due
649 process, shall revoke the certificate of need, if it is still
650 outstanding, and shall not issue a license for the skilled nursing
651 facility at any time after the expiration of the eighteen-month
652 period.

653 (j) The department may issue certificates of need to
654 allow any existing freestanding long-term care facility in
655 Tishomingo County and Hancock County that on July 1, 1995, is
656 licensed with fewer than sixty (60) beds. For the purposes of
657 this paragraph (j), the provisions of Section 41-7-193(1)
658 requiring substantial compliance with the projection of need as
659 reported in the current State Health Plan are waived. From and
660 after July 1, 1999, there shall be no prohibition or restrictions
661 on participation in the Medicaid program (Section 43-13-101 et
662 seq.) for the beds in the long-term care facilities that were
663 authorized under this paragraph (j).

664 (k) The department may issue a certificate of need for
665 the construction of a nursing facility at a continuing care
666 retirement community in Lowndes County. The total number of beds



667 that may be authorized under the authority of this paragraph (k)
668 shall not exceed sixty (60) beds. From and after July 1, 2001,
669 the prohibition on the facility participating in the Medicaid
670 program (Section 43-13-101 et seq.) that was a condition of
671 issuance of the certificate of need under this paragraph (k) shall
672 be revised as follows: The nursing facility may participate in
673 the Medicaid program from and after July 1, 2001, if the owner of
674 the facility on July 1, 2001, agrees in writing that no more than
675 thirty (30) of the beds at the facility will be certified for
676 participation in the Medicaid program, and that no claim will be
677 submitted for Medicaid reimbursement for more than thirty (30)
678 patients in the facility in any month or for any patient in the
679 facility who is in a bed that is not Medicaid-certified. This
680 written agreement by the owner of the facility shall be a
681 condition of licensure of the facility, and the agreement shall be
682 fully binding on any subsequent owner of the facility if the
683 ownership of the facility is transferred at any time after July 1,
684 2001. After this written agreement is executed, the Division of
685 Medicaid and the State Department of Health shall not certify more
686 than thirty (30) of the beds in the facility for participation in
687 the Medicaid program. If the facility violates the terms of the
688 written agreement by admitting or keeping in the facility on a
689 regular or continuing basis more than thirty (30) patients who are
690 participating in the Medicaid program, the State Department of
691 Health shall revoke the license of the facility, at the time that



692 the department determines, after a hearing complying with due
693 process, that the facility has violated the written agreement.

694 (l) Provided that funds are specifically appropriated
695 therefor by the Legislature, the department may issue a
696 certificate of need to a rehabilitation hospital in Hinds County
697 for the construction of a sixty-bed long-term care nursing
698 facility dedicated to the care and treatment of persons with
699 severe disabilities including persons with spinal cord and
700 closed-head injuries and ventilator dependent patients. The
701 provisions of Section 41-7-193(1) regarding substantial compliance
702 with projection of need as reported in the current State Health
703 Plan are waived for the purpose of this paragraph.

704 (m) The State Department of Health may issue a
705 certificate of need to a county-owned hospital in the Second
706 Judicial District of Panola County for the conversion of not more
707 than seventy-two (72) hospital beds to nursing facility beds,
708 provided that the recipient of the certificate of need agrees in
709 writing that none of the beds at the nursing facility will be
710 certified for participation in the Medicaid program (Section
711 43-13-101 et seq.), and that no claim will be submitted for
712 Medicaid reimbursement in the nursing facility in any day or for
713 any patient in the nursing facility. This written agreement by
714 the recipient of the certificate of need shall be a condition of
715 the issuance of the certificate of need under this paragraph, and
716 the agreement shall be fully binding on any subsequent owner of



717 the nursing facility if the ownership of the nursing facility is
718 transferred at any time after the issuance of the certificate of
719 need. After this written agreement is executed, the Division of
720 Medicaid and the State Department of Health shall not certify any
721 of the beds in the nursing facility for participation in the
722 Medicaid program. If the nursing facility violates the terms of
723 the written agreement by admitting or keeping in the nursing
724 facility on a regular or continuing basis any patients who are
725 participating in the Medicaid program, the State Department of
726 Health shall revoke the license of the nursing facility, at the
727 time that the department determines, after a hearing complying
728 with due process, that the nursing facility has violated the
729 condition upon which the certificate of need was issued, as
730 provided in this paragraph and in the written agreement. If the
731 certificate of need authorized under this paragraph is not issued
732 within twelve (12) months after July 1, 2001, the department shall
733 deny the application for the certificate of need and shall not
734 issue the certificate of need at any time after the twelve-month
735 period, unless the issuance is contested. If the certificate of
736 need is issued and substantial construction of the nursing
737 facility beds has not commenced within eighteen (18) months after
738 July 1, 2001, the State Department of Health, after a hearing
739 complying with due process, shall revoke the certificate of need
740 if it is still outstanding, and the department shall not issue a
741 license for the nursing facility at any time after the



742 eighteen-month period. However, if the issuance of the
743 certificate of need is contested, the department shall require
744 substantial construction of the nursing facility beds within six
745 (6) months after final adjudication on the issuance of the
746 certificate of need.

747 (n) The department may issue a certificate of need for
748 the new construction, addition or conversion of skilled nursing
749 facility beds in Madison County, provided that the recipient of
750 the certificate of need agrees in writing that the skilled nursing
751 facility will not at any time participate in the Medicaid program
752 (Section 43-13-101 et seq.) or admit or keep any patients in the
753 skilled nursing facility who are participating in the Medicaid
754 program. This written agreement by the recipient of the
755 certificate of need shall be fully binding on any subsequent owner
756 of the skilled nursing facility, if the ownership of the facility
757 is transferred at any time after the issuance of the certificate
758 of need. Agreement that the skilled nursing facility will not
759 participate in the Medicaid program shall be a condition of the
760 issuance of a certificate of need to any person under this
761 paragraph (n), and if such skilled nursing facility at any time
762 after the issuance of the certificate of need, regardless of the
763 ownership of the facility, participates in the Medicaid program or
764 admits or keeps any patients in the facility who are participating
765 in the Medicaid program, the State Department of Health shall
766 revoke the certificate of need, if it is still outstanding, and



767 shall deny or revoke the license of the skilled nursing facility,
768 at the time that the department determines, after a hearing
769 complying with due process, that the facility has failed to comply
770 with any of the conditions upon which the certificate of need was
771 issued, as provided in this paragraph and in the written agreement
772 by the recipient of the certificate of need. The total number of
773 nursing facility beds that may be authorized by any certificate of
774 need issued under this paragraph (n) shall not exceed sixty (60)
775 beds. If the certificate of need authorized under this paragraph
776 is not issued within twelve (12) months after July 1, 1998, the
777 department shall deny the application for the certificate of need
778 and shall not issue the certificate of need at any time after the
779 twelve-month period, unless the issuance is contested. If the
780 certificate of need is issued and substantial construction of the
781 nursing facility beds has not commenced within eighteen (18)
782 months after July 1, 1998, the State Department of Health, after a
783 hearing complying with due process, shall revoke the certificate
784 of need if it is still outstanding, and the department shall not
785 issue a license for the nursing facility at any time after the
786 eighteen-month period. However, if the issuance of the
787 certificate of need is contested, the department shall require
788 substantial construction of the nursing facility beds within six
789 (6) months after final adjudication on the issuance of the
790 certificate of need.



