

By: Senator(s) Boyd, McMahan

To: Public Health and Welfare; Medicaid

SENATE BILL NO. 2141

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
 2 TO SUSPEND THE MORATORIUM TO PROVIDE THAT THE STATE DEPARTMENT OF
 3 HEALTH SHALL ISSUE A CERTIFICATE OF NEED TO PANOLA MEDICAL CENTER
 4 IN BATESVILLE, MISSISSIPPI, FOR THE ACQUISITION, CONVERSION AND
 5 OPERATION OF 25 ADULT PSYCHIATRIC BEDS IN ITS EXISTING FACILITY IN
 6 PANOLA COUNTY; TO PROVIDE THAT THE AUTHORIZATION FOR THE
 7 CERTIFICATE OF NEED FOR THOSE ADULT PSYCHIATRIC BEDS SHALL BE
 8 EXEMPT FROM THE CERTIFICATE OF NEED REVIEW PROCESS; TO PROVIDE
 9 THAT THE EXEMPTION FROM THE CERTIFICATE OF NEED PROCESS IS VALID
 10 FOR TWO YEARS FROM THE EFFECTIVE DATE OF THIS ACT AND WILL EXPIRE
 11 IF ACTUAL OPERATION OF THE 25 ADULT PSYCHIATRIC BEDS IS NOT
 12 ACCOMPLISHED BY PANOLA MEDICAL CENTER WITHIN THAT TWO-YEAR PERIOD;
 13 TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A
 14 HEALTH CARE CERTIFICATE OF NEED FOR THE ACQUISITION, CONVERSION
 15 AND OPERATION OF CHILD/ADOLESCENT PSYCHIATRIC BEDS PARTICIPATING
 16 IN THE MEDICAID PROGRAM IN LEE COUNTY AND THE CONVERSION OF ACUTE
 17 CARE BEDS TO GERIATRIC PSYCHIATRIC BEDS IN LEE COUNTY; AND FOR
 18 RELATED PURPOSES.

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

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

22 41-7-191. (1) No person shall engage in any of the
 23 following activities without obtaining the required certificate of
 24 need:

25 (a) The construction, development or other
 26 establishment of a new health care facility, which establishment



27 shall include the reopening of a health care facility that has
28 ceased to operate for a period of sixty (60) months or more;

29 (b) The relocation of a health care facility or portion
30 thereof, or major medical equipment, unless such relocation of a
31 health care facility or portion thereof, or major medical
32 equipment, which does not involve a capital expenditure by or on
33 behalf of a health care facility, is within five thousand two
34 hundred eighty (5,280) feet from the main entrance of the health
35 care facility;

36 (c) Any change in the existing bed complement of any
37 health care facility through the addition or conversion of any
38 beds or the alteration, modernizing or refurbishing of any unit or
39 department in which the beds may be located; however, if a health
40 care facility has voluntarily delicensed some of its existing bed
41 complement, it may later relicense some or all of its delicensed
42 beds without the necessity of having to acquire a certificate of
43 need. The State Department of Health shall maintain a record of
44 the delicensing health care facility and its voluntarily
45 delicensed beds and continue counting those beds as part of the
46 state's total bed count for health care planning purposes. If a
47 health care facility that has voluntarily delicensed some of its
48 beds later desires to relicense some or all of its voluntarily
49 delicensed beds, it shall notify the State Department of Health of
50 its intent to increase the number of its licensed beds. The State
51 Department of Health shall survey the health care facility within



52 thirty (30) days of that notice and, if appropriate, issue the
53 health care facility a new license reflecting the new contingent
54 of beds. However, in no event may a health care facility that has
55 voluntarily delicensed some of its beds be reissued a license to
56 operate beds in excess of its bed count before the voluntary
57 delicensure of some of its beds without seeking certificate of
58 need approval;

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

- 63 (i) Open-heart surgery services;
- 64 (ii) Cardiac catheterization services;
- 65 (iii) Comprehensive inpatient rehabilitation
66 services;
- 67 (iv) Licensed psychiatric services;
- 68 (v) Licensed chemical dependency services;
- 69 (vi) Radiation therapy services;
- 70 (vii) Diagnostic imaging services of an invasive
71 nature, i.e. invasive digital angiography;
- 72 (viii) Nursing home care as defined in
73 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 74 (ix) Home health services;
- 75 (x) Swing-bed services;
- 76 (xi) Ambulatory surgical services;



- 77 (xii) Magnetic resonance imaging services;
- 78 (xiii) [Deleted]
- 79 (xiv) Long-term care hospital services;
- 80 (xv) Positron emission tomography (PET) services;

81 (e) The relocation of one or more health services from
82 one physical facility or site to another physical facility or
83 site, unless such relocation, which does not involve a capital
84 expenditure by or on behalf of a health care facility, (i) is to a
85 physical facility or site within five thousand two hundred eighty
86 (5,280) feet from the main entrance of the health care facility
87 where the health care service is located, or (ii) is the result of
88 an order of a court of appropriate jurisdiction or a result of
89 pending litigation in such court, or by order of the State
90 Department of Health, or by order of any other agency or legal
91 entity of the state, the federal government, or any political
92 subdivision of either, whose order is also approved by the State
93 Department of Health;

94 (f) The acquisition or otherwise control of any major
95 medical equipment for the provision of medical services; however,
96 (i) the acquisition of any major medical equipment used only for
97 research purposes, and (ii) the acquisition of major medical
98 equipment to replace medical equipment for which a facility is
99 already providing medical services and for which the State
100 Department of Health has been notified before the date of such
101 acquisition shall be exempt from this paragraph; an acquisition



102 for less than fair market value must be reviewed, if the
103 acquisition at fair market value would be subject to review;

104 (g) Changes of ownership of existing health care
105 facilities in which a notice of intent is not filed with the State
106 Department of Health at least thirty (30) days prior to the date
107 such change of ownership occurs, or a change in services or bed
108 capacity as prescribed in paragraph (c) or (d) of this subsection
109 as a result of the change of ownership; an acquisition for less
110 than fair market value must be reviewed, if the acquisition at
111 fair market value would be subject to review;

112 (h) The change of ownership of any health care facility
113 defined in subparagraphs (iv), (vi) and (viii) of Section
114 41-7-173(h), in which a notice of intent as described in paragraph
115 (g) has not been filed and if the Executive Director, Division of
116 Medicaid, Office of the Governor, has not certified in writing
117 that there will be no increase in allowable costs to Medicaid from
118 revaluation of the assets or from increased interest and
119 depreciation as a result of the proposed change of ownership;

120 (i) Any activity described in paragraphs (a) through
121 (h) if undertaken by any person if that same activity would
122 require certificate of need approval if undertaken by a health
123 care facility;

124 (j) Any capital expenditure or deferred capital
125 expenditure by or on behalf of a health care facility not covered
126 by paragraphs (a) through (h);



127 (k) The contracting of a health care facility as
128 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
129 to establish a home office, subunit, or branch office in the space
130 operated as a health care facility through a formal arrangement
131 with an existing health care facility as defined in subparagraph
132 (ix) of Section 41-7-173(h);

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

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

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

149 (a) The department may issue a certificate of need to
150 any person proposing the new construction of any health care
151 facility defined in subparagraphs (iv) and (vi) of Section



152 41-7-173(h) as part of a life care retirement facility, in any
153 county bordering on the Gulf of Mexico in which is located a
154 National Aeronautics and Space Administration facility, not to
155 exceed forty (40) beds. From and after July 1, 1999, there shall
156 be no prohibition or restrictions on participation in the Medicaid
157 program (Section 43-13-101 et seq.) for the beds in the health
158 care facility that were authorized under this paragraph (a).

