

**Adopted
AMENDMENT NO 3 PROPOSED TO**

Senate Bill No. 3055

BY: Senator(s) Hill, Blackwell

1 **AMEND by inserting the following after line 109:**

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

4 41-7-191. (1) No person shall engage in any of the
5 following activities without obtaining the required certificate of
6 need:

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

11 (b) The relocation of a health care facility or portion
12 thereof, or major medical equipment, unless such relocation of a
13 health care facility or portion thereof, or major medical



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

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



39 delicensure of some of its beds without seeking certificate of
40 need approval;

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

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



63 (e) The relocation of one or more health services from
64 one physical facility or site to another physical facility or
65 site, unless such relocation, which does not involve a capital
66 expenditure by or on behalf of a health care facility, (i) is to a
67 physical facility or site within five thousand two hundred eighty
68 (5,280) feet from the main entrance of the health care facility
69 where the health care service is located, or (ii) is the result of
70 an order of a court of appropriate jurisdiction or a result of
71 pending litigation in such court, or by order of the State
72 Department of Health, or by order of any other agency or legal
73 entity of the state, the federal government, or any political
74 subdivision of either, whose order is also approved by the State
75 Department of Health;

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

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



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

94 (h) The change of ownership of any health care facility
95 defined in subparagraphs (iv), (vi) and (viii) of Section
96 41-7-173(h), in which a notice of intent as described in paragraph
97 (g) has not been filed and if the Executive Director, Division of
98 Medicaid, Office of the Governor, has not certified in writing
99 that there will be no increase in allowable costs to Medicaid from
100 revaluation of the assets or from increased interest and
101 depreciation as a result of the proposed change of ownership;

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

106 (j) Any capital expenditure or deferred capital
107 expenditure by or on behalf of a health care facility not covered
108 by paragraphs (a) through (h);

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



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

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

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

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

131 (a) The department may issue a certificate of need to
132 any person proposing the new construction of any health care
133 facility defined in subparagraphs (iv) and (vi) of Section
134 41-7-173(h) as part of a life care retirement facility, in any
135 county bordering on the Gulf of Mexico in which is located a
136 National Aeronautics and Space Administration facility, not to
137 exceed forty (40) beds. From and after July 1, 1999, there shall



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



288 2001. After this written agreement is executed, the Division of
289 Medicaid and the State Department of Health shall not certify more
290 than thirty (30) of the beds in the facility for participation in
291 the Medicaid program. If the facility violates the terms of the
292 written agreement by admitting or keeping in the facility on a
293 regular or continuing basis more than thirty (30) patients who are
294 participating in the Medicaid program, the State Department of
295 Health shall revoke the license of the facility, at the time that
296 the department determines, after a hearing complying with due
297 process, that the facility has violated the written agreement.

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

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



313 writing that none of the beds at the nursing facility will be
314 certified for participation in the Medicaid program (Section
315 43-13-101 et seq.), and that no claim will be submitted for
316 Medicaid reimbursement in the nursing facility in any day or for
317 any patient in the nursing facility. This written agreement by
318 the recipient of the certificate of need shall be a condition of
319 the issuance of the certificate of need under this paragraph, and
320 the agreement shall be fully binding on any subsequent owner of
321 the nursing facility if the ownership of the nursing facility is
322 transferred at any time after the issuance of the certificate of
323 need. After this written agreement is executed, the Division of
324 Medicaid and the State Department of Health shall not certify any
325 of the beds in the nursing facility for participation in the
326 Medicaid program. If the nursing facility violates the terms of
327 the written agreement by admitting or keeping in the nursing
328 facility on a regular or continuing basis any patients who are
329 participating in the Medicaid program, the State Department of
330 Health shall revoke the license of the nursing facility, at the
331 time that the department determines, after a hearing complying
332 with due process, that the nursing facility has violated the
333 condition upon which the certificate of need was issued, as
334 provided in this paragraph and in the written agreement. If the
335 certificate of need authorized under this paragraph is not issued
336 within twelve (12) months after July 1, 2001, the department shall
337 deny the application for the certificate of need and shall not



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

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



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



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

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



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



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

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

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



462 process, that the facility has failed to comply with any of the
463 conditions upon which the certificate of need was issued, as
464 provided in this paragraph and in the written agreement by the
465 recipient of the certificate of need. The provision of Section
466 41-7-193(1) regarding substantial compliance of the projection of
467 need as reported in the current State Health Plan is waived for
468 the purposes of this paragraph. If the certificate of need
469 authorized under this paragraph is not issued within twelve (12)
470 months after July 1, 1998, the department shall deny the
471 application for the certificate of need and shall not issue the
472 certificate of need at any time after the twelve-month period,
473 unless the issuance is contested. If the certificate of need is
474 issued and substantial construction of the nursing facility beds
475 has not commenced within eighteen (18) months after July 1, 1998,
476 the State Department of Health, after a hearing complying with due
477 process, shall revoke the certificate of need if it is still
478 outstanding, and the department shall not issue a license for the
479 nursing facility at any time after the eighteen-month period.