791 (o) The department may issue a certificate of need for
792 the new construction, addition or conversion of skilled nursing
793 facility beds in Leake County, provided that the recipient of the
794 certificate of need agrees in writing that the skilled nursing
795 facility will not at any time participate in the Medicaid program
796 (Section 43-13-101 et seq.) or admit or keep any patients in the
797 skilled nursing facility who are participating in the Medicaid
798 program. This written agreement by the recipient of the
799 certificate of need shall be fully binding on any subsequent owner
800 of the skilled nursing facility, if the ownership of the facility
801 is transferred at any time after the issuance of the certificate
802 of need. Agreement that the skilled nursing facility will not
803 participate in the Medicaid program shall be a condition of the
804 issuance of a certificate of need to any person under this
805 paragraph (o), and if such skilled nursing facility at any time
806 after the issuance of the certificate of need, regardless of the
807 ownership of the facility, participates in the Medicaid program or
808 admits or keeps any patients in the facility who are participating
809 in the Medicaid program, the State Department of Health shall
810 revoke the certificate of need, if it is still outstanding, and
811 shall deny or revoke the license of the skilled nursing facility,
812 at the time that the department determines, after a hearing
813 complying with due process, that the facility has failed to comply
814 with any of the conditions upon which the certificate of need was
815 issued, as provided in this paragraph and in the written agreement



816 by the recipient of the certificate of need. The total number of
817 nursing facility beds that may be authorized by any certificate of
818 need issued under this paragraph (o) shall not exceed sixty (60)
819 beds. If the certificate of need authorized under this paragraph
820 is not issued within twelve (12) months after July 1, 2001, the
821 department shall deny the application for the certificate of need
822 and shall not issue the certificate of need at any time after the
823 twelve-month period, unless the issuance is contested. If the
824 certificate of need is issued and substantial construction of the
825 nursing facility beds has not commenced within eighteen (18)
826 months after July 1, 2001, the State Department of Health, after a
827 hearing complying with due process, shall revoke the certificate
828 of need if it is still outstanding, and the department shall not
829 issue a license for the nursing facility at any time after the
830 eighteen-month period. However, if the issuance of the
831 certificate of need is contested, the department shall require
832 substantial construction of the nursing facility beds within six
833 (6) months after final adjudication on the issuance of the
834 certificate of need.

835 (p) The department may issue a certificate of need for
836 the construction of a municipally owned nursing facility within
837 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
838 beds, provided that the recipient of the certificate of need
839 agrees in writing that the skilled nursing facility will not at
840 any time participate in the Medicaid program (Section 43-13-101 et



841 seq.) or admit or keep any patients in the skilled nursing
842 facility who are participating in the Medicaid program. This
843 written agreement by the recipient of the certificate of need
844 shall be fully binding on any subsequent owner of the skilled
845 nursing facility, if the ownership of the facility is transferred
846 at any time after the issuance of the certificate of need.
847 Agreement that the skilled nursing facility will not participate
848 in the Medicaid program shall be a condition of the issuance of a
849 certificate of need to any person under this paragraph (p), and if
850 such skilled nursing facility at any time after the issuance of
851 the certificate of need, regardless of the ownership of the
852 facility, participates in the Medicaid program or admits or keeps
853 any patients in the facility who are participating in the Medicaid
854 program, the State Department of Health shall revoke the
855 certificate of need, if it is still outstanding, and shall deny or
856 revoke the license of the skilled nursing facility, at the time
857 that the department determines, after a hearing complying with due
858 process, that the facility has failed to comply with any of the
859 conditions upon which the certificate of need was issued, as
860 provided in this paragraph and in the written agreement by the
861 recipient of the certificate of need. The provision of Section
862 41-7-193(1) regarding substantial compliance of the projection of
863 need as reported in the current State Health Plan is waived for
864 the purposes of this paragraph. If the certificate of need
865 authorized under this paragraph is not issued within twelve (12)



866 months after July 1, 1998, the department shall deny the
867 application for the certificate of need and shall not issue the
868 certificate of need at any time after the twelve-month period,
869 unless the issuance is contested. If the certificate of need is
870 issued and substantial construction of the nursing facility beds
871 has not commenced within eighteen (18) months after July 1, 1998,
872 the State Department of Health, after a hearing complying with due
873 process, shall revoke the certificate of need if it is still
874 outstanding, and the department shall not issue a license for the
875 nursing facility at any time after the eighteen-month period.
876 However, if the issuance of the certificate of need is contested,
877 the department shall require substantial construction of the
878 nursing facility beds within six (6) months after final
879 adjudication on the issuance of the certificate of need.

880 (q) (i) Beginning on July 1, 1999, the State
881 Department of Health shall issue certificates of need during each
882 of the next four (4) fiscal years for the construction or
883 expansion of nursing facility beds or the conversion of other beds
884 to nursing facility beds in each county in the state having a need
885 for fifty (50) or more additional nursing facility beds, as shown
886 in the fiscal year 1999 State Health Plan, in the manner provided
887 in this paragraph (q). The total number of nursing facility beds
888 that may be authorized by any certificate of need authorized under
889 this paragraph (q) shall not exceed sixty (60) beds.



890 (ii) Subject to the provisions of subparagraph
891 (v), during each of the next four (4) fiscal years, the department
892 shall issue six (6) certificates of need for new nursing facility
893 beds, as follows: During fiscal years 2000, 2001 and 2002, one
894 (1) certificate of need shall be issued for new nursing facility
895 beds in the county in each of the four (4) Long-Term Care Planning
896 Districts designated in the fiscal year 1999 State Health Plan
897 that has the highest need in the district for those beds; and two
898 (2) certificates of need shall be issued for new nursing facility
899 beds in the two (2) counties from the state at large that have the
900 highest need in the state for those beds, when considering the
901 need on a statewide basis and without regard to the Long-Term Care
902 Planning Districts in which the counties are located. During
903 fiscal year 2003, one (1) certificate of need shall be issued for
904 new nursing facility beds in any county having a need for fifty
905 (50) or more additional nursing facility beds, as shown in the
906 fiscal year 1999 State Health Plan, that has not received a
907 certificate of need under this paragraph (q) during the three (3)
908 previous fiscal years. During fiscal year 2000, in addition to
909 the six (6) certificates of need authorized in this subparagraph,
910 the department also shall issue a certificate of need for new
911 nursing facility beds in Amite County and a certificate of need
912 for new nursing facility beds in Carroll County.

913 (iii) Subject to the provisions of subparagraph
914 (v), the certificate of need issued under subparagraph (ii) for



915 nursing facility beds in each Long-Term Care Planning District
916 during each fiscal year shall first be available for nursing
917 facility beds in the county in the district having the highest
918 need for those beds, as shown in the fiscal year 1999 State Health
919 Plan. If there are no applications for a certificate of need for
920 nursing facility beds in the county having the highest need for
921 those beds by the date specified by the department, then the
922 certificate of need shall be available for nursing facility beds
923 in other counties in the district in descending order of the need
924 for those beds, from the county with the second highest need to
925 the county with the lowest need, until an application is received
926 for nursing facility beds in an eligible county in the district.

927 (iv) Subject to the provisions of subparagraph
928 (v), the certificate of need issued under subparagraph (ii) for
929 nursing facility beds in the two (2) counties from the state at
930 large during each fiscal year shall first be available for nursing
931 facility beds in the two (2) counties that have the highest need
932 in the state for those beds, as shown in the fiscal year 1999
933 State Health Plan, when considering the need on a statewide basis
934 and without regard to the Long-Term Care Planning Districts in
935 which the counties are located. If there are no applications for
936 a certificate of need for nursing facility beds in either of the
937 two (2) counties having the highest need for those beds on a
938 statewide basis by the date specified by the department, then the
939 certificate of need shall be available for nursing facility beds



940 in other counties from the state at large in descending order of
941 the need for those beds on a statewide basis, from the county with
942 the second highest need to the county with the lowest need, until
943 an application is received for nursing facility beds in an
944 eligible county from the state at large.