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

166 (c) The department may issue a certificate of need for
167 the addition to or expansion of any skilled nursing facility that
168 is part of an existing continuing care retirement community
169 located in Madison County, provided that the recipient of the
170 certificate of need agrees in writing that the skilled nursing
171 facility will not at any time participate in the Medicaid program
172 (Section 43-13-101 et seq.) or admit or keep any patients in the
173 skilled nursing facility who are participating in the Medicaid
174 program. This written agreement by the recipient of the
175 certificate of need shall be fully binding on any subsequent owner
176 of the skilled nursing facility, if the ownership of the facility



177 is transferred at any time after the issuance of the certificate
178 of need. Agreement that the skilled nursing facility will not
179 participate in the Medicaid program shall be a condition of the
180 issuance of a certificate of need to any person under this
181 paragraph (c), and if such skilled nursing facility at any time
182 after the issuance of the certificate of need, regardless of the
183 ownership of the facility, participates in the Medicaid program or
184 admits or keeps any patients in the facility who are participating
185 in the Medicaid program, the State Department of Health shall
186 revoke the certificate of need, if it is still outstanding, and
187 shall deny or revoke the license of the skilled nursing facility,
188 at the time that the department determines, after a hearing
189 complying with due process, that the facility has failed to comply
190 with any of the conditions upon which the certificate of need was
191 issued, as provided in this paragraph and in the written agreement
192 by the recipient of the certificate of need. The total number of
193 beds that may be authorized under the authority of this paragraph
194 (c) shall not exceed sixty (60) beds.

195 (d) The State Department of Health may issue a
196 certificate of need to any hospital located in DeSoto County for
197 the new construction of a skilled nursing facility, not to exceed
198 one hundred twenty (120) beds, in DeSoto County. From and after
199 July 1, 1999, there shall be no prohibition or restrictions on
200 participation in the Medicaid program (Section 43-13-101 et seq.)



201 for the beds in the nursing facility that were authorized under
202 this paragraph (d).

203 (e) The State Department of Health may issue a
204 certificate of need for the construction of a nursing facility or
205 the conversion of beds to nursing facility beds at a personal care
206 facility for the elderly in Lowndes County that is owned and
207 operated by a Mississippi nonprofit corporation, not to exceed
208 sixty (60) beds. From and after July 1, 1999, there shall be no
209 prohibition or restrictions on participation in the Medicaid
210 program (Section 43-13-101 et seq.) for the beds in the nursing
211 facility that were authorized under this paragraph (e).

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

220 (g) The State Department of Health may issue a
221 certificate of need for the construction or expansion of nursing
222 facility beds or the conversion of other beds to nursing facility
223 beds in either Hinds, Madison or Rankin County, not to exceed
224 sixty (60) beds. From and after July 1, 1999, there shall be no
225 prohibition or restrictions on participation in the Medicaid



226 program (Section 43-13-101 et seq.) for the beds in the nursing
227 facility that were authorized under this paragraph (g).

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

236 (i) The department may issue a certificate of need for
237 the new construction of a skilled nursing facility in Leake
238 County, provided that the recipient of the certificate of need
239 agrees in writing that the skilled nursing facility will not at
240 any time participate in the Medicaid program (Section 43-13-101 et
241 seq.) or admit or keep any patients in the skilled nursing
242 facility who are participating in the Medicaid program. This
243 written agreement by the recipient of the certificate of need
244 shall be fully binding on any subsequent owner of the skilled
245 nursing facility, if the ownership of the facility is transferred
246 at any time after the issuance of the certificate of need.
247 Agreement that the skilled nursing facility will not participate
248 in the Medicaid program shall be a condition of the issuance of a
249 certificate of need to any person under this paragraph (i), and if
250 such skilled nursing facility at any time after the issuance of



251 the certificate of need, regardless of the ownership of the
252 facility, participates in the Medicaid program or admits or keeps
253 any patients in the facility who are participating in the Medicaid
254 program, the State Department of Health shall revoke the
255 certificate of need, if it is still outstanding, and shall deny or
256 revoke the license of the skilled nursing facility, at the time
257 that the department determines, after a hearing complying with due
258 process, that the facility has failed to comply with any of the
259 conditions upon which the certificate of need was issued, as
260 provided in this paragraph and in the written agreement by the
261 recipient of the certificate of need. The provision of Section
262 41-7-193(1) regarding substantial compliance of the projection of
263 need as reported in the current State Health Plan is waived for
264 the purposes of this paragraph. The total number of nursing
265 facility beds that may be authorized by any certificate of need
266 issued under this paragraph (i) shall not exceed sixty (60) beds.
267 If the skilled nursing facility authorized by the certificate of
268 need issued under this paragraph is not constructed and fully
269 operational within eighteen (18) months after July 1, 1994, the
270 State Department of Health, after a hearing complying with due
271 process, shall revoke the certificate of need, if it is still
272 outstanding, and shall not issue a license for the skilled nursing
273 facility at any time after the expiration of the eighteen-month
274 period.



275 (j) The department may issue certificates of need to
276 allow any existing freestanding long-term care facility in
277 Tishomingo County and Hancock County that on July 1, 1995, is
278 licensed with fewer than sixty (60) beds. For the purposes of
279 this paragraph (j), the provisions of Section 41-7-193(1)
280 requiring substantial compliance with the projection of need as
281 reported in the current State Health Plan are waived. From and
282 after July 1, 1999, there shall be no prohibition or restrictions
283 on participation in the Medicaid program (Section 43-13-101 et
284 seq.) for the beds in the long-term care facilities that were
285 authorized under this paragraph (j).