480 However, if the issuance of the certificate of need is contested,
481 the department shall require substantial construction of the
482 nursing facility beds within six (6) months after final
483 adjudication on the issuance of the certificate of need.

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



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

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



512 previous fiscal years. During fiscal year 2000, in addition to
513 the six (6) certificates of need authorized in this subparagraph,
514 the department also shall issue a certificate of need for new
515 nursing facility beds in Amite County and a certificate of need
516 for new nursing facility beds in Carroll County.

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

531 (iv) Subject to the provisions of subparagraph
532 (v), the certificate of need issued under subparagraph (ii) for
533 nursing facility beds in the two (2) counties from the state at
534 large during each fiscal year shall first be available for nursing
535 facility beds in the two (2) counties that have the highest need
536 in the state for those beds, as shown in the fiscal year 1999



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

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



562 additional nursing facility beds in that county during the
563 four-year period, and that county shall be excluded in determining
564 which counties have the highest need for nursing facility beds in
565 succeeding fiscal years.

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

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

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

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



587 Planning Districts designated in the fiscal year 1999 State Health
588 Plan, to provide care exclusively to patients with Alzheimer's
589 disease.

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

606 (iii) The State Department of Health, in
607 consultation with the Department of Mental Health and the Division
608 of Medicaid, shall develop and prescribe the staffing levels,
609 space requirements and other standards and requirements that must
610 be met with regard to the nursing facility beds authorized under



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

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

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



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



661 the terms of the written agreement by admitting or keeping in the
662 facility on a regular or continuing basis more than fifty (50)
663 patients who are participating in the Medicaid program, or if the
664 Harrison County facility violates the terms of the written
665 agreement by admitting or keeping in the facility on a regular or
666 continuing basis more than forty-nine (49) patients who are
667 participating in the Medicaid program, the State Department of
668 Health shall revoke the license of the facility that is in
669 violation of the agreement, at the time that the department
670 determines, after a hearing complying with due process, that the
671 facility has violated the agreement.

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



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

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

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



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

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



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

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

753 (c) Of the total number of beds authorized under this
754 subsection, the department shall issue a certificate of need to a
755 hospital currently operating Medicaid-certified acute psychiatric
756 beds for adolescents in DeSoto County, for the establishment of a
757 forty-bed psychiatric residential treatment facility in DeSoto
758 County, provided that the hospital agrees in writing (i) that the
759 hospital shall give priority for the use of those forty (40) beds



760 to Mississippi residents who are presently being treated in
761 out-of-state facilities, and (ii) that no more than fifteen (15)
762 of the beds at the psychiatric residential treatment facility will
763 be certified for participation in the Medicaid program (Section
764 43-13-101 et seq.), and that no claim will be submitted for
765 Medicaid reimbursement for more than fifteen (15) patients in the
766 psychiatric residential treatment facility in any day or for any
767 patient in the psychiatric residential treatment facility who is
768 in a bed that is not Medicaid-certified. This written agreement
769 by the recipient of the certificate of need shall be a condition
770 of the issuance of the certificate of need under this paragraph,
771 and the agreement shall be fully binding on any subsequent owner
772 of the psychiatric residential treatment facility if the ownership
773 of the facility is transferred at any time after the issuance of
774 the certificate of need. After this written agreement is
775 executed, the Division of Medicaid and the State Department of
776 Health shall not certify more than fifteen (15) of the beds in the
777 psychiatric residential treatment facility for participation in
778 the Medicaid program. If the psychiatric residential treatment
779 facility violates the terms of the written agreement by admitting
780 or keeping in the facility on a regular or continuing basis more
781 than fifteen (15) patients who are participating in the Medicaid
782 program, the State Department of Health shall revoke the license
783 of the facility, at the time that the department determines, after
784 a hearing complying with due process, that the facility has



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

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

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

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



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

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



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

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



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

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



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

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



909 If by January 1, 2002, there has been no significant
910 commencement of construction of the beds authorized under this
911 subparagraph (iii), or no significant action taken to convert
912 existing beds to the beds authorized under this subparagraph, then
913 the certificate of need that was previously issued under this
914 subparagraph shall expire. If the previously issued certificate
915 of need expires, the department may accept applications for
916 issuance of another certificate of need for the beds authorized
917 under this subparagraph, and may issue a certificate of need to
918 authorize the construction, expansion or conversion of the beds
919 authorized under this subparagraph.