945 (v) If a certificate of need is authorized to be
946 issued under this paragraph (q) for nursing facility beds in a
947 county on the basis of the need in the Long-Term Care Planning
948 District during any fiscal year of the four-year period, a
949 certificate of need shall not also be available under this
950 paragraph (q) for additional nursing facility beds in that county
951 on the basis of the need in the state at large, and that county
952 shall be excluded in determining which counties have the highest
953 need for nursing facility beds in the state at large for that
954 fiscal year. After a certificate of need has been issued under
955 this paragraph (q) for nursing facility beds in a county during
956 any fiscal year of the four-year period, a certificate of need
957 shall not be available again under this paragraph (q) for
958 additional nursing facility beds in that county during the
959 four-year period, and that county shall be excluded in determining
960 which counties have the highest need for nursing facility beds in
961 succeeding fiscal years.

962 (vi) If more than one (1) application is made for
963 a certificate of need for nursing home facility beds available
964 under this paragraph (q), in Yalobusha, Newton or Tallahatchie



965 County, and one (1) of the applicants is a county-owned hospital
966 located in the county where the nursing facility beds are
967 available, the department shall give priority to the county-owned
968 hospital in granting the certificate of need if the following
969 conditions are met:

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

973 2. The county-owned hospital's qualifications
974 for the certificate of need, as shown in its application and as
975 determined by the department, are at least equal to the
976 qualifications of the other applicants for the certificate of
977 need.

978 (r) (i) Beginning on July 1, 1999, the State
979 Department of Health shall issue certificates of need during each
980 of the next two (2) fiscal years for the construction or expansion
981 of nursing facility beds or the conversion of other beds to
982 nursing facility beds in each of the four (4) Long-Term Care
983 Planning Districts designated in the fiscal year 1999 State Health
984 Plan, to provide care exclusively to patients with Alzheimer's
985 disease.

986 (ii) Not more than twenty (20) beds may be
987 authorized by any certificate of need issued under this paragraph
988 (r), and not more than a total of sixty (60) beds may be
989 authorized in any Long-Term Care Planning District by all



990 certificates of need issued under this paragraph (r). However,
991 the total number of beds that may be authorized by all
992 certificates of need issued under this paragraph (r) during any
993 fiscal year shall not exceed one hundred twenty (120) beds, and
994 the total number of beds that may be authorized in any Long-Term
995 Care Planning District during any fiscal year shall not exceed
996 forty (40) beds. Of the certificates of need that are issued for
997 each Long-Term Care Planning District during the next two (2)
998 fiscal years, at least one (1) shall be issued for beds in the
999 northern part of the district, at least one (1) shall be issued
1000 for beds in the central part of the district, and at least one (1)
1001 shall be issued for beds in the southern part of the district.

1002 (iii) The State Department of Health, in
1003 consultation with the Department of Mental Health and the Division
1004 of Medicaid, shall develop and prescribe the staffing levels,
1005 space requirements and other standards and requirements that must
1006 be met with regard to the nursing facility beds authorized under
1007 this paragraph (r) to provide care exclusively to patients with
1008 Alzheimer's disease.

1009 (s) The State Department of Health may issue a
1010 certificate of need to a nonprofit skilled nursing facility using
1011 the Green House model of skilled nursing care and located in Yazoo
1012 City, Yazoo County, Mississippi, for the construction, expansion
1013 or conversion of not more than nineteen (19) nursing facility
1014 beds. For purposes of this paragraph (s), the provisions of



1015 Section 41-7-193(1) requiring substantial compliance with the
1016 projection of need as reported in the current State Health Plan
1017 and the provisions of Section 41-7-197 requiring a formal
1018 certificate of need hearing process are waived. There shall be no
1019 prohibition or restrictions on participation in the Medicaid
1020 program for the person receiving the certificate of need
1021 authorized under this paragraph (s).

1022 (t) The State Department of Health shall issue
1023 certificates of need to the owner of a nursing facility in
1024 operation at the time of Hurricane Katrina in Hancock County that
1025 was not operational on December 31, 2005, because of damage
1026 sustained from Hurricane Katrina to authorize the following: (i)
1027 the construction of a new nursing facility in Harrison County;
1028 (ii) the relocation of forty-nine (49) nursing facility beds from
1029 the Hancock County facility to the new Harrison County facility;
1030 (iii) the establishment of not more than twenty (20) non-Medicaid
1031 nursing facility beds at the Hancock County facility; and (iv) the
1032 establishment of not more than twenty (20) non-Medicaid beds at
1033 the new Harrison County facility. The certificates of need that
1034 authorize the non-Medicaid nursing facility beds under
1035 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1036 subject to the following conditions: The owner of the Hancock
1037 County facility and the new Harrison County facility must agree in
1038 writing that no more than fifty (50) of the beds at the Hancock
1039 County facility and no more than forty-nine (49) of the beds at



1040 the Harrison County facility will be certified for participation
1041 in the Medicaid program, and that no claim will be submitted for
1042 Medicaid reimbursement for more than fifty (50) patients in the
1043 Hancock County facility in any month, or for more than forty-nine
1044 (49) patients in the Harrison County facility in any month, or for
1045 any patient in either facility who is in a bed that is not
1046 Medicaid-certified. This written agreement by the owner of the
1047 nursing facilities shall be a condition of the issuance of the
1048 certificates of need under this paragraph (t), and the agreement
1049 shall be fully binding on any later owner or owners of either
1050 facility if the ownership of either facility is transferred at any
1051 time after the certificates of need are issued. After this
1052 written agreement is executed, the Division of Medicaid and the
1053 State Department of Health shall not certify more than fifty (50)
1054 of the beds at the Hancock County facility or more than forty-nine
1055 (49) of the beds at the Harrison County facility for participation
1056 in the Medicaid program. If the Hancock County facility violates
1057 the terms of the written agreement by admitting or keeping in the
1058 facility on a regular or continuing basis more than fifty (50)
1059 patients who are participating in the Medicaid program, or if the
1060 Harrison County facility violates the terms of the written
1061 agreement by admitting or keeping in the facility on a regular or
1062 continuing basis more than forty-nine (49) patients who are
1063 participating in the Medicaid program, the State Department of
1064 Health shall revoke the license of the facility that is in



1065 violation of the agreement, at the time that the department
1066 determines, after a hearing complying with due process, that the
1067 facility has violated the agreement.

1068 (u) The State Department of Health shall issue a
1069 certificate of need to a nonprofit venture for the establishment,
1070 construction and operation of a skilled nursing facility of not
1071 more than sixty (60) beds to provide skilled nursing care for
1072 ventilator dependent or otherwise medically dependent pediatric
1073 patients who require medical and nursing care or rehabilitation
1074 services to be located in a county in which an academic medical
1075 center and a children's hospital are located, and for any
1076 construction and for the acquisition of equipment related to those
1077 beds. The facility shall be authorized to keep such ventilator
1078 dependent or otherwise medically dependent pediatric patients
1079 beyond age twenty-one (21) in accordance with regulations of the
1080 State Board of Health. For purposes of this paragraph (u), the
1081 provisions of Section 41-7-193(1) requiring substantial compliance
1082 with the projection of need as reported in the current State
1083 Health Plan are waived, and the provisions of Section 41-7-197
1084 requiring a formal certificate of need hearing process are waived.
1085 The beds authorized by this paragraph shall be counted as
1086 pediatric skilled nursing facility beds for health planning
1087 purposes under Section 41-7-171 et seq. There shall be no
1088 prohibition of or restrictions on participation in the Medicaid



1089 program for the person receiving the certificate of need
1090 authorized by this paragraph.