286 (k) The department may issue a certificate of need for
287 the construction of a nursing facility at a continuing care
288 retirement community in Lowndes County. The total number of beds
289 that may be authorized under the authority of this paragraph (k)
290 shall not exceed sixty (60) beds. From and after July 1, 2001,
291 the prohibition on the facility participating in the Medicaid
292 program (Section 43-13-101 et seq.) that was a condition of
293 issuance of the certificate of need under this paragraph (k) shall
294 be revised as follows: The nursing facility may participate in
295 the Medicaid program from and after July 1, 2001, if the owner of
296 the facility on July 1, 2001, agrees in writing that no more than
297 thirty (30) of the beds at the facility will be certified for
298 participation in the Medicaid program, and that no claim will be
299 submitted for Medicaid reimbursement for more than thirty (30)



300 patients in the facility in any month or for any patient in the
301 facility who is in a bed that is not Medicaid-certified. This
302 written agreement by the owner of the facility shall be a
303 condition of licensure of the facility, and the agreement shall be
304 fully binding on any subsequent owner of the facility if the
305 ownership of the facility is transferred at any time after July 1,
306 2001. After this written agreement is executed, the Division of
307 Medicaid and the State Department of Health shall not certify more
308 than thirty (30) of the beds in the facility for participation in
309 the Medicaid program. If the facility violates the terms of the
310 written agreement by admitting or keeping in the facility on a
311 regular or continuing basis more than thirty (30) patients who are
312 participating in the Medicaid program, the State Department of
313 Health shall revoke the license of the facility, at the time that
314 the department determines, after a hearing complying with due
315 process, that the facility has violated the written agreement.

316 (1) Provided that funds are specifically appropriated
317 therefor by the Legislature, the department may issue a
318 certificate of need to a rehabilitation hospital in Hinds County
319 for the construction of a sixty-bed long-term care nursing
320 facility dedicated to the care and treatment of persons with
321 severe disabilities including persons with spinal cord and
322 closed-head injuries and ventilator dependent patients. The
323 provisions of Section 41-7-193(1) regarding substantial compliance



324 with projection of need as reported in the current State Health
325 Plan are waived for the purpose of this paragraph.

326 (m) The State Department of Health may issue a
327 certificate of need to a county-owned hospital in the Second
328 Judicial District of Panola County for the conversion of not more
329 than seventy-two (72) hospital beds to nursing facility beds,
330 provided that the recipient of the certificate of need agrees in
331 writing that none of the beds at the nursing facility will be
332 certified for participation in the Medicaid program (Section
333 43-13-101 et seq.), and that no claim will be submitted for
334 Medicaid reimbursement in the nursing facility in any day or for
335 any patient in the nursing facility. This written agreement by
336 the recipient of the certificate of need shall be a condition of
337 the issuance of the certificate of need under this paragraph, and
338 the agreement shall be fully binding on any subsequent owner of
339 the nursing facility if the ownership of the nursing facility is
340 transferred at any time after the issuance of the certificate of
341 need. After this written agreement is executed, the Division of
342 Medicaid and the State Department of Health shall not certify any
343 of the beds in the nursing facility for participation in the
344 Medicaid program. If the nursing facility violates the terms of
345 the written agreement by admitting or keeping in the nursing
346 facility on a regular or continuing basis any patients who are
347 participating in the Medicaid program, the State Department of
348 Health shall revoke the license of the nursing facility, at the



349 time that the department determines, after a hearing complying
350 with due process, that the nursing facility has violated the
351 condition upon which the certificate of need was issued, as
352 provided in this paragraph and in the written agreement. If the
353 certificate of need authorized under this paragraph is not issued
354 within twelve (12) months after July 1, 2001, the department shall
355 deny the application for the certificate of need and shall not
356 issue the certificate of need at any time after the twelve-month
357 period, unless the issuance is contested. If the certificate of
358 need is issued and substantial construction of the nursing
359 facility beds has not commenced within eighteen (18) months after
360 July 1, 2001, the State Department of Health, after a hearing
361 complying with due process, shall revoke the certificate of need
362 if it is still outstanding, and the department shall not issue a
363 license for the nursing facility at any time after the
364 eighteen-month period. However, if the issuance of the
365 certificate of need is contested, the department shall require
366 substantial construction of the nursing facility beds within six
367 (6) months after final adjudication on the issuance of the
368 certificate of need.

369 (n) The department may issue a certificate of need for
370 the new construction, addition or conversion of skilled nursing
371 facility beds in Madison County, provided that the recipient of
372 the certificate of need agrees in writing that the skilled nursing
373 facility will not at any time participate in the Medicaid program



374 (Section 43-13-101 et seq.) or admit or keep any patients in the
375 skilled nursing facility who are participating in the Medicaid
376 program. This written agreement by the recipient of the
377 certificate of need shall be fully binding on any subsequent owner
378 of the skilled nursing facility, if the ownership of the facility
379 is transferred at any time after the issuance of the certificate
380 of need. Agreement that the skilled nursing facility will not
381 participate in the Medicaid program shall be a condition of the
382 issuance of a certificate of need to any person under this
383 paragraph (n), and if such skilled nursing facility at any time
384 after the issuance of the certificate of need, regardless of the
385 ownership of the facility, participates in the Medicaid program or
386 admits or keeps any patients in the facility who are participating
387 in the Medicaid program, the State Department of Health shall
388 revoke the certificate of need, if it is still outstanding, and
389 shall deny or revoke the license of the skilled nursing facility,
390 at the time that the department determines, after a hearing
391 complying with due process, that the facility has failed to comply
392 with any of the conditions upon which the certificate of need was
393 issued, as provided in this paragraph and in the written agreement
394 by the recipient of the certificate of need. The total number of
395 nursing facility beds that may be authorized by any certificate of
396 need issued under this paragraph (n) shall not exceed sixty (60)
397 beds. If the certificate of need authorized under this paragraph
398 is not issued within twelve (12) months after July 1, 1998, the



399 department shall deny the application for the certificate of need
400 and shall not issue the certificate of need at any time after the
401 twelve-month period, unless the issuance is contested. If the
402 certificate of need is issued and substantial construction of the
403 nursing facility beds has not commenced within eighteen (18)
404 months after July 1, 1998, the State Department of Health, after a
405 hearing complying with due process, shall revoke the certificate
406 of need if it is still outstanding, and the department shall not
407 issue a license for the nursing facility at any time after the
408 eighteen-month period. However, if the issuance of the
409 certificate of need is contested, the department shall require
410 substantial construction of the nursing facility beds within six
411 (6) months after final adjudication on the issuance of the
412 certificate of need.