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



933 beds converted pursuant to the authority of that certificate of
934 need.

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



958 hospital at the time that the department determines, after a
959 hearing complying with due process, that the hospital has failed
960 to comply with any of the conditions upon which the certificate of
961 need was issued, as provided in this subparagraph and in the
962 written agreement by the recipient of the certificate of need.

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

977 (b) From and after July 1, 1990, no hospital,
978 psychiatric hospital or chemical dependency hospital shall be
979 authorized to add any child/adolescent psychiatric or
980 child/adolescent chemical dependency beds or convert any beds of
981 another category to child/adolescent psychiatric or



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

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

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



1007 any patients in the facility who are participating in the Medicaid
1008 program, the State Department of Health shall revoke the
1009 certificate of need, if it is still outstanding, and shall deny or
1010 revoke the license of the long-term care hospital, at the time
1011 that the department determines, after a hearing complying with due
1012 process, that the facility has failed to comply with any of the
1013 conditions upon which the certificate of need was issued, as
1014 provided in this subsection and in the written agreement by the
1015 recipient of the certificate of need. For purposes of this
1016 subsection, the provisions of Section 41-7-193(1) requiring
1017 substantial compliance with the projection of need as reported in
1018 the current State Health Plan are waived.

1019 (7) The State Department of Health may issue a certificate
1020 of need to any hospital in the state to utilize a portion of its
1021 beds for the "swing-bed" concept. Any such hospital must be in
1022 conformance with the federal regulations regarding such swing-bed
1023 concept at the time it submits its application for a certificate
1024 of need to the State Department of Health, except that such
1025 hospital may have more licensed beds or a higher average daily
1026 census (ADC) than the maximum number specified in federal
1027 regulations for participation in the swing-bed program. Any
1028 hospital meeting all federal requirements for participation in the
1029 swing-bed program which receives such certificate of need shall
1030 render services provided under the swing-bed concept to any
1031 patient eligible for Medicare (Title XVIII of the Social Security



1032 Act) who is certified by a physician to be in need of such
1033 services, and no such hospital shall permit any patient who is
1034 eligible for both Medicaid and Medicare or eligible only for
1035 Medicaid to stay in the swing beds of the hospital for more than
1036 thirty (30) days per admission unless the hospital receives prior
1037 approval for such patient from the Division of Medicaid, Office of
1038 the Governor. Any hospital having more licensed beds or a higher
1039 average daily census (ADC) than the maximum number specified in
1040 federal regulations for participation in the swing-bed program
1041 which receives such certificate of need shall develop a procedure
1042 to insure that before a patient is allowed to stay in the swing
1043 beds of the hospital, there are no vacant nursing home beds
1044 available for that patient located within a fifty-mile radius of
1045 the hospital. When any such hospital has a patient staying in the
1046 swing beds of the hospital and the hospital receives notice from a
1047 nursing home located within such radius that there is a vacant bed
1048 available for that patient, the hospital shall transfer the
1049 patient to the nursing home within a reasonable time after receipt
1050 of the notice. Any hospital which is subject to the requirements
1051 of the two (2) preceding sentences of this subsection may be
1052 suspended from participation in the swing-bed program for a
1053 reasonable period of time by the State Department of Health if the
1054 department, after a hearing complying with due process, determines
1055 that the hospital has failed to comply with any of those
1056 requirements.



1057 (8) The Department of Health shall not grant approval for or
1058 issue a certificate of need to any person proposing the new
1059 construction of, addition to or expansion of a health care
1060 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1061 except as hereinafter provided: The department may issue a
1062 certificate of need to a nonprofit corporation located in Madison
1063 County, Mississippi, for the construction, expansion or conversion
1064 of not more than twenty (20) beds in a community living program
1065 for developmentally disabled adults in a facility as defined in
1066 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1067 subsection (8), the provisions of Section 41-7-193(1) requiring
1068 substantial compliance with the projection of need as reported in
1069 the current State Health Plan and the provisions of Section
1070 41-7-197 requiring a formal certificate of need hearing process
1071 are waived. There shall be no prohibition or restrictions on
1072 participation in the Medicaid program for the person receiving the
1073 certificate of need authorized under this subsection (8).