1091 (3) The State Department of Health may grant approval for
1092 and issue certificates of need to any person proposing the new
1093 construction of, addition to, conversion of beds of or expansion
1094 of any health care facility defined in subparagraph (x)
1095 (psychiatric residential treatment facility) of Section
1096 41-7-173(h). The total number of beds which may be authorized by
1097 such certificates of need shall not exceed three hundred
1098 thirty-four (334) beds for the entire state.

1099 (a) Of the total number of beds authorized under this
1100 subsection, the department shall issue a certificate of need to a
1101 privately owned psychiatric residential treatment facility in
1102 Simpson County for the conversion of sixteen (16) intermediate
1103 care facility for the mentally retarded (ICF-MR) beds to
1104 psychiatric residential treatment facility beds, provided that
1105 facility agrees in writing that the facility shall give priority
1106 for the use of those sixteen (16) beds to Mississippi residents
1107 who are presently being treated in out-of-state facilities.

1108 (b) Of the total number of beds authorized under this
1109 subsection, the department may issue a certificate or certificates
1110 of need for the construction or expansion of psychiatric
1111 residential treatment facility beds or the conversion of other
1112 beds to psychiatric residential treatment facility beds in Warren
1113 County, not to exceed sixty (60) psychiatric residential treatment



1114 facility beds, provided that the facility agrees in writing that
1115 no more than thirty (30) of the beds at the psychiatric
1116 residential treatment facility will be certified for participation
1117 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1118 any patients other than those who are participating only in the
1119 Medicaid program of another state, and that no claim will be
1120 submitted to the Division of Medicaid for Medicaid reimbursement
1121 for more than thirty (30) patients in the psychiatric residential
1122 treatment facility in any day or for any patient in the
1123 psychiatric residential treatment facility who is in a bed that is
1124 not Medicaid-certified. This written agreement by the recipient
1125 of the certificate of need shall be a condition of the issuance of
1126 the certificate of need under this paragraph, and the agreement
1127 shall be fully binding on any subsequent owner of the psychiatric
1128 residential treatment facility if the ownership of the facility is
1129 transferred at any time after the issuance of the certificate of
1130 need. After this written agreement is executed, the Division of
1131 Medicaid and the State Department of Health shall not certify more
1132 than thirty (30) of the beds in the psychiatric residential
1133 treatment facility for participation in the Medicaid program for
1134 the use of any patients other than those who are participating
1135 only in the Medicaid program of another state. If the psychiatric
1136 residential treatment facility violates the terms of the written
1137 agreement by admitting or keeping in the facility on a regular or
1138 continuing basis more than thirty (30) patients who are



1139 participating in the Mississippi Medicaid program, the State
1140 Department of Health shall revoke the license of the facility, at
1141 the time that the department determines, after a hearing complying
1142 with due process, that the facility has violated the condition
1143 upon which the certificate of need was issued, as provided in this
1144 paragraph and in the written agreement.

1145 The State Department of Health, on or before July 1, 2002,
1146 shall transfer the certificate of need authorized under the
1147 authority of this paragraph (b), or reissue the certificate of
1148 need if it has expired, to River Region Health System.

1149 (c) Of the total number of beds authorized under this
1150 subsection, the department shall issue a certificate of need to a
1151 hospital currently operating Medicaid-certified acute psychiatric
1152 beds for adolescents in DeSoto County, for the establishment of a
1153 forty-bed psychiatric residential treatment facility in DeSoto
1154 County, provided that the hospital agrees in writing (i) that the
1155 hospital shall give priority for the use of those forty (40) beds
1156 to Mississippi residents who are presently being treated in
1157 out-of-state facilities, and (ii) that no more than fifteen (15)
1158 of the beds at the psychiatric residential treatment facility will
1159 be certified for participation in the Medicaid program (Section
1160 43-13-101 et seq.), and that no claim will be submitted for
1161 Medicaid reimbursement for more than fifteen (15) patients in the
1162 psychiatric residential treatment facility in any day or for any
1163 patient in the psychiatric residential treatment facility who is



1164 in a bed that is not Medicaid-certified. This written agreement
1165 by the recipient of the certificate of need shall be a condition
1166 of the issuance of the certificate of need under this paragraph,
1167 and the agreement shall be fully binding on any subsequent owner
1168 of the psychiatric residential treatment facility if the ownership
1169 of the facility is transferred at any time after the issuance of
1170 the certificate of need. After this written agreement is
1171 executed, the Division of Medicaid and the State Department of
1172 Health shall not certify more than fifteen (15) of the beds in the
1173 psychiatric residential treatment facility for participation in
1174 the Medicaid program. If the psychiatric residential treatment
1175 facility violates the terms of the written agreement by admitting
1176 or keeping in the facility on a regular or continuing basis more
1177 than fifteen (15) patients who are participating in the Medicaid
1178 program, the State Department of Health shall revoke the license
1179 of the facility, at the time that the department determines, after
1180 a hearing complying with due process, that the facility has
1181 violated the condition upon which the certificate of need was
1182 issued, as provided in this paragraph and in the written
1183 agreement.

1184 (d) Of the total number of beds authorized under this
1185 subsection, the department may issue a certificate or certificates
1186 of need for the construction or expansion of psychiatric
1187 residential treatment facility beds or the conversion of other
1188 beds to psychiatric treatment facility beds, not to exceed thirty



1189 (30) psychiatric residential treatment facility beds, in either
1190 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1191 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1192 (e) Of the total number of beds authorized under this
1193 subsection (3) the department shall issue a certificate of need to
1194 a privately owned, nonprofit psychiatric residential treatment
1195 facility in Hinds County for an eight-bed expansion of the
1196 facility, provided that the facility agrees in writing that the
1197 facility shall give priority for the use of those eight (8) beds
1198 to Mississippi residents who are presently being treated in
1199 out-of-state facilities.

1200 (f) The department shall issue a certificate of need to
1201 a one-hundred-thirty-four-bed specialty hospital located on
1202 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1203 at 5900 Highway 39 North in Meridian (Lauderdale County),
1204 Mississippi, for the addition, construction or expansion of
1205 child/adolescent psychiatric residential treatment facility beds
1206 in Lauderdale County. As a condition of issuance of the
1207 certificate of need under this paragraph, the facility shall give
1208 priority in admissions to the child/adolescent psychiatric
1209 residential treatment facility beds authorized under this
1210 paragraph to patients who otherwise would require out-of-state
1211 placement. The Division of Medicaid, in conjunction with the
1212 Department of Human Services, shall furnish the facility a list of
1213 all out-of-state patients on a quarterly basis. Furthermore,



1214 notice shall also be provided to the parent, custodial parent or
1215 guardian of each out-of-state patient notifying them of the
1216 priority status granted by this paragraph. For purposes of this
1217 paragraph, the provisions of Section 41-7-193(1) requiring
1218 substantial compliance with the projection of need as reported in
1219 the current State Health Plan are waived. The total number of
1220 child/adolescent psychiatric residential treatment facility beds
1221 that may be authorized under the authority of this paragraph shall
1222 be sixty (60) beds. There shall be no prohibition or restrictions
1223 on participation in the Medicaid program (Section 43-13-101 et
1224 seq.) for the person receiving the certificate of need authorized
1225 under this paragraph or for the beds converted pursuant to the
1226 authority of that certificate of need.