413 (o) The department may issue a certificate of need for
414 the new construction, addition or conversion of skilled nursing
415 facility beds in Leake County, provided that the recipient of the
416 certificate of need agrees in writing that the skilled nursing
417 facility will not at any time participate in the Medicaid program
418 (Section 43-13-101 et seq.) or admit or keep any patients in the
419 skilled nursing facility who are participating in the Medicaid
420 program. This written agreement by the recipient of the
421 certificate of need shall be fully binding on any subsequent owner
422 of the skilled nursing facility, if the ownership of the facility
423 is transferred at any time after the issuance of the certificate



424 of need. Agreement that the skilled nursing facility will not
425 participate in the Medicaid program shall be a condition of the
426 issuance of a certificate of need to any person under this
427 paragraph (o), and if such skilled nursing facility at any time
428 after the issuance of the certificate of need, regardless of the
429 ownership of the facility, participates in the Medicaid program or
430 admits or keeps any patients in the facility who are participating
431 in the Medicaid program, the State Department of Health shall
432 revoke the certificate of need, if it is still outstanding, and
433 shall deny or revoke the license of the skilled nursing facility,
434 at the time that the department determines, after a hearing
435 complying with due process, that the facility has failed to comply
436 with any of the conditions upon which the certificate of need was
437 issued, as provided in this paragraph and in the written agreement
438 by the recipient of the certificate of need. The total number of
439 nursing facility beds that may be authorized by any certificate of
440 need issued under this paragraph (o) shall not exceed sixty (60)
441 beds. If the certificate of need authorized under this paragraph
442 is not issued within twelve (12) months after July 1, 2001, the
443 department shall deny the application for the certificate of need
444 and shall not issue the certificate of need at any time after the
445 twelve-month period, unless the issuance is contested. If the
446 certificate of need is issued and substantial construction of the
447 nursing facility beds has not commenced within eighteen (18)
448 months after July 1, 2001, the State Department of Health, after a



449 hearing complying with due process, shall revoke the certificate
450 of need if it is still outstanding, and the department shall not
451 issue a license for the nursing facility at any time after the
452 eighteen-month period. However, if the issuance of the
453 certificate of need is contested, the department shall require
454 substantial construction of the nursing facility beds within six
455 (6) months after final adjudication on the issuance of the
456 certificate of need.

457 (p) The department may issue a certificate of need for
458 the construction of a municipally owned nursing facility within
459 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
460 beds, provided that the recipient of the certificate of need
461 agrees in writing that the skilled nursing facility will not at
462 any time participate in the Medicaid program (Section 43-13-101 et
463 seq.) or admit or keep any patients in the skilled nursing
464 facility who are participating in the Medicaid program. This
465 written agreement by the recipient of the certificate of need
466 shall be fully binding on any subsequent owner of the skilled
467 nursing facility, if the ownership of the facility is transferred
468 at any time after the issuance of the certificate of need.
469 Agreement that the skilled nursing facility will not participate
470 in the Medicaid program shall be a condition of the issuance of a
471 certificate of need to any person under this paragraph (p), and if
472 such skilled nursing facility at any time after the issuance of
473 the certificate of need, regardless of the ownership of the



474 facility, participates in the Medicaid program or admits or keeps
475 any patients in the facility who are participating in the Medicaid
476 program, the State Department of Health shall revoke the
477 certificate of need, if it is still outstanding, and shall deny or
478 revoke the license of the skilled nursing facility, at the time
479 that the department determines, after a hearing complying with due
480 process, that the facility has failed to comply with any of the
481 conditions upon which the certificate of need was issued, as
482 provided in this paragraph and in the written agreement by the
483 recipient of the certificate of need. The provision of Section
484 41-7-193(1) regarding substantial compliance of the projection of
485 need as reported in the current State Health Plan is waived for
486 the purposes of this paragraph. If the certificate of need
487 authorized under this paragraph is not issued within twelve (12)
488 months after July 1, 1998, the department shall deny the
489 application for the certificate of need and shall not issue the
490 certificate of need at any time after the twelve-month period,
491 unless the issuance is contested. If the certificate of need is
492 issued and substantial construction of the nursing facility beds
493 has not commenced within eighteen (18) months after July 1, 1998,
494 the State Department of Health, after a hearing complying with due
495 process, shall revoke the certificate of need if it is still
496 outstanding, and the department shall not issue a license for the
497 nursing facility at any time after the eighteen-month period.
498 However, if the issuance of the certificate of need is contested,



499 the department shall require substantial construction of the
500 nursing facility beds within six (6) months after final
501 adjudication on the issuance of the certificate of need.

502 (q) (i) Beginning on July 1, 1999, the State
503 Department of Health shall issue certificates of need during each
504 of the next four (4) fiscal years for the construction or
505 expansion of nursing facility beds or the conversion of other beds
506 to nursing facility beds in each county in the state having a need
507 for fifty (50) or more additional nursing facility beds, as shown
508 in the fiscal year 1999 State Health Plan, in the manner provided
509 in this paragraph (q). The total number of nursing facility beds
510 that may be authorized by any certificate of need authorized under
511 this paragraph (q) shall not exceed sixty (60) beds.

512 (ii) Subject to the provisions of subparagraph
513 (v), during each of the next four (4) fiscal years, the department
514 shall issue six (6) certificates of need for new nursing facility
515 beds, as follows: During fiscal years 2000, 2001 and 2002, one
516 (1) certificate of need shall be issued for new nursing facility
517 beds in the county in each of the four (4) Long-Term Care Planning
518 Districts designated in the fiscal year 1999 State Health Plan
519 that has the highest need in the district for those beds; and two
520 (2) certificates of need shall be issued for new nursing facility
521 beds in the two (2) counties from the state at large that have the
522 highest need in the state for those beds, when considering the
523 need on a statewide basis and without regard to the Long-Term Care



524 Planning Districts in which the counties are located. During
525 fiscal year 2003, one (1) certificate of need shall be issued for
526 new nursing facility beds in any county having a need for fifty
527 (50) or more additional nursing facility beds, as shown in the
528 fiscal year 1999 State Health Plan, that has not received a
529 certificate of need under this paragraph (q) during the three (3)
530 previous fiscal years. During fiscal year 2000, in addition to
531 the six (6) certificates of need authorized in this subparagraph,
532 the department also shall issue a certificate of need for new
533 nursing facility beds in Amite County and a certificate of need
534 for new nursing facility beds in Carroll County.

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



549 (iv) Subject to the provisions of subparagraph
550 (v), the certificate of need issued under subparagraph (ii) for
551 nursing facility beds in the two (2) counties from the state at
552 large during each fiscal year shall first be available for nursing
553 facility beds in the two (2) counties that have the highest need
554 in the state for those beds, as shown in the fiscal year 1999
555 State Health Plan, when considering the need on a statewide basis
556 and without regard to the Long-Term Care Planning Districts in
557 which the counties are located. If there are no applications for
558 a certificate of need for nursing facility beds in either of the
559 two (2) counties having the highest need for those beds on a
560 statewide basis by the date specified by the department, then the
561 certificate of need shall be available for nursing facility beds
562 in other counties from the state at large in descending order of
563 the need for those beds on a statewide basis, from the county with
564 the second highest need to the county with the lowest need, until
565 an application is received for nursing facility beds in an
566 eligible county from the state at large.

