

By: Senator(s) Blackwell

To: Public Health and
Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2004

1 AN ACT TO BRING FORWARD SECTION 41-7-191, MISSISSIPPI CODE OF
2 1972, WHICH PRESCRIBES ACTIVITIES FOR WHICH A HEALTH CARE
3 CERTIFICATE OF NEED IS REQUIRED; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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



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

(i) Open-heart surgery services;
(ii) Cardiac catheterization services;
(iii) Comprehensive inpatient rehabilitation services;

(iv) Licensed psychiatric services;
(v) Licensed chemical dependency services;
(vi) Radiation therapy services;
(vii) Diagnostic imaging services of an invasive nature, i.e. invasive digital angiography;

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

(ix) Home health services;
(x) Swing-bed services;
(xi) Ambulatory surgical services;
(xii) Magnetic resonance imaging services;
(xiii) [Deleted]
(xiv) Long-term care hospital services;
(xv) Positron emission tomography (PET) services;

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



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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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



operated by a Mississippi nonprofit corporation, 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 nursing facility that were authorized under this paragraph (e).

(f) The State Department of Health may issue a certificate of need for conversion of a county hospital facility in Itawamba County to a nursing facility, not to exceed sixty (60) beds, including any necessary construction, renovation or expansion. 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 nursing facility that were authorized under this paragraph (f).

(g) The State Department of Health may issue a certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hinds, Madison or Rankin 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 nursing facility that were authorized under this paragraph (g).

(h) The State Department of Health may issue a certificate of need for the construction or expansion of nursing 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 revoke the license of the skilled nursing facility, at the time



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

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



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

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



Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for participation in the Medicaid program. If the 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 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 written agreement.

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

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



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



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

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



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



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

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



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



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



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) previous fiscal years. During fiscal year 2000, in addition to the six (6) certificates of need authorized in this subparagraph,



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

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

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



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

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



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

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

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

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

(r) (i) Beginning on July 1, 1999, the State Department of Health shall issue certificates of need during each of the next two (2) fiscal years for the construction or expansion of nursing facility beds or the conversion of other beds to 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 this paragraph (r) to provide care exclusively to patients with Alzheimer's disease.



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

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



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



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

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



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

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

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



(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 to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15)



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



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

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

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

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



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

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



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 of the hospital, psychiatric hospital or chemical dependency



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

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



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 beds that may be authorized under authority of this subparagraph shall not exceed twenty (20) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph or for the beds converted pursuant to the authority of that certificate of need.

(iii) The department may issue a certificate or certificates of need for the construction or expansion of child/adolescent psychiatric beds or the conversion of other beds to child/adolescent psychiatric beds in Warren County. For purposes of this subparagraph (iii), 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 beds that may be authorized under the authority of this subparagraph shall not exceed twenty (20) 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 subparagraph or for the beds converted pursuant to the authority of that certificate of need.

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



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

(iv) The department shall issue a certificate of need to the Region 7 Mental Health/Retardation Commission for the construction or expansion of child/adolescent psychiatric beds or the conversion of other beds to child/adolescent psychiatric beds in any of the counties served by the commission. For purposes of this subparagraph (iv), 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 beds that may be authorized under the authority of this subparagraph shall not exceed twenty (20) 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 subparagraph or for the beds converted pursuant to the authority of that certificate of need.



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



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

(vi) The department may issue a certificate or certificates of need for the expansion of child psychiatric beds or the conversion of other beds to child psychiatric beds at the University of Mississippi Medical Center. For purposes of this subparagraph (vi), 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 beds that may be authorized under the authority of this subparagraph shall not exceed fifteen (15) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph or for the beds converted pursuant to the authority of that certificate of need.

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



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

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



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

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



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

1077 (9) The Department of Health shall not grant approval for or
1078 issue a certificate of need to any person proposing the
1079 establishment of, or expansion of the currently approved territory
1080 of, or the contracting to establish a home office, subunit or
1081 branch office within the space operated as a health care facility
1082 as defined in Section 41-7-173(h) (i) through (viii) by a health
1083 care facility as defined in subparagraph (ix) of Section
1084 41-7-173(h).

