

By: Representative Yancey

To: Public Health and Human
Services

HOUSE BILL NO. 1306

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE MORATORIUM ON THE ISSUANCE OF CERTIFICATES OF NEED
3 FOR THE ESTABLISHMENT OF NEW HOME HEALTH AGENCIES OR THE EXPANSION
4 OF THE SERVICE AREAS OF EXISTING HOME HEALTH AGENCIES; AND FOR
5 RELATED PURPOSES.

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

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

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

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

16 (b) The relocation of a health care facility or portion
17 thereof, or major medical equipment, unless such relocation of a
18 health care facility or portion thereof, or major medical
19 equipment, which does not involve a capital expenditure by or on



20 behalf of a health care facility, is within five thousand two
21 hundred eighty (5,280) feet from the main entrance of the health
22 care facility;

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



44 delicensure of some of its beds without seeking certificate of
45 need approval;

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

50 (i) Open-heart surgery services;

51 (ii) Cardiac catheterization services;

52 (iii) Comprehensive inpatient rehabilitation
53 services;

54 (iv) Licensed psychiatric services;

55 (v) Licensed chemical dependency services;

56 (vi) Radiation therapy services;

57 (vii) Diagnostic imaging services of an invasive
58 nature, i.e. invasive digital angiography;

59 (viii) Nursing home care as defined in
60 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

61 (ix) Home health services;

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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



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

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



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



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

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

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



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

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



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

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



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

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

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



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

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



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

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

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

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

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



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

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

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



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

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

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



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



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

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



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

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

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



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

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



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

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

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



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



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

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

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

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



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

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



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

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



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

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



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

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



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

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



938 beds converted pursuant to the authority of that certificate of
939 need.

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



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

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

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



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

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

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



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

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



1037 Act) who is certified by a physician to be in need of such
1038 services, and no such hospital shall permit any patient who is
1039 eligible for both Medicaid and Medicare or eligible only for
1040 Medicaid to stay in the swing beds of the hospital for more than
1041 thirty (30) days per admission unless the hospital receives prior
1042 approval for such patient from the Division of Medicaid, Office of
1043 the Governor. Any hospital having more licensed beds or a higher
1044 average daily census (ADC) than the maximum number specified in
1045 federal regulations for participation in the swing-bed program
1046 which receives such certificate of need shall develop a procedure
1047 to insure that before a patient is allowed to stay in the swing
1048 beds of the hospital, there are no vacant nursing home beds
1049 available for that patient located within a fifty-mile radius of
1050 the hospital. When any such hospital has a patient staying in the
1051 swing beds of the hospital and the hospital receives notice from a
1052 nursing home located within such radius that there is a vacant bed
1053 available for that patient, the hospital shall transfer the
1054 patient to the nursing home within a reasonable time after receipt
1055 of the notice. Any hospital which is subject to the requirements
1056 of the two (2) preceding sentences of this subsection may be
1057 suspended from participation in the swing-bed program for a
1058 reasonable period of time by the State Department of Health if the
1059 department, after a hearing complying with due process, determines
1060 that the hospital has failed to comply with any of those
1061 requirements.



1062 (8) The Department of Health shall not grant approval for or
1063 issue a certificate of need to any person proposing the new
1064 construction of, addition to or expansion of a health care
1065 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1066 except as hereinafter provided: The department may issue a
1067 certificate of need to a nonprofit corporation located in Madison
1068 County, Mississippi, for the construction, expansion or conversion
1069 of not more than twenty (20) beds in a community living program
1070 for developmentally disabled adults in a facility as defined in
1071 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1072 subsection (8), the provisions of Section 41-7-193(1) requiring
1073 substantial compliance with the projection of need as reported in
1074 the current State Health Plan and the provisions of Section
1075 41-7-197 requiring a formal certificate of need hearing process
1076 are waived. There shall be no prohibition or restrictions on
1077 participation in the Medicaid program for the person receiving the
1078 certificate of need authorized under this subsection (8).

1079 (9) * * * [Deleted]

1080 (10) Health care facilities owned and/or operated by the
1081 state or its agencies are exempt from the restraints in this
1082 section against issuance of a certificate of need if such addition
1083 or expansion consists of repairing or renovation necessary to
1084 comply with the state licensure law. This exception shall not
1085 apply to the new construction of any building by such state
1086 facility. This exception shall not apply to any health care



1087 facilities owned and/or operated by counties, municipalities,
1088 districts, unincorporated areas, other defined persons, or any
1089 combination thereof.