567 (v) If a certificate of need is authorized to be
568 issued under this paragraph (q) for nursing facility beds in a
569 county on the basis of the need in the Long-Term Care Planning
570 District during any fiscal year of the four-year period, a
571 certificate of need shall not also be available under this
572 paragraph (q) for additional nursing facility beds in that county
573 on the basis of the need in the state at large, and that county



574 shall be excluded in determining which counties have the highest
575 need for nursing facility beds in the state at large for that
576 fiscal year. After a certificate of need has been issued under
577 this paragraph (q) for nursing facility beds in a county during
578 any fiscal year of the four-year period, a certificate of need
579 shall not be available again under this paragraph (q) for
580 additional nursing facility beds in that county during the
581 four-year period, and that county shall be excluded in determining
582 which counties have the highest need for nursing facility beds in
583 succeeding fiscal years.

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

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

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



598 qualifications of the other applicants for the certificate of
599 need.

600 (r) (i) Beginning on July 1, 1999, the State
601 Department of Health shall issue certificates of need during each
602 of the next two (2) fiscal years for the construction or expansion
603 of nursing facility beds or the conversion of other beds to
604 nursing facility beds in each of the four (4) Long-Term Care
605 Planning Districts designated in the fiscal year 1999 State Health
606 Plan, to provide care exclusively to patients with Alzheimer's
607 disease.

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



622 for beds in the central part of the district, and at least one (1)
623 shall be issued for beds in the southern part of the district.

624 (iii) The State Department of Health, in
625 consultation with the Department of Mental Health and the Division
626 of Medicaid, shall develop and prescribe the staffing levels,
627 space requirements and other standards and requirements that must
628 be met with regard to the nursing facility beds authorized under
629 this paragraph (r) to provide care exclusively to patients with
630 Alzheimer's disease.

631 (s) The State Department of Health may issue a
632 certificate of need to a nonprofit skilled nursing facility using
633 the Green House model of skilled nursing care and located in Yazoo
634 City, Yazoo County, Mississippi, for the construction, expansion
635 or conversion of not more than nineteen (19) nursing facility
636 beds. For purposes of this paragraph (s), the provisions of
637 Section 41-7-193(1) requiring substantial compliance with the
638 projection of need as reported in the current State Health Plan
639 and the provisions of Section 41-7-197 requiring a formal
640 certificate of need hearing process are waived. There shall be no
641 prohibition or restrictions on participation in the Medicaid
642 program for the person receiving the certificate of need
643 authorized under this paragraph (s).

644 (t) The State Department of Health shall issue
645 certificates of need to the owner of a nursing facility in
646 operation at the time of Hurricane Katrina in Hancock County that



647 was not operational on December 31, 2005, because of damage
648 sustained from Hurricane Katrina to authorize the following: (i)
649 the construction of a new nursing facility in Harrison County;
650 (ii) the relocation of forty-nine (49) nursing facility beds from
651 the Hancock County facility to the new Harrison County facility;
652 (iii) the establishment of not more than twenty (20) non-Medicaid
653 nursing facility beds at the Hancock County facility; and (iv) the
654 establishment of not more than twenty (20) non-Medicaid beds at
655 the new Harrison County facility. The certificates of need that
656 authorize the non-Medicaid nursing facility beds under
657 subparagraphs (iii) and (iv) of this paragraph (t) shall be
658 subject to the following conditions: The owner of the Hancock
659 County facility and the new Harrison County facility must agree in
660 writing that no more than fifty (50) of the beds at the Hancock
661 County facility and no more than forty-nine (49) of the beds at
662 the Harrison County facility will be certified for participation
663 in the Medicaid program, and that no claim will be submitted for
664 Medicaid reimbursement for more than fifty (50) patients in the
665 Hancock County facility in any month, or for more than forty-nine
666 (49) patients in the Harrison County facility in any month, or for
667 any patient in either facility who is in a bed that is not
668 Medicaid-certified. This written agreement by the owner of the
669 nursing facilities shall be a condition of the issuance of the
670 certificates of need under this paragraph (t), and the agreement
671 shall be fully binding on any later owner or owners of either



672 facility if the ownership of either facility is transferred at any
673 time after the certificates of need are issued. After this
674 written agreement is executed, the Division of Medicaid and the
675 State Department of Health shall not certify more than fifty (50)
676 of the beds at the Hancock County facility or more than forty-nine
677 (49) of the beds at the Harrison County facility for participation
678 in the Medicaid program. If the Hancock County facility violates
679 the terms of the written agreement by admitting or keeping in the
680 facility on a regular or continuing basis more than fifty (50)
681 patients who are participating in the Medicaid program, or if the
682 Harrison County facility violates the terms of the written
683 agreement by admitting or keeping in the facility on a regular or
684 continuing basis more than forty-nine (49) patients who are
685 participating in the Medicaid program, the State Department of
686 Health shall revoke the license of the facility that is in
687 violation of the agreement, at the time that the department
688 determines, after a hearing complying with due process, that the
689 facility has violated the agreement.

690 (u) The State Department of Health shall issue a
691 certificate of need to a nonprofit venture for the establishment,
692 construction and operation of a skilled nursing facility of not
693 more than sixty (60) beds to provide skilled nursing care for
694 ventilator dependent or otherwise medically dependent pediatric
695 patients who require medical and nursing care or rehabilitation
696 services to be located in a county in which an academic medical



697 center and a children's hospital are located, and for any
698 construction and for the acquisition of equipment related to those
699 beds. The facility shall be authorized to keep such ventilator
700 dependent or otherwise medically dependent pediatric patients
701 beyond age twenty-one (21) in accordance with regulations of the
702 State Board of Health. For purposes of this paragraph (u), the
703 provisions of Section 41-7-193(1) requiring substantial compliance
704 with the projection of need as reported in the current State
705 Health Plan are waived, and the provisions of Section 41-7-197
706 requiring a formal certificate of need hearing process are waived.
707 The beds authorized by this paragraph shall be counted as
708 pediatric skilled nursing facility beds for health planning
709 purposes under Section 41-7-171 et seq. There shall be no
710 prohibition of or restrictions on participation in the Medicaid
711 program for the person receiving the certificate of need
712 authorized by this paragraph.

713 (3) The State Department of Health may grant approval for
714 and issue certificates of need to any person proposing the new
715 construction of, addition to, conversion of beds of or expansion
716 of any health care facility defined in subparagraph (x)
717 (psychiatric residential treatment facility) of Section
718 41-7-173(h). The total number of beds which may be authorized by
719 such certificates of need shall not exceed three hundred
720 thirty-four (334) beds for the entire state.