1227 (4) (a) From and after July 1, 1993, the department shall
1228 not issue a certificate of need to any person for the new
1229 construction of any hospital, psychiatric hospital or chemical
1230 dependency hospital that will contain any child/adolescent
1231 psychiatric or child/adolescent chemical dependency beds, or for
1232 the conversion of any other health care facility to a hospital,
1233 psychiatric hospital or chemical dependency hospital that will
1234 contain any child/adolescent psychiatric or child/adolescent
1235 chemical dependency beds, or for the addition of any
1236 child/adolescent psychiatric or child/adolescent chemical
1237 dependency beds in any hospital, psychiatric hospital or chemical
1238 dependency hospital, or for the conversion of any beds of another



1239 category in any hospital, psychiatric hospital or chemical
1240 dependency hospital to child/adolescent psychiatric or
1241 child/adolescent chemical dependency beds, except as hereinafter
1242 authorized:

1243 (i) The department may issue certificates of need
1244 to any person for any purpose described in this subsection,
1245 provided that the hospital, psychiatric hospital or chemical
1246 dependency hospital does not participate in the Medicaid program
1247 (Section 43-13-101 et seq.) at the time of the application for the
1248 certificate of need and the owner of the hospital, psychiatric
1249 hospital or chemical dependency hospital agrees in writing that
1250 the hospital, psychiatric hospital or chemical dependency hospital
1251 will not at any time participate in the Medicaid program or admit
1252 or keep any patients who are participating in the Medicaid program
1253 in the hospital, psychiatric hospital or chemical dependency
1254 hospital. This written agreement by the recipient of the
1255 certificate of need shall be fully binding on any subsequent owner
1256 of the hospital, psychiatric hospital or chemical dependency
1257 hospital, if the ownership of the facility is transferred at any
1258 time after the issuance of the certificate of need. Agreement
1259 that the hospital, psychiatric hospital or chemical dependency
1260 hospital will not participate in the Medicaid program shall be a
1261 condition of the issuance of a certificate of need to any person
1262 under this subparagraph (i), and if such hospital, psychiatric
1263 hospital or chemical dependency hospital at any time after the



1264 issuance of the certificate of need, regardless of the ownership
1265 of the facility, participates in the Medicaid program or admits or
1266 keeps any patients in the hospital, psychiatric hospital or
1267 chemical dependency hospital who are participating in the Medicaid
1268 program, the State Department of Health shall revoke the
1269 certificate of need, if it is still outstanding, and shall deny or
1270 revoke the license of the hospital, psychiatric hospital or
1271 chemical dependency hospital, at the time that the department
1272 determines, after a hearing complying with due process, that the
1273 hospital, psychiatric hospital or chemical dependency hospital has
1274 failed to comply with any of the conditions upon which the
1275 certificate of need was issued, as provided in this subparagraph
1276 (i) and in the written agreement by the recipient of the
1277 certificate of need.

1278 (ii) The department may issue a certificate of
1279 need for the conversion of existing beds in a county hospital in
1280 Choctaw County from acute care beds to child/adolescent chemical
1281 dependency beds. For purposes of this subparagraph (ii), the
1282 provisions of Section 41-7-193(1) requiring substantial compliance
1283 with the projection of need as reported in the current State
1284 Health Plan are waived. The total number of beds that may be
1285 authorized under authority of this subparagraph shall not exceed
1286 twenty (20) beds. There shall be no prohibition or restrictions
1287 on participation in the Medicaid program (Section 43-13-101 et
1288 seq.) for the hospital receiving the certificate of need



1289 authorized under this subparagraph or for the beds converted
1290 pursuant to the authority of that certificate of need.

1291 (iii) The department may issue a certificate or
1292 certificates of need for the construction or expansion of
1293 child/adolescent psychiatric beds or the conversion of other beds
1294 to child/adolescent psychiatric beds in Warren County. For
1295 purposes of this subparagraph (iii), the provisions of Section
1296 41-7-193(1) requiring substantial compliance with the projection
1297 of need as reported in the current State Health Plan are waived.
1298 The total number of beds that may be authorized under the
1299 authority of this subparagraph shall not exceed twenty (20) beds.
1300 There shall be no prohibition or restrictions on participation in
1301 the Medicaid program (Section 43-13-101 et seq.) for the person
1302 receiving the certificate of need authorized under this
1303 subparagraph or for the beds converted pursuant to the authority
1304 of that certificate of need.

1305 If by January 1, 2002, there has been no significant
1306 commencement of construction of the beds authorized under this
1307 subparagraph (iii), or no significant action taken to convert
1308 existing beds to the beds authorized under this subparagraph, then
1309 the certificate of need that was previously issued under this
1310 subparagraph shall expire. If the previously issued certificate
1311 of need expires, the department may accept applications for
1312 issuance of another certificate of need for the beds authorized
1313 under this subparagraph, and may issue a certificate of need to



1314 authorize the construction, expansion or conversion of the beds
1315 authorized under this subparagraph.

1316 (iv) The department shall issue a certificate of
1317 need to the Region 7 Mental Health/Retardation Commission for the
1318 construction or expansion of child/adolescent psychiatric beds or
1319 the conversion of other beds to child/adolescent psychiatric beds
1320 in any of the counties served by the commission. For purposes of
1321 this subparagraph (iv), the provisions of Section 41-7-193(1)
1322 requiring substantial compliance with the projection of need as
1323 reported in the current State Health Plan are waived. The total
1324 number of beds that may be authorized under the authority of this
1325 subparagraph shall not exceed twenty (20) beds. There shall be no
1326 prohibition or restrictions on participation in the Medicaid
1327 program (Section 43-13-101 et seq.) for the person receiving the
1328 certificate of need authorized under this subparagraph or for the
1329 beds converted pursuant to the authority of that certificate of
1330 need.

1331 (v) The department may issue a certificate of need
1332 to any county hospital located in Leflore County for the
1333 construction or expansion of adult psychiatric beds or the
1334 conversion of other beds to adult psychiatric beds, not to exceed
1335 twenty (20) beds, provided that the recipient of the certificate
1336 of need agrees in writing that the adult psychiatric beds will not
1337 at any time be certified for participation in the Medicaid program
1338 and that the hospital will not admit or keep any patients who are



1339 participating in the Medicaid program in any of such adult
1340 psychiatric beds. This written agreement by the recipient of the
1341 certificate of need shall be fully binding on any subsequent owner
1342 of the hospital if the ownership of the hospital is transferred at
1343 any time after the issuance of the certificate of need. Agreement
1344 that the adult psychiatric beds will not be certified for
1345 participation in the Medicaid program shall be a condition of the
1346 issuance of a certificate of need to any person under this
1347 subparagraph (v), and if such hospital at any time after the
1348 issuance of the certificate of need, regardless of the ownership
1349 of the hospital, has any of such adult psychiatric beds certified
1350 for participation in the Medicaid program or admits or keeps any
1351 Medicaid patients in such adult psychiatric beds, the State
1352 Department of Health shall revoke the certificate of need, if it
1353 is still outstanding, and shall deny or revoke the license of the
1354 hospital at the time that the department determines, after a
1355 hearing complying with due process, that the hospital has failed
1356 to comply with any of the conditions upon which the certificate of
1357 need was issued, as provided in this subparagraph and in the
1358 written agreement by the recipient of the certificate of need.