1074 (9) The Department of Health shall not grant approval for or
1075 issue a certificate of need to any person proposing the
1076 establishment of, or expansion of the currently approved territory
1077 of, or the contracting to establish a home office, subunit or
1078 branch office within the space operated as a health care facility
1079 as defined in Section 41-7-173(h) (i) through (viii) by a health
1080 care facility as defined in subparagraph (ix) of Section
1081 41-7-173(h).



1082 (10) Health care facilities owned and/or operated by the
1083 state or its agencies are exempt from the restraints in this
1084 section against issuance of a certificate of need if such addition
1085 or expansion consists of repairing or renovation necessary to
1086 comply with the state licensure law. This exception shall not
1087 apply to the new construction of any building by such state
1088 facility. This exception shall not apply to any health care
1089 facilities owned and/or operated by counties, municipalities,
1090 districts, unincorporated areas, other defined persons, or any
1091 combination thereof.

1092 (11) The new construction, renovation or expansion of or
1093 addition to any health care facility defined in subparagraph (ii)
1094 (psychiatric hospital), subparagraph (iv) (skilled nursing
1095 facility), subparagraph (vi) (intermediate care facility),
1096 subparagraph (viii) (intermediate care facility for the mentally
1097 retarded) and subparagraph (x) (psychiatric residential treatment
1098 facility) of Section 41-7-173(h) which is owned by the State of
1099 Mississippi and under the direction and control of the State
1100 Department of Mental Health, and the addition of new beds or the
1101 conversion of beds from one category to another in any such
1102 defined health care facility which is owned by the State of
1103 Mississippi and under the direction and control of the State
1104 Department of Mental Health, shall not require the issuance of a
1105 certificate of need under Section 41-7-171 et seq.,



1106 notwithstanding any provision in Section 41-7-171 et seq. to the
1107 contrary.

1108 (12) The new construction, renovation or expansion of or
1109 addition to any veterans homes or domiciliaries for eligible
1110 veterans of the State of Mississippi as authorized under Section
1111 35-1-19 shall not require the issuance of a certificate of need,
1112 notwithstanding any provision in Section 41-7-171 et seq. to the
1113 contrary.

1114 (13) The repair or the rebuilding of an existing, operating
1115 health care facility that sustained significant damage from a
1116 natural disaster that occurred after April 15, 2014, in an area
1117 that is proclaimed a disaster area or subject to a state of
1118 emergency by the Governor or by the President of the United States
1119 shall be exempt from all of the requirements of the Mississippi
1120 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1121 rules and regulations promulgated under that law, subject to the
1122 following conditions:

1123 (a) The repair or the rebuilding of any such damaged
1124 health care facility must be within one (1) mile of the
1125 pre-disaster location of the campus of the damaged health care
1126 facility, except that any temporary post-disaster health care
1127 facility operating location may be within five (5) miles of the
1128 pre-disaster location of the damaged health care facility;

1129 (b) The repair or the rebuilding of the damaged health
1130 care facility (i) does not increase or change the complement of



1131 its bed capacity that it had before the Governor's or the
1132 President's proclamation, (ii) does not increase or change its
1133 levels and types of health care services that it provided before
1134 the Governor's or the President's proclamation, and (iii) does not
1135 rebuild in a different county; however, this paragraph does not
1136 restrict or prevent a health care facility from decreasing its bed
1137 capacity that it had before the Governor's or the President's
1138 proclamation, or from decreasing the levels of or decreasing or
1139 eliminating the types of health care services that it provided
1140 before the Governor's or the President's proclamation, when the
1141 damaged health care facility is repaired or rebuilt;

1142 (c) The exemption from Certificate of Need Law provided
1143 under this subsection (13) is valid for only five (5) years from
1144 the date of the Governor's or the President's proclamation. If
1145 actual construction has not begun within that five-year period,
1146 the exemption provided under this subsection is inapplicable; and

1147 (d) The Division of Health Facilities Licensure and
1148 Certification of the State Department of Health shall provide the
1149 same oversight for the repair or the rebuilding of the damaged
1150 health care facility that it provides to all health care facility
1151 construction projects in the state.

1152 For the purposes of this subsection (13), "significant
1153 damage" to a health care facility means damage to the health care
1154 facility requiring an expenditure of at least One Million Dollars
1155 (\$1,000,000.00).



1156 (14) The State Department of Health shall issue a
1157 certificate of need to any hospital which is currently licensed
1158 for two hundred fifty (250) or more acute care beds and is located
1159 in any general hospital service area not having a comprehensive
1160 cancer center, for the establishment and equipping of such a
1161 center which provides facilities and services for outpatient
1162 radiation oncology therapy, outpatient medical oncology therapy,
1163 and appropriate support services including the provision of
1164 radiation therapy services. The provisions of Section 41-7-193(1)
1165 regarding substantial compliance with the projection of need as
1166 reported in the current State Health Plan are waived for the
1167 purpose of this subsection.