721 (a) Of the total number of beds authorized under this
722 subsection, the department shall issue a certificate of need to a
723 privately owned psychiatric residential treatment facility in
724 Simpson County for the conversion of sixteen (16) intermediate
725 care facility for the mentally retarded (ICF-MR) beds to
726 psychiatric residential treatment facility beds, provided that
727 facility agrees in writing that the facility shall give priority
728 for the use of those sixteen (16) beds to Mississippi residents
729 who are presently being treated in out-of-state facilities.

730 (b) Of the total number of beds authorized under this
731 subsection, the department may issue a certificate or certificates
732 of need for the construction or expansion of psychiatric
733 residential treatment facility beds or the conversion of other
734 beds to psychiatric residential treatment facility beds in Warren
735 County, not to exceed sixty (60) psychiatric residential treatment
736 facility beds, provided that the facility agrees in writing that
737 no more than thirty (30) of the beds at the psychiatric
738 residential treatment facility will be certified for participation
739 in the Medicaid program (Section 43-13-101 et seq.) for the use of
740 any patients other than those who are participating only in the
741 Medicaid program of another state, and that no claim will be
742 submitted to the Division of Medicaid for Medicaid reimbursement
743 for more than thirty (30) patients in the psychiatric residential
744 treatment facility in any day or for any patient in the
745 psychiatric residential treatment facility who is in a bed that is



746 not Medicaid-certified. This written agreement by the recipient
747 of the certificate of need shall be a condition of the issuance of
748 the certificate of need under this paragraph, and the agreement
749 shall be fully binding on any subsequent owner of the psychiatric
750 residential treatment facility if the ownership of the facility is
751 transferred at any time after the issuance of the certificate of
752 need. After this written agreement is executed, the Division of
753 Medicaid and the State Department of Health shall not certify more
754 than thirty (30) of the beds in the psychiatric residential
755 treatment facility for participation in the Medicaid program for
756 the use of any patients other than those who are participating
757 only in the Medicaid program of another state. If the psychiatric
758 residential treatment facility violates the terms of the written
759 agreement by admitting or keeping in the facility on a regular or
760 continuing basis more than thirty (30) patients who are
761 participating in the Mississippi Medicaid program, the State
762 Department of Health shall revoke the license of the facility, at
763 the time that the department determines, after a hearing complying
764 with due process, that the facility has violated the condition
765 upon which the certificate of need was issued, as provided in this
766 paragraph and in the written agreement.

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



771 (c) Of the total number of beds authorized under this
772 subsection, the department shall issue a certificate of need to a
773 hospital currently operating Medicaid-certified acute psychiatric
774 beds for adolescents in DeSoto County, for the establishment of a
775 forty-bed psychiatric residential treatment facility in DeSoto
776 County, provided that the hospital agrees in writing (i) that the
777 hospital shall give priority for the use of those forty (40) beds
778 to Mississippi residents who are presently being treated in
779 out-of-state facilities, and (ii) that no more than fifteen (15)
780 of the beds at the psychiatric residential treatment facility will
781 be certified for participation in the Medicaid program (Section
782 43-13-101 et seq.), and that no claim will be submitted for
783 Medicaid reimbursement for more than fifteen (15) patients in the
784 psychiatric residential treatment facility in any day or for any
785 patient in the psychiatric residential treatment facility who is
786 in a bed that is not Medicaid-certified. This written agreement
787 by the recipient of the certificate of need shall be a condition
788 of the issuance of the certificate of need under this paragraph,
789 and the agreement shall be fully binding on any subsequent owner
790 of the psychiatric residential treatment facility if the ownership
791 of the facility is transferred at any time after the issuance of
792 the certificate of need. After this written agreement is
793 executed, the Division of Medicaid and the State Department of
794 Health shall not certify more than fifteen (15) of the beds in the
795 psychiatric residential treatment facility for participation in



796 the Medicaid program. If the psychiatric residential treatment
797 facility violates the terms of the written agreement by admitting
798 or keeping in the facility on a regular or continuing basis more
799 than fifteen (15) patients who are participating in the Medicaid
800 program, the State Department of Health shall revoke the license
801 of the facility, at the time that the department determines, after
802 a hearing complying with due process, that the facility has
803 violated the condition upon which the certificate of need was
804 issued, as provided in this paragraph and in the written
805 agreement.

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

814 (e) Of the total number of beds authorized under this
815 subsection (3) the department shall issue a certificate of need to
816 a privately owned, nonprofit psychiatric residential treatment
817 facility in Hinds County for an eight-bed expansion of the
818 facility, provided that the facility agrees in writing that the
819 facility shall give priority for the use of those eight (8) beds



820 to Mississippi residents who are presently being treated in
821 out-of-state facilities.

822 (f) The department shall issue a certificate of need to
823 a one-hundred-thirty-four-bed specialty hospital located on
824 twenty-nine and forty-four one-hundredths (29.44) commercial acres
825 at 5900 Highway 39 North in Meridian (Lauderdale County),
826 Mississippi, for the addition, construction or expansion of
827 child/adolescent psychiatric residential treatment facility beds
828 in Lauderdale County. As a condition of issuance of the
829 certificate of need under this paragraph, the facility shall give
830 priority in admissions to the child/adolescent psychiatric
831 residential treatment facility beds authorized under this
832 paragraph to patients who otherwise would require out-of-state
833 placement. The Division of Medicaid, in conjunction with the
834 Department of Human Services, shall furnish the facility a list of
835 all out-of-state patients on a quarterly basis. Furthermore,
836 notice shall also be provided to the parent, custodial parent or
837 guardian of each out-of-state patient notifying them of the
838 priority status granted by this paragraph. For purposes of this
839 paragraph, the provisions of Section 41-7-193(1) requiring
840 substantial compliance with the projection of need as reported in
841 the current State Health Plan are waived. The total number of
842 child/adolescent psychiatric residential treatment facility beds
843 that may be authorized under the authority of this paragraph shall
844 be sixty (60) beds. There shall be no prohibition or restrictions



845 on participation in the Medicaid program (Section 43-13-101 et
846 seq.) for the person receiving the certificate of need authorized
847 under this paragraph or for the beds converted pursuant to the
848 authority of that certificate of need.