1359 (vi) The department may issue a certificate or
1360 certificates of need for the expansion of child psychiatric beds
1361 or the conversion of other beds to child psychiatric beds at the
1362 University of Mississippi Medical Center. For purposes of this
1363 subparagraph (vi), the provisions of Section 41-7-193(1) requiring



1364 substantial compliance with the projection of need as reported in
1365 the current State Health Plan are waived. The total number of
1366 beds that may be authorized under the authority of this
1367 subparagraph shall not exceed fifteen (15) beds. There shall be
1368 no prohibition or restrictions on participation in the Medicaid
1369 program (Section 43-13-101 et seq.) for the hospital receiving the
1370 certificate of need authorized under this subparagraph or for the
1371 beds converted pursuant to the authority of that certificate of
1372 need.

1373 (b) From and after July 1, 1990, no hospital,
1374 psychiatric hospital or chemical dependency hospital shall be
1375 authorized to add any child/adolescent psychiatric or
1376 child/adolescent chemical dependency beds or convert any beds of
1377 another category to child/adolescent psychiatric or
1378 child/adolescent chemical dependency beds without a certificate of
1379 need under the authority of subsection (1)(c) of this section.

1380 (5) The department may issue a certificate of need to a
1381 county hospital in Winston County for the conversion of fifteen
1382 (15) acute care beds to geriatric psychiatric care beds.

1383 (6) The State Department of Health shall issue a certificate
1384 of need to a Mississippi corporation qualified to manage a
1385 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1386 Harrison County, not to exceed eighty (80) beds, including any
1387 necessary renovation or construction required for licensure and
1388 certification, provided that the recipient of the certificate of



1389 need agrees in writing that the long-term care hospital will not
1390 at any time participate in the Medicaid program (Section 43-13-101
1391 et seq.) or admit or keep any patients in the long-term care
1392 hospital who are participating in the Medicaid program. This
1393 written agreement by the recipient of the certificate of need
1394 shall be fully binding on any subsequent owner of the long-term
1395 care hospital, if the ownership of the facility is transferred at
1396 any time after the issuance of the certificate of need. Agreement
1397 that the long-term care hospital will not participate in the
1398 Medicaid program shall be a condition of the issuance of a
1399 certificate of need to any person under this subsection (6), and
1400 if such long-term care hospital at any time after the issuance of
1401 the certificate of need, regardless of the ownership of the
1402 facility, participates in the Medicaid program or admits or keeps
1403 any patients in the facility who are participating in the Medicaid
1404 program, the State Department of Health shall revoke the
1405 certificate of need, if it is still outstanding, and shall deny or
1406 revoke the license of the long-term care hospital, at the time
1407 that the department determines, after a hearing complying with due
1408 process, that the facility has failed to comply with any of the
1409 conditions upon which the certificate of need was issued, as
1410 provided in this subsection and in the written agreement by the
1411 recipient of the certificate of need. For purposes of this
1412 subsection, the provisions of Section 41-7-193(1) requiring



1413 substantial compliance with the projection of need as reported in
1414 the current State Health Plan are waived.

1415 (7) The State Department of Health may issue a certificate
1416 of need to any hospital in the state to utilize a portion of its
1417 beds for the "swing-bed" concept. Any such hospital must be in
1418 conformance with the federal regulations regarding such swing-bed
1419 concept at the time it submits its application for a certificate
1420 of need to the State Department of Health, except that such
1421 hospital may have more licensed beds or a higher average daily
1422 census (ADC) than the maximum number specified in federal
1423 regulations for participation in the swing-bed program. Any
1424 hospital meeting all federal requirements for participation in the
1425 swing-bed program which receives such certificate of need shall
1426 render services provided under the swing-bed concept to any
1427 patient eligible for Medicare (Title XVIII of the Social Security
1428 Act) who is certified by a physician to be in need of such
1429 services, and no such hospital shall permit any patient who is
1430 eligible for both Medicaid and Medicare or eligible only for
1431 Medicaid to stay in the swing beds of the hospital for more than
1432 thirty (30) days per admission unless the hospital receives prior
1433 approval for such patient from the Division of Medicaid, Office of
1434 the Governor. Any hospital having more licensed beds or a higher
1435 average daily census (ADC) than the maximum number specified in
1436 federal regulations for participation in the swing-bed program
1437 which receives such certificate of need shall develop a procedure



1438 to insure that before a patient is allowed to stay in the swing
1439 beds of the hospital, there are no vacant nursing home beds
1440 available for that patient located within a fifty-mile radius of
1441 the hospital. When any such hospital has a patient staying in the
1442 swing beds of the hospital and the hospital receives notice from a
1443 nursing home located within such radius that there is a vacant bed
1444 available for that patient, the hospital shall transfer the
1445 patient to the nursing home within a reasonable time after receipt
1446 of the notice. Any hospital which is subject to the requirements
1447 of the two (2) preceding sentences of this subsection may be
1448 suspended from participation in the swing-bed program for a
1449 reasonable period of time by the State Department of Health if the
1450 department, after a hearing complying with due process, determines
1451 that the hospital has failed to comply with any of those
1452 requirements.

1453 (8) The Department of Health shall not grant approval for or
1454 issue a certificate of need to any person proposing the new
1455 construction of, addition to or expansion of a health care
1456 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1457 except as hereinafter provided: The department may issue a
1458 certificate of need to a nonprofit corporation located in Madison
1459 County, Mississippi, for the construction, expansion or conversion
1460 of not more than twenty (20) beds in a community living program
1461 for developmentally disabled adults in a facility as defined in
1462 subparagraph (viii) of Section 41-7-173(h). For purposes of this



1463 subsection (8), the provisions of Section 41-7-193(1) requiring
1464 substantial compliance with the projection of need as reported in
1465 the current State Health Plan and the provisions of Section
1466 41-7-197 requiring a formal certificate of need hearing process
1467 are waived. There shall be no prohibition or restrictions on
1468 participation in the Medicaid program for the person receiving the
1469 certificate of need authorized under this subsection (8).

1470 (9) * * * [Deleted]

1471 (10) Health care facilities owned and/or operated by the
1472 state or its agencies are exempt from the restraints in this
1473 section against issuance of a certificate of need if such addition
1474 or expansion consists of repairing or renovation necessary to
1475 comply with the state licensure law. This exception shall not
1476 apply to the new construction of any building by such state
1477 facility. This exception shall not apply to any health care
1478 facilities owned and/or operated by counties, municipalities,
1479 districts, unincorporated areas, other defined persons, or any
1480 combination thereof.

1481 (11) The new construction, renovation or expansion of or
1482 addition to any health care facility defined in subparagraph (ii)
1483 (psychiatric hospital), subparagraph (iv) (skilled nursing
1484 facility), subparagraph (vi) (intermediate care facility),
1485 subparagraph (viii) (intermediate care facility for the mentally
1486 retarded) and subparagraph (x) (psychiatric residential treatment
1487 facility) of Section 41-7-173(h) which is owned by the State of



1488 Mississippi and under the direction and control of the State
1489 Department of Mental Health, and the addition of new beds or the
1490 conversion of beds from one category to another in any such
1491 defined health care facility which is owned by the State of
1492 Mississippi and under the direction and control of the State
1493 Department of Mental Health, shall not require the issuance of a
1494 certificate of need under Section 41-7-171 et seq.,
1495 notwithstanding any provision in Section 41-7-171 et seq. to the
1496 contrary.

1497 (12) The new construction, renovation or expansion of or
1498 addition to any veterans homes or domiciliaries for eligible
1499 veterans of the State of Mississippi as authorized under Section
1500 35-1-19 shall not require the issuance of a certificate of need,
1501 notwithstanding any provision in Section 41-7-171 et seq. to the
1502 contrary.