1168 (15) The State Department of Health may authorize the
1169 transfer of hospital beds, not to exceed sixty (60) beds, from the
1170 North Panola Community Hospital to the South Panola Community
1171 Hospital. The authorization for the transfer of those beds shall
1172 be exempt from the certificate of need review process.

1173 (16) The State Department of Health shall issue any
1174 certificates of need necessary for Mississippi State University
1175 and a public or private health care provider to jointly acquire
1176 and operate a linear accelerator and a magnetic resonance imaging
1177 unit. Those certificates of need shall cover all capital
1178 expenditures related to the project between Mississippi State
1179 University and the health care provider, including, but not
1180 limited to, the acquisition of the linear accelerator, the



1181 magnetic resonance imaging unit and other radiological modalities;
1182 the offering of linear accelerator and magnetic resonance imaging
1183 services; and the cost of construction of facilities in which to
1184 locate these services. The linear accelerator and the magnetic
1185 resonance imaging unit shall be (a) located in the City of
1186 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1187 Mississippi State University and the public or private health care
1188 provider selected by Mississippi State University through a
1189 request for proposals (RFP) process in which Mississippi State
1190 University selects, and the Board of Trustees of State
1191 Institutions of Higher Learning approves, the health care provider
1192 that makes the best overall proposal; (c) available to Mississippi
1193 State University for research purposes two-thirds (2/3) of the
1194 time that the linear accelerator and magnetic resonance imaging
1195 unit are operational; and (d) available to the public or private
1196 health care provider selected by Mississippi State University and
1197 approved by the Board of Trustees of State Institutions of Higher
1198 Learning one-third (1/3) of the time for clinical, diagnostic and
1199 treatment purposes. For purposes of this subsection, the
1200 provisions of Section 41-7-193(1) requiring substantial compliance
1201 with the projection of need as reported in the current State
1202 Health Plan are waived.

1203 (17) The State Department of Health shall issue a
1204 certificate of need for the construction of an acute care hospital
1205 in Kemper County, not to exceed twenty-five (25) beds, which shall



1206 be named the "John C. Stennis Memorial Hospital." In issuing the
1207 certificate of need under this subsection, the department shall
1208 give priority to a hospital located in Lauderdale County that has
1209 two hundred fifteen (215) beds. For purposes of this subsection,
1210 the provisions of Section 41-7-193(1) requiring substantial
1211 compliance with the projection of need as reported in the current
1212 State Health Plan and the provisions of Section 41-7-197 requiring
1213 a formal certificate of need hearing process are waived. There
1214 shall be no prohibition or restrictions on participation in the
1215 Medicaid program (Section 43-13-101 et seq.) for the person or
1216 entity receiving the certificate of need authorized under this
1217 subsection or for the beds constructed under the authority of that
1218 certificate of need.

1219 (18) The planning, design, construction, renovation,
1220 addition, furnishing and equipping of a clinical research unit at
1221 any health care facility defined in Section 41-7-173(h) that is
1222 under the direction and control of the University of Mississippi
1223 Medical Center and located in Jackson, Mississippi, and the
1224 addition of new beds or the conversion of beds from one (1)
1225 category to another in any such clinical research unit, shall not
1226 require the issuance of a certificate of need under Section
1227 41-7-171 et seq., notwithstanding any provision in Section
1228 41-7-171 et seq. to the contrary.

1229 (19) [Repealed]



1230 (20) Nothing in this section or in any other provision of
1231 Section 41-7-171 et seq. shall prevent any nursing facility from
1232 designating an appropriate number of existing beds in the facility
1233 as beds for providing care exclusively to patients with
1234 Alzheimer's disease.

1235 (21) Nothing in this section or any other provision of
1236 Section 41-7-171 et seq. shall prevent any health care facility
1237 from the new construction, renovation, conversion or expansion of
1238 new beds in the facility designated as intensive care units,
1239 negative pressure rooms, or isolation rooms pursuant to the
1240 provisions of Senate Bill Number 3055, 2020 Regular Session. For
1241 purposes of this subsection, the provisions of Section 41-7-193(1)
1242 requiring substantial compliance with the projection of need as
1243 reported in the current State Health Plan and the provisions of
1244 Section 41-7-197 requiring a formal certificate of need hearing
1245 process are waived.

1246 **FURTHER, AMEND the title to conform.**