849 (4) (a) From and after July 1, 1993, the department shall
850 not issue a certificate of need to any person for the new
851 construction of any hospital, psychiatric hospital or chemical
852 dependency hospital that will contain any child/adolescent
853 psychiatric or child/adolescent chemical dependency beds, or for
854 the conversion of any other health care facility to a hospital,
855 psychiatric hospital or chemical dependency hospital that will
856 contain any child/adolescent psychiatric or child/adolescent
857 chemical dependency beds, or for the addition of any
858 child/adolescent psychiatric or child/adolescent chemical
859 dependency beds in any hospital, psychiatric hospital or chemical
860 dependency hospital, or for the conversion of any beds of another
861 category in any hospital, psychiatric hospital or chemical
862 dependency hospital to child/adolescent psychiatric or
863 child/adolescent chemical dependency beds, except as hereinafter
864 authorized:

865 (i) The department may issue certificates of need
866 to any person for any purpose described in this subsection,
867 provided that the hospital, psychiatric hospital or chemical
868 dependency hospital does not participate in the Medicaid program
869 (Section 43-13-101 et seq.) at the time of the application for the



870 certificate of need and the owner of the hospital, psychiatric
871 hospital or chemical dependency hospital agrees in writing that
872 the hospital, psychiatric hospital or chemical dependency hospital
873 will not at any time participate in the Medicaid program or admit
874 or keep any patients who are participating in the Medicaid program
875 in the hospital, psychiatric hospital or chemical dependency
876 hospital. This written agreement by the recipient of the
877 certificate of need shall be fully binding on any subsequent owner
878 of the hospital, psychiatric hospital or chemical dependency
879 hospital, if the ownership of the facility is transferred at any
880 time after the issuance of the certificate of need. Agreement
881 that the hospital, psychiatric hospital or chemical dependency
882 hospital will not participate in the Medicaid program shall be a
883 condition of the issuance of a certificate of need to any person
884 under this subparagraph (i), and if such hospital, psychiatric
885 hospital or chemical dependency hospital at any time after the
886 issuance of the certificate of need, regardless of the ownership
887 of the facility, participates in the Medicaid program or admits or
888 keeps any patients in the hospital, psychiatric hospital or
889 chemical dependency hospital who are participating in the Medicaid
890 program, the State Department of Health shall revoke the
891 certificate of need, if it is still outstanding, and shall deny or
892 revoke the license of the hospital, psychiatric hospital or
893 chemical dependency hospital, at the time that the department
894 determines, after a hearing complying with due process, that the



895 hospital, psychiatric hospital or chemical dependency hospital has
896 failed to comply with any of the conditions upon which the
897 certificate of need was issued, as provided in this subparagraph
898 (i) and in the written agreement by the recipient of the
899 certificate of need.

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

913 (iii) The department may issue a certificate or
914 certificates of need for the construction or expansion of
915 child/adolescent psychiatric beds or the conversion of other beds
916 to child/adolescent psychiatric beds in Warren County. For
917 purposes of this subparagraph (iii), the provisions of Section
918 41-7-193(1) requiring substantial compliance with the projection
919 of need as reported in the current State Health Plan are waived.



920 The total number of beds that may be authorized under the
921 authority of this subparagraph shall not exceed twenty (20) beds.
922 There shall be no prohibition or restrictions on participation in
923 the Medicaid program (Section 43-13-101 et seq.) for the person
924 receiving the certificate of need authorized under this
925 subparagraph or for the beds converted pursuant to the authority
926 of that certificate of need.

927 If by January 1, 2002, there has been no significant
928 commencement of construction of the beds authorized under this
929 subparagraph (iii), or no significant action taken to convert
930 existing beds to the beds authorized under this subparagraph, then
931 the certificate of need that was previously issued under this
932 subparagraph shall expire. If the previously issued certificate
933 of need expires, the department may accept applications for
934 issuance of another certificate of need for the beds authorized
935 under this subparagraph, and may issue a certificate of need to
936 authorize the construction, expansion or conversion of the beds
937 authorized under this subparagraph.

938 (iv) The department shall issue a certificate of
939 need to the Region 7 Mental Health/Retardation Commission for the
940 construction or expansion of child/adolescent psychiatric beds or
941 the conversion of other beds to child/adolescent psychiatric beds
942 in any of the counties served by the commission. For purposes of
943 this subparagraph (iv), the provisions of Section 41-7-193(1)
944 requiring substantial compliance with the projection of need as



945 reported in the current State Health Plan are waived. The total
946 number of beds that may be authorized under the authority of this
947 subparagraph shall not exceed twenty (20) beds. There shall be no
948 prohibition or restrictions on participation in the Medicaid
949 program (Section 43-13-101 et seq.) for the person receiving the
950 certificate of need authorized under this subparagraph or for the
951 beds converted pursuant to the authority of that certificate of
952 need.

953 (v) The department may issue a certificate of need
954 to any county hospital located in Leflore County for the
955 construction or expansion of adult psychiatric beds or the
956 conversion of other beds to adult psychiatric beds, not to exceed
957 twenty (20) beds, provided that the recipient of the certificate
958 of need agrees in writing that the adult psychiatric beds will not
959 at any time be certified for participation in the Medicaid program
960 and that the hospital will not admit or keep any patients who are
961 participating in the Medicaid program in any of such adult
962 psychiatric beds. This written agreement by the recipient of the
963 certificate of need shall be fully binding on any subsequent owner
964 of the hospital if the ownership of the hospital is transferred at
965 any time after the issuance of the certificate of need. Agreement
966 that the adult psychiatric beds will not be certified for
967 participation in the Medicaid program shall be a condition of the
968 issuance of a certificate of need to any person under this
969 subparagraph (v), and if such hospital at any time after the



970 issuance of the certificate of need, regardless of the ownership
971 of the hospital, has any of such adult psychiatric beds certified
972 for participation in the Medicaid program or admits or keeps any
973 Medicaid patients in such adult psychiatric beds, the State
974 Department of Health shall revoke the certificate of need, if it
975 is still outstanding, and shall deny or revoke the license of the
976 hospital at the time that the department determines, after a
977 hearing complying with due process, that the hospital has failed
978 to comply with any of the conditions upon which the certificate of
979 need was issued, as provided in this subparagraph and in the
980 written agreement by the recipient of the certificate of need.

981 (vi) The department may issue a certificate or
982 certificates of need for the expansion of child psychiatric beds
983 or the conversion of other beds to child psychiatric beds at the
984 University of Mississippi Medical Center. For purposes of this
985 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
986 substantial compliance with the projection of need as reported in
987 the current State Health Plan are waived. The total number of
988 beds that may be authorized under the authority of this
989 subparagraph shall not exceed fifteen (15) beds. There shall be
990 no prohibition or restrictions on participation in the Medicaid
991 program (Section 43-13-101 et seq.) for the hospital receiving the
992 certificate of need authorized under this subparagraph or for the
993 beds converted pursuant to the authority of that certificate of
994 need.