1085 (10) Health care facilities owned and/or operated by the
1086 state or its agencies are exempt from the restraints in this



1087 section against issuance of a certificate of need if such addition
1088 or expansion consists of repairing or renovation necessary to
1089 comply with the state licensure law. This exception shall not
1090 apply to the new construction of any building by such state
1091 facility. This exception shall not apply to any health care
1092 facilities owned and/or operated by counties, municipalities,
1093 districts, unincorporated areas, other defined persons, or any
1094 combination thereof.

1095 (11) The new construction, renovation or expansion of or
1096 addition to any health care facility defined in subparagraph (ii)
1097 (psychiatric hospital), subparagraph (iv) (skilled nursing
1098 facility), subparagraph (vi) (intermediate care facility),
1099 subparagraph (viii) (intermediate care facility for the mentally
1100 retarded) and subparagraph (x) (psychiatric residential treatment
1101 facility) of Section 41-7-173(h) which is owned by the State of
1102 Mississippi and under the direction and control of the State
1103 Department of Mental Health, and the addition of new beds or the
1104 conversion of beds from one category to another in any such
1105 defined health care facility which is owned by the State of
1106 Mississippi and under the direction and control of the State
1107 Department of Mental Health, shall not require the issuance of a
1108 certificate of need under Section 41-7-171 et seq.,
1109 notwithstanding any provision in Section 41-7-171 et seq. to the
1110 contrary.



1111 (12) The new construction, renovation or expansion of or
1112 addition to any veterans homes or domiciliaries for eligible
1113 veterans of the State of Mississippi as authorized under Section
1114 35-1-19 shall not require the issuance of a certificate of need,
1115 notwithstanding any provision in Section 41-7-171 et seq. to the
1116 contrary.

1117 (13) The repair or the rebuilding of an existing, operating
1118 health care facility that sustained significant damage from a
1119 natural disaster that occurred after April 15, 2014, in an area
1120 that is proclaimed a disaster area or subject to a state of
1121 emergency by the Governor or by the President of the United States
1122 shall be exempt from all of the requirements of the Mississippi
1123 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1124 rules and regulations promulgated under that law, subject to the
1125 following conditions:

1126 (a) The repair or the rebuilding of any such damaged
1127 health care facility must be within one (1) mile of the
1128 pre-disaster location of the campus of the damaged health care
1129 facility, except that any temporary post-disaster health care
1130 facility operating location may be within five (5) miles of the
1131 pre-disaster location of the damaged health care facility;

1132 (b) The repair or the rebuilding of the damaged health
1133 care facility (i) does not increase or change the complement of
1134 its bed capacity that it had before the Governor's or the
1135 President's proclamation, (ii) does not increase or change its



1136 levels and types of health care services that it provided before
1137 the Governor's or the President's proclamation, and (iii) does not
1138 rebuild in a different county; however, this paragraph does not
1139 restrict or prevent a health care facility from decreasing its bed
1140 capacity that it had before the Governor's or the President's
1141 proclamation, or from decreasing the levels of or decreasing or
1142 eliminating the types of health care services that it provided
1143 before the Governor's or the President's proclamation, when the
1144 damaged health care facility is repaired or rebuilt;

1145 (c) The exemption from Certificate of Need Law provided
1146 under this subsection (13) is valid for only five (5) years from
1147 the date of the Governor's or the President's proclamation. If
1148 actual construction has not begun within that five-year period,
1149 the exemption provided under this subsection is inapplicable; and

1150 (d) The Division of Health Facilities Licensure and
1151 Certification of the State Department of Health shall provide the
1152 same oversight for the repair or the rebuilding of the damaged
1153 health care facility that it provides to all health care facility
1154 construction projects in the state.

1155 For the purposes of this subsection (13), "significant
1156 damage" to a health care facility means damage to the health care
1157 facility requiring an expenditure of at least One Million Dollars
1158 (\$1,000,000.00).

1159 (14) The State Department of Health shall issue a
1160 certificate of need to any hospital which is currently licensed



1161 for two hundred fifty (250) or more acute care beds and is located
1162 in any general hospital service area not having a comprehensive
1163 cancer center, for the establishment and equipping of such a
1164 center which provides facilities and services for outpatient
1165 radiation oncology therapy, outpatient medical oncology therapy,
1166 and appropriate support services including the provision of
1167 radiation therapy services. The provisions of Section 41-7-193(1)
1168 regarding substantial compliance with the projection of need as
1169 reported in the current State Health Plan are waived for the
1170 purpose of this subsection.