1090 (11) The new construction, renovation or expansion of or
1091 addition to any health care facility defined in subparagraph (ii)
1092 (psychiatric hospital), subparagraph (iv) (skilled nursing
1093 facility), subparagraph (vi) (intermediate care facility),
1094 subparagraph (viii) (intermediate care facility for the mentally
1095 retarded) and subparagraph (x) (psychiatric residential treatment
1096 facility) of Section 41-7-173(h) which is owned by the State of
1097 Mississippi and under the direction and control of the State
1098 Department of Mental Health, and the addition of new beds or the
1099 conversion of beds from one category to another in any such
1100 defined health care facility which is owned by the State of
1101 Mississippi and under the direction and control of the State
1102 Department of Mental Health, shall not require the issuance of a
1103 certificate of need under Section 41-7-171 et seq.,
1104 notwithstanding any provision in Section 41-7-171 et seq. to the
1105 contrary.

1106 (12) The new construction, renovation or expansion of or
1107 addition to any veterans homes or domiciliaries for eligible
1108 veterans of the State of Mississippi as authorized under Section
1109 35-1-19 shall not require the issuance of a certificate of need,
1110 notwithstanding any provision in Section 41-7-171 et seq. to the
1111 contrary.



1112 (13) The repair or the rebuilding of an existing, operating
1113 health care facility that sustained significant damage from a
1114 natural disaster that occurred after April 15, 2014, in an area
1115 that is proclaimed a disaster area or subject to a state of
1116 emergency by the Governor or by the President of the United States
1117 shall be exempt from all of the requirements of the Mississippi
1118 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1119 rules and regulations promulgated under that law, subject to the
1120 following conditions:

1121 (a) The repair or the rebuilding of any such damaged
1122 health care facility must be within one (1) mile of the
1123 pre-disaster location of the campus of the damaged health care
1124 facility, except that any temporary post-disaster health care
1125 facility operating location may be within five (5) miles of the
1126 pre-disaster location of the damaged health care facility;

1127 (b) The repair or the rebuilding of the damaged health
1128 care facility (i) does not increase or change the complement of
1129 its bed capacity that it had before the Governor's or the
1130 President's proclamation, (ii) does not increase or change its
1131 levels and types of health care services that it provided before
1132 the Governor's or the President's proclamation, and (iii) does not
1133 rebuild in a different county; however, this paragraph does not
1134 restrict or prevent a health care facility from decreasing its bed
1135 capacity that it had before the Governor's or the President's
1136 proclamation, or from decreasing the levels of or decreasing or



1137 eliminating the types of health care services that it provided
1138 before the Governor's or the President's proclamation, when the
1139 damaged health care facility is repaired or rebuilt;

1140 (c) The exemption from Certificate of Need Law provided
1141 under this subsection (13) is valid for only five (5) years from
1142 the date of the Governor's or the President's proclamation. If
1143 actual construction has not begun within that five-year period,
1144 the exemption provided under this subsection is inapplicable; and

1145 (d) The Division of Health Facilities Licensure and
1146 Certification of the State Department of Health shall provide the
1147 same oversight for the repair or the rebuilding of the damaged
1148 health care facility that it provides to all health care facility
1149 construction projects in the state.

1150 For the purposes of this subsection (13), "significant
1151 damage" to a health care facility means damage to the health care
1152 facility requiring an expenditure of at least One Million Dollars
1153 (\$1,000,000.00).

1154 (14) The State Department of Health shall issue a
1155 certificate of need to any hospital which is currently licensed
1156 for two hundred fifty (250) or more acute care beds and is located
1157 in any general hospital service area not having a comprehensive
1158 cancer center, for the establishment and equipping of such a
1159 center which provides facilities and services for outpatient
1160 radiation oncology therapy, outpatient medical oncology therapy,
1161 and appropriate support services including the provision of



1162 radiation therapy services. The provisions of Section 41-7-193(1)
1163 regarding substantial compliance with the projection of need as
1164 reported in the current State Health Plan are waived for the
1165 purpose of this subsection.