1503 (13) The repair or the rebuilding of an existing, operating
1504 health care facility that sustained significant damage from a
1505 natural disaster that occurred after April 15, 2014, in an area
1506 that is proclaimed a disaster area or subject to a state of
1507 emergency by the Governor or by the President of the United States
1508 shall be exempt from all of the requirements of the Mississippi
1509 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1510 rules and regulations promulgated under that law, subject to the
1511 following conditions:



1512 (a) The repair or the rebuilding of any such damaged
1513 health care facility must be within one (1) mile of the
1514 pre-disaster location of the campus of the damaged health care
1515 facility, except that any temporary post-disaster health care
1516 facility operating location may be within five (5) miles of the
1517 pre-disaster location of the damaged health care facility;

1518 (b) The repair or the rebuilding of the damaged health
1519 care facility (i) does not increase or change the complement of
1520 its bed capacity that it had before the Governor's or the
1521 President's proclamation, (ii) does not increase or change its
1522 levels and types of health care services that it provided before
1523 the Governor's or the President's proclamation, and (iii) does not
1524 rebuild in a different county; however, this paragraph does not
1525 restrict or prevent a health care facility from decreasing its bed
1526 capacity that it had before the Governor's or the President's
1527 proclamation, or from decreasing the levels of or decreasing or
1528 eliminating the types of health care services that it provided
1529 before the Governor's or the President's proclamation, when the
1530 damaged health care facility is repaired or rebuilt;

1531 (c) The exemption from Certificate of Need Law provided
1532 under this subsection (13) is valid for only five (5) years from
1533 the date of the Governor's or the President's proclamation. If
1534 actual construction has not begun within that five-year period,
1535 the exemption provided under this subsection is inapplicable; and



1536 (d) The Division of Health Facilities Licensure and
1537 Certification of the State Department of Health shall provide the
1538 same oversight for the repair or the rebuilding of the damaged
1539 health care facility that it provides to all health care facility
1540 construction projects in the state.

1541 For the purposes of this subsection (13), "significant
1542 damage" to a health care facility means damage to the health care
1543 facility requiring an expenditure of at least One Million Dollars
1544 (\$1,000,000.00).

1545 (14) The State Department of Health shall issue a
1546 certificate of need to any hospital which is currently licensed
1547 for two hundred fifty (250) or more acute care beds and is located
1548 in any general hospital service area not having a comprehensive
1549 cancer center, for the establishment and equipping of such a
1550 center which provides facilities and services for outpatient
1551 radiation oncology therapy, outpatient medical oncology therapy,
1552 and appropriate support services including the provision of
1553 radiation therapy services. The provisions of Section 41-7-193(1)
1554 regarding substantial compliance with the projection of need as
1555 reported in the current State Health Plan are waived for the
1556 purpose of this subsection.

1557 (15) The State Department of Health may authorize the
1558 transfer of hospital beds, not to exceed sixty (60) beds, from the
1559 North Panola Community Hospital to the South Panola Community



1560 Hospital. The authorization for the transfer of those beds shall
1561 be exempt from the certificate of need review process.

1562 (16) The State Department of Health shall issue any
1563 certificates of need necessary for Mississippi State University
1564 and a public or private health care provider to jointly acquire
1565 and operate a linear accelerator and a magnetic resonance imaging
1566 unit. Those certificates of need shall cover all capital
1567 expenditures related to the project between Mississippi State
1568 University and the health care provider, including, but not
1569 limited to, the acquisition of the linear accelerator, the
1570 magnetic resonance imaging unit and other radiological modalities;
1571 the offering of linear accelerator and magnetic resonance imaging
1572 services; and the cost of construction of facilities in which to
1573 locate these services. The linear accelerator and the magnetic
1574 resonance imaging unit shall be (a) located in the City of
1575 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1576 Mississippi State University and the public or private health care
1577 provider selected by Mississippi State University through a
1578 request for proposals (RFP) process in which Mississippi State
1579 University selects, and the Board of Trustees of State
1580 Institutions of Higher Learning approves, the health care provider
1581 that makes the best overall proposal; (c) available to Mississippi
1582 State University for research purposes two-thirds (2/3) of the
1583 time that the linear accelerator and magnetic resonance imaging
1584 unit are operational; and (d) available to the public or private



1585 health care provider selected by Mississippi State University and
1586 approved by the Board of Trustees of State Institutions of Higher
1587 Learning one-third (1/3) of the time for clinical, diagnostic and
1588 treatment purposes. For purposes of this subsection, the
1589 provisions of Section 41-7-193(1) requiring substantial compliance
1590 with the projection of need as reported in the current State
1591 Health Plan are waived.

1592 (17) The State Department of Health shall issue a
1593 certificate of need for the construction of an acute care hospital
1594 in Kemper County, not to exceed twenty-five (25) beds, which shall
1595 be named the "John C. Stennis Memorial Hospital." In issuing the
1596 certificate of need under this subsection, the department shall
1597 give priority to a hospital located in Lauderdale County that has
1598 two hundred fifteen (215) beds. For purposes of this subsection,
1599 the provisions of Section 41-7-193(1) requiring substantial
1600 compliance with the projection of need as reported in the current
1601 State Health Plan and the provisions of Section 41-7-197 requiring
1602 a formal certificate of need hearing process are waived. There
1603 shall be no prohibition or restrictions on participation in the
1604 Medicaid program (Section 43-13-101 et seq.) for the person or
1605 entity receiving the certificate of need authorized under this
1606 subsection or for the beds constructed under the authority of that
1607 certificate of need.

1608 (18) The planning, design, construction, renovation,
1609 addition, furnishing and equipping of a clinical research unit at



1610 any health care facility defined in Section 41-7-173(h) that is
1611 under the direction and control of the University of Mississippi
1612 Medical Center and located in Jackson, Mississippi, and the
1613 addition of new beds or the conversion of beds from one (1)
1614 category to another in any such clinical research unit, shall not
1615 require the issuance of a certificate of need under Section
1616 41-7-171 et seq., notwithstanding any provision in Section
1617 41-7-171 et seq. to the contrary.

1618 (19) [Repealed]

1619 (20) Nothing in this section or in any other provision of
1620 Section 41-7-171 et seq. shall prevent any nursing facility from
1621 designating an appropriate number of existing beds in the facility
1622 as beds for providing care exclusively to patients with
1623 Alzheimer's disease.

1624 **SECTION 4.** Section 41-7-201, Mississippi Code of 1972, is
1625 amended as follows:

1626 41-7-201. * * * The provisions of this * * * section shall
1627 apply to any party appealing any final order of the State
1628 Department of Health pertaining to a certificate of need for any
1629 health care facility as defined in Section 41-7-173(h) * * *:

1630 (a) There shall be a "stay of proceedings" of any final
1631 order issued by the State Department of Health pertaining to the
1632 issuance of a certificate of need for the establishment,
1633 construction, expansion or replacement of a health care facility
1634 for a period of thirty (30) days from the date of the order, if an



1635 existing provider located in the same service area where the
1636 health care facility is or will be located has requested a hearing
1637 during the course of review in opposition to the issuance of the
1638 certificate of need. The stay of proceedings shall expire at the
1639 termination of thirty (30) days; however, no construction,
1640 renovation or other capital expenditure that is the subject of the
1641 order shall be undertaken, no license to operate any facility that
1642 is the subject of the order shall be issued by the licensing
1643 agency, and no certification to participate in the Title XVII or
1644 Title XIX programs of the Social Security Act shall be granted,
1645 until all statutory appeals have been exhausted or the time for
1646 such appeals has expired. Notwithstanding the foregoing, the
1647 filing of an appeal from a final order of the State Department of
1648 Health or the chancery court for the issuance of a certificate of
1649 need shall not prevent the purchase of medical equipment or
1650 development or offering of institutional health services granted
1651 in a certificate of need issued by the State Department of Health.