1171 (15) The State Department of Health may authorize the
1172 transfer of hospital beds, not to exceed sixty (60) beds, from the
1173 North Panola Community Hospital to the South Panola Community
1174 Hospital. The authorization for the transfer of those beds shall
1175 be exempt from the certificate of need review process.

1176 (16) The State Department of Health shall issue any
1177 certificates of need necessary for Mississippi State University
1178 and a public or private health care provider to jointly acquire
1179 and operate a linear accelerator and a magnetic resonance imaging
1180 unit. Those certificates of need shall cover all capital
1181 expenditures related to the project between Mississippi State
1182 University and the health care provider, including, but not
1183 limited to, the acquisition of the linear accelerator, the
1184 magnetic resonance imaging unit and other radiological modalities;
1185 the offering of linear accelerator and magnetic resonance imaging



1186 services; and the cost of construction of facilities in which to
1187 locate these services. The linear accelerator and the magnetic
1188 resonance imaging unit shall be (a) located in the City of
1189 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1190 Mississippi State University and the public or private health care
1191 provider selected by Mississippi State University through a
1192 request for proposals (RFP) process in which Mississippi State
1193 University selects, and the Board of Trustees of State
1194 Institutions of Higher Learning approves, the health care provider
1195 that makes the best overall proposal; (c) available to Mississippi
1196 State University for research purposes two-thirds (2/3) of the
1197 time that the linear accelerator and magnetic resonance imaging
1198 unit are operational; and (d) available to the public or private
1199 health care provider selected by Mississippi State University and
1200 approved by the Board of Trustees of State Institutions of Higher
1201 Learning one-third (1/3) of the time for clinical, diagnostic and
1202 treatment purposes. For purposes of this subsection, the
1203 provisions of Section 41-7-193(1) requiring substantial compliance
1204 with the projection of need as reported in the current State
1205 Health Plan are waived.

1206 (17) The State Department of Health shall issue a
1207 certificate of need for the construction of an acute care hospital
1208 in Kemper County, not to exceed twenty-five (25) beds, which shall
1209 be named the "John C. Stennis Memorial Hospital." In issuing the
1210 certificate of need under this subsection, the department shall



1211 give priority to a hospital located in Lauderdale County that has
1212 two hundred fifteen (215) beds. For purposes of this subsection,
1213 the provisions of Section 41-7-193(1) requiring substantial
1214 compliance with the projection of need as reported in the current
1215 State Health Plan and the provisions of Section 41-7-197 requiring
1216 a formal certificate of need hearing process are waived. There
1217 shall be no prohibition or restrictions on participation in the
1218 Medicaid program (Section 43-13-101 et seq.) for the person or
1219 entity receiving the certificate of need authorized under this
1220 subsection or for the beds constructed under the authority of that
1221 certificate of need.

1222 (18) The planning, design, construction, renovation,
1223 addition, furnishing and equipping of a clinical research unit at
1224 any health care facility defined in Section 41-7-173(h) that is
1225 under the direction and control of the University of Mississippi
1226 Medical Center and located in Jackson, Mississippi, and the
1227 addition of new beds or the conversion of beds from one (1)
1228 category to another in any such clinical research unit, shall not
1229 require the issuance of a certificate of need under Section
1230 41-7-171 et seq., notwithstanding any provision in Section
1231 41-7-171 et seq. to the contrary.

1232 (19) [Repealed]

1233 (20) Nothing in this section or in any other provision of
1234 Section 41-7-171 et seq. shall prevent any nursing facility from
1235 designating an appropriate number of existing beds in the facility



1236 as beds for providing care exclusively to patients with
1237 Alzheimer's disease.

1238 (21) Nothing in this section or any other provision of
1239 Section 41-7-171 et seq. shall prevent any health care facility
1240 from the new construction, renovation, conversion or expansion of
1241 new beds in the facility designated as intensive care units,
1242 negative pressure rooms, or isolation rooms pursuant to the
1243 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1244 this subsection, the provisions of Section 41-7-193(1) requiring
1245 substantial compliance with the projection of need as reported in
1246 the current State Health Plan and the provisions of Section
1247 41-7-197 requiring a formal certificate of need hearing process
1248 are waived.

1249 **SECTION 2.** This act shall take effect and be in force from
1250 and after July 1, 2021, and shall stand repealed on June 30, 2021.