1166 (15) The State Department of Health may authorize the
1167 transfer of hospital beds, not to exceed sixty (60) beds, from the
1168 North Panola Community Hospital to the South Panola Community
1169 Hospital. The authorization for the transfer of those beds shall
1170 be exempt from the certificate of need review process.

1171 (16) The State Department of Health shall issue any
1172 certificates of need necessary for Mississippi State University
1173 and a public or private health care provider to jointly acquire
1174 and operate a linear accelerator and a magnetic resonance imaging
1175 unit. Those certificates of need shall cover all capital
1176 expenditures related to the project between Mississippi State
1177 University and the health care provider, including, but not
1178 limited to, the acquisition of the linear accelerator, the
1179 magnetic resonance imaging unit and other radiological modalities;
1180 the offering of linear accelerator and magnetic resonance imaging
1181 services; and the cost of construction of facilities in which to
1182 locate these services. The linear accelerator and the magnetic
1183 resonance imaging unit shall be (a) located in the City of
1184 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1185 Mississippi State University and the public or private health care
1186 provider selected by Mississippi State University through a



1187 request for proposals (RFP) process in which Mississippi State
1188 University selects, and the Board of Trustees of State
1189 Institutions of Higher Learning approves, the health care provider
1190 that makes the best overall proposal; (c) available to Mississippi
1191 State University for research purposes two-thirds (2/3) of the
1192 time that the linear accelerator and magnetic resonance imaging
1193 unit are operational; and (d) available to the public or private
1194 health care provider selected by Mississippi State University and
1195 approved by the Board of Trustees of State Institutions of Higher
1196 Learning one-third (1/3) of the time for clinical, diagnostic and
1197 treatment purposes. For purposes of this subsection, the
1198 provisions of Section 41-7-193(1) requiring substantial compliance
1199 with the projection of need as reported in the current State
1200 Health Plan are waived.

1201 (17) The State Department of Health shall issue a
1202 certificate of need for the construction of an acute care hospital
1203 in Kemper County, not to exceed twenty-five (25) beds, which shall
1204 be named the "John C. Stennis Memorial Hospital." In issuing the
1205 certificate of need under this subsection, the department shall
1206 give priority to a hospital located in Lauderdale County that has
1207 two hundred fifteen (215) beds. For purposes of this subsection,
1208 the provisions of Section 41-7-193(1) requiring substantial
1209 compliance with the projection of need as reported in the current
1210 State Health Plan and the provisions of Section 41-7-197 requiring
1211 a formal certificate of need hearing process are waived. There



1212 shall be no prohibition or restrictions on participation in the
1213 Medicaid program (Section 43-13-101 et seq.) for the person or
1214 entity receiving the certificate of need authorized under this
1215 subsection or for the beds constructed under the authority of that
1216 certificate of need.

1217 (18) The planning, design, construction, renovation,
1218 addition, furnishing and equipping of a clinical research unit at
1219 any health care facility defined in Section 41-7-173(h) that is
1220 under the direction and control of the University of Mississippi
1221 Medical Center and located in Jackson, Mississippi, and the
1222 addition of new beds or the conversion of beds from one (1)
1223 category to another in any such clinical research unit, shall not
1224 require the issuance of a certificate of need under Section
1225 41-7-171 et seq., notwithstanding any provision in Section
1226 41-7-171 et seq. to the contrary.

1227 (19) [Repealed]

1228 (20) Nothing in this section or in any other provision of
1229 Section 41-7-171 et seq. shall prevent any nursing facility from
1230 designating an appropriate number of existing beds in the facility
1231 as beds for providing care exclusively to patients with
1232 Alzheimer's disease.

1233 (21) Nothing in this section or any other provision of
1234 Section 41-7-171 et seq. shall prevent any health care facility
1235 from the new construction, renovation, conversion or expansion of
1236 new beds in the facility designated as intensive care units,



1237 negative pressure rooms, or isolation rooms pursuant to the
1238 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1239 this subsection, the provisions of Section 41-7-193(1) requiring
1240 substantial compliance with the projection of need as reported in
1241 the current State Health Plan and the provisions of Section
1242 41-7-197 requiring a formal certificate of need hearing process
1243 are waived.

1244 **SECTION 2.** This act shall take effect and be in force from
1245 and after July 1, 2021.