1652 (b) In addition to other remedies now available at law
1653 or in equity, any party aggrieved by such final order of the State
1654 Department of Health shall have the right of appeal to the
1655 Chancery Court of the First Judicial District of Hinds County,
1656 Mississippi, which appeal must be filed within twenty (20) days
1657 after the date of the final order. Provided, however, that any
1658 appeal of an order disapproving an application for such a
1659 certificate of need may be made to the chancery court of the



1660 county where the proposed construction, expansion or alteration
1661 was to be located or the new service or purpose of the capital
1662 expenditure was to be located. Such appeal must be filed in
1663 accordance with the twenty (20) days for filing as heretofore
1664 provided. Any appeal shall state briefly the nature of the
1665 proceedings before the State Department of Health and shall
1666 specify the order complained of.

1667 (c) Upon the filing of such an appeal, the clerk of the
1668 chancery court shall serve notice thereof upon the State
1669 Department of Health, whereupon the State Department of Health
1670 shall, within thirty (30) days of the date of the filing of the
1671 appeal, certify to the chancery court the record in the case,
1672 which records shall include a transcript of all testimony,
1673 together with all exhibits or copies thereof, all proceedings,
1674 orders, findings and opinions entered in the case; provided,
1675 however, that the parties and the State Department of Health may
1676 stipulate that a specified portion only of the record shall be
1677 certified to the court as the record on appeal. The chancery
1678 court shall give preference to any such appeal from a final order
1679 by the State Department of Health in a certificate of need
1680 proceeding, and shall render a final order regarding such appeal
1681 no later than one hundred twenty (120) days from the date of the
1682 final order by the State Department of Health. If the chancery
1683 court has not rendered a final order within this
1684 one-hundred-twenty-day period, then the final order of the State



1685 Department of Health shall be deemed to have been affirmed by the
1686 chancery court, and any party to the appeal shall have the right
1687 to appeal from the chancery court to the Supreme Court on the
1688 record certified by the State Department of Health as otherwise
1689 provided in paragraph (g) of this * * * section. In the event the
1690 chancery court has not rendered a final order within the
1691 one-hundred-twenty-day period and an appeal is made to the Supreme
1692 Court as provided herein, the Supreme Court shall remand the case
1693 to the chancery court to make an award of costs, fees, reasonable
1694 expenses and attorney's fees incurred in favor of appellee payable
1695 by the appellant(s) should the Supreme Court affirm the order of
1696 the State Department of Health.

1697 (d) Any appeal of a final order by the State Department
1698 of Health in a certificate of need proceeding shall require the
1699 giving of a bond by the appellant(s) sufficient to secure the
1700 appellee against the loss of costs, fees, expenses and attorney's
1701 fees incurred in defense of the appeal, approved by the chancery
1702 court within five (5) days of the date of filing the appeal.

1703 (e) No new or additional evidence shall be introduced
1704 in the chancery court but the case shall be determined upon the
1705 record certified to the court.

1706 (f) The court may dispose of the appeal in termtime or
1707 vacation and may sustain or dismiss the appeal, modify or vacate
1708 the order complained of in whole or in part and may make an award
1709 of costs, fees, expenses and attorney's fees, as the case may be;



1710 but in case the order is wholly or partly vacated, the court may
1711 also, in its discretion, remand the matter to the State Department
1712 of Health for such further proceedings, not inconsistent with the
1713 court's order, as, in the opinion of the court, justice may
1714 require. The court, as part of the final order, shall make an
1715 award of costs, fees, reasonable expenses and attorney's fees
1716 incurred in favor of appellee payable by the appellant(s) should
1717 the court affirm the order of the State Department of Health. The
1718 order shall not be vacated or set aside, either in whole or in
1719 part, except for errors of law, unless the court finds that the
1720 order of the State Department of Health is not supported by
1721 substantial evidence, is contrary to the manifest weight of the
1722 evidence, is in excess of the statutory authority or jurisdiction
1723 of the State Department of Health, or violates any vested
1724 constitutional rights of any party involved in the appeal.
1725 Provided, however, an order of the chancery court reversing the
1726 denial of a certificate of need by the State Department of Health
1727 shall not entitle the applicant to effectuate the certificate of
1728 need until either:

1729 (i) Such order of the chancery court has become
1730 final and has not been appealed to the Supreme Court; or

1731 (ii) The Supreme Court has entered a final order
1732 affirming the chancery court.

1733 (g) Appeals in accordance with law may be had to the
1734 Supreme Court of the State of Mississippi from any final judgment



1735 of the chancery court. The Supreme Court must give preference and
1736 conduct an expedited judicial review of an appeal of a final order
1737 of the chancery court relating to a certificate of need proceeding
1738 and must render a final order regarding the appeal no later than
1739 one hundred twenty (120) days from the date the final order by the
1740 chancery court is certified to the Supreme Court. The Supreme
1741 Court shall consider such appeals in an expeditious manner without
1742 regard to position on the court docket.

1743 (h) Within thirty (30) days from the date of a final
1744 order by the Supreme Court or a final order of the chancery court
1745 not appealed to the Supreme Court that modifies or wholly or
1746 partly vacates the final order of the State Department of Health
1747 granting a certificate of need, the State Department of Health
1748 shall issue another order in conformity with the final order of
1749 the Supreme Court, or the final order of the chancery court not
1750 appealed to the Supreme Court.

1751 **SECTION 5.** Section 41-7-202, Mississippi Code of 1972, which
1752 provides for a "stay of proceedings" of a written decision of the
1753 State Department of Health pertaining to a certificate of need for
1754 a home health agency, is repealed.

1755 **SECTION 6.** Section 41-71-7, Mississippi Code of 1972, is
1756 amended as follows:

1757 41-71-7. Upon receipt of an application for a license and
1758 the license fee, and a determination by the licensing agency that
1759 the application is * * * in compliance with the provisions of this



1760 chapter, such license shall be issued. A license, unless
1761 suspended or revoked, shall be renewable annually upon payment by
1762 the licensee of a renewal fee of One Thousand Dollars (\$1,000.00)
1763 and upon approval by the licensing agency of an annual report,
1764 required to be submitted by the licensee, containing such
1765 information in such form and at such time as the licensing agency
1766 prescribes by rule or regulation. Any increase in the fee charged
1767 by the licensing agency under this section shall be in accordance
1768 with the provisions of Section 41-3-65. Each license shall be
1769 issued only for the home health agency and person or persons or
1770 other legal entity or entities named in the application and shall
1771 not be transferable or assignable except with the written approval
1772 of the licensing agency. Licenses shall be posted in a
1773 conspicuous place in the designated business office of the
1774 licensee. Each licensee shall designate, in writing, one (1)
1775 individual person as the responsible party for the conducting of
1776 the business of the home health agency with the licensing agency.

1777 **SECTION 7.** Section 41-71-19, Mississippi Code of 1972, is
1778 amended as follows:

1779 41-71-19. Information received by the licensing agency
1780 through filed reports, inspection, or as otherwise authorized
1781 under this chapter, shall not be disclosed publicly in such manner
1782 as to identify individuals, except in proceedings involving the
1783 question of licensure; however, the licensing agency may utilize
1784 statistical data concerning types of services and the utilization



1785 of those services for home health care agencies in performing the
1786 statutory duties imposed upon it by * * * regulations * * *
1787 promulgated for participation in the Medicare or Medicaid
1788 programs.

1789 **SECTION 8.** This act shall take effect and be in force from
1790 and after July 1, 2020.