995 (vii) In order to meet the historically
996 demonstrated need for adult psychiatric services and adult
997 psychiatric beds in Panola County and in the North Central region
998 of Mississippi, the State Department of Health shall issue a
999 certificate of need to Panola Medical Center for the acquisition,
1000 conversion and operation of twenty-five (25) adult psychiatric
1001 beds in its existing facility in Panola County. The minimum size
1002 of such new adult psychiatric unit shall be twenty-five (25) beds
1003 and the applicant shall agree to operate the converted beds for
1004 not less than five (5) years or else the beds shall be
1005 de-licensed. There shall be no prohibition or restrictions on
1006 participation in the Medicaid program (Section 43-13-101 et seq.)
1007 for the person(s) receiving the certificate(s) of need authorized
1008 under this subparagraph (vii) for the beds converted pursuant to
1009 the authority of that certificate of need. This authorization for
1010 the certificate of need for those adult psychiatric beds shall be
1011 exempt from the certificate of need review process. The
1012 provisions of Section 41-7-193(1) regarding substantial compliance
1013 with the projection of need for adult psychiatric beds as reported
1014 in the current State Health Plan, the provisions of Section
1015 41-7-197 requiring a formal certificate of need hearing process,
1016 and the provisions of the 2019 Certificate of Need Review Manual,
1017 are waived for the purposes of this subparagraph (vii). The
1018 exemption from the certificate of need process provided under this
1019 subparagraph (vii) is valid for only two (2) years from the



1020 effective date of this act. If actual operation of twenty-five
1021 (25) adult psychiatric beds is not accomplished by Panola Medical
1022 Center within that two-year period, the exemption provided under
1023 this subparagraph (vii) shall expire and be inapplicable.

1024 (viii) The department shall issue a certificate or
1025 certificates of need for the acquisition, conversion and operation
1026 of child/adolescent psychiatric beds and the conversion of
1027 chemical dependency beds to child/adolescent psychiatric beds in
1028 Lee County as follows: In Lee County, the certificate of need
1029 shall be issued to North Mississippi Medical Center (NMMC), Oceans
1030 Healthcare, LLC, for nineteen (19) adolescent psychiatric beds.
1031 There shall be no prohibition or restrictions on participation in
1032 the Medicaid program (Section 43-13-101 et seq.) for the person(s)
1033 receiving the certificate(s) of need authorized under this
1034 subparagraph or for the beds converted pursuant to the authority
1035 of that certificate of need. For purposes of this subparagraph
1036 (viii), the provisions of Section 41-7-193(1) requiring
1037 substantial compliance with the projection of need as reported in
1038 the current State Health Plan are waived. If by July 1, 2023,
1039 there has been no significant commencement of operation of the
1040 beds authorized under this subparagraph (viii) or no significant
1041 action taken to convert existing beds to the beds authorized under
1042 this subparagraph (viii), then the certificate of need that was
1043 previously issued under this subparagraph shall expire.



1044 (b) Except as otherwise provided in paragraph (a) (vii)
1045 and (viii), from and after July 1, 1990, no hospital, psychiatric
1046 hospital or chemical dependency hospital shall be authorized to
1047 add any child/adolescent psychiatric or child/adolescent chemical
1048 dependency beds or convert any beds of another category to
1049 child/adolescent psychiatric or child/adolescent chemical
1050 dependency beds without a certificate of need under the authority
1051 of subsection (1) (c) of this section.

1052 (5) (a) The department may issue a certificate of need to a
1053 county hospital in Winston County for the conversion of fifteen
1054 (15) acute care beds to geriatric psychiatric care beds.

1055 (b) The department shall issue a certificate of need to
1056 North Mississippi Medical Center (NMMC) in Lee County for the
1057 conversion of fourteen (14) acute care beds to geriatric
1058 psychiatric care beds.

1059 (6) The State Department of Health shall issue a certificate
1060 of need to a Mississippi corporation qualified to manage a
1061 long-term care hospital as defined in Section 41-7-173(h) (xii) in
1062 Harrison County, not to exceed eighty (80) beds, including any
1063 necessary renovation or construction required for licensure and
1064 certification, provided that the recipient of the certificate of
1065 need agrees in writing that the long-term care hospital will not
1066 at any time participate in the Medicaid program (Section 43-13-101
1067 et seq.) or admit or keep any patients in the long-term care
1068 hospital who are participating in the Medicaid program. This



1069 written agreement by the recipient of the certificate of need
1070 shall be fully binding on any subsequent owner of the long-term
1071 care hospital, if the ownership of the facility is transferred at
1072 any time after the issuance of the certificate of need. Agreement
1073 that the long-term care hospital will not participate in the
1074 Medicaid program shall be a condition of the issuance of a
1075 certificate of need to any person under this subsection (6), and
1076 if such long-term care hospital at any time after the issuance of
1077 the certificate of need, regardless of the ownership of the
1078 facility, participates in the Medicaid program or admits or keeps
1079 any patients in the facility who are participating in the Medicaid
1080 program, the State Department of Health shall revoke the
1081 certificate of need, if it is still outstanding, and shall deny or
1082 revoke the license of the long-term care hospital, at the time
1083 that the department determines, after a hearing complying with due
1084 process, that the facility has failed to comply with any of the
1085 conditions upon which the certificate of need was issued, as
1086 provided in this subsection and in the written agreement by the
1087 recipient of the certificate of need. For purposes of this
1088 subsection, the provisions of Section 41-7-193(1) requiring
1089 substantial compliance with the projection of need as reported in
1090 the current State Health Plan are waived.

1091 (7) The State Department of Health may issue a certificate
1092 of need to any hospital in the state to utilize a portion of its
1093 beds for the "swing-bed" concept. Any such hospital must be in



1094 conformance with the federal regulations regarding such swing-bed
1095 concept at the time it submits its application for a certificate
1096 of need to the State Department of Health, except that such
1097 hospital may have more licensed beds or a higher average daily
1098 census (ADC) than the maximum number specified in federal
1099 regulations for participation in the swing-bed program. Any
1100 hospital meeting all federal requirements for participation in the
1101 swing-bed program which receives such certificate of need shall
1102 render services provided under the swing-bed concept to any
1103 patient eligible for Medicare (Title XVIII of the Social Security
1104 Act) who is certified by a physician to be in need of such
1105 services, and no such hospital shall permit any patient who is
1106 eligible for both Medicaid and Medicare or eligible only for
1107 Medicaid to stay in the swing beds of the hospital for more than
1108 thirty (30) days per admission unless the hospital receives prior
1109 approval for such patient from the Division of Medicaid, Office of
1110 the Governor. Any hospital having more licensed beds or a higher
1111 average daily census (ADC) than the maximum number specified in
1112 federal regulations for participation in the swing-bed program
1113 which receives such certificate of need shall develop a procedure
1114 to insure that before a patient is allowed to stay in the swing
1115 beds of the hospital, there are no vacant nursing home beds
1116 available for that patient located within a fifty-mile radius of
1117 the hospital. When any such hospital has a patient staying in the
1118 swing beds of the hospital and the hospital receives notice from a



1119 nursing home located within such radius that there is a vacant bed
1120 available for that patient, the hospital shall transfer the
1121 patient to the nursing home within a reasonable time after receipt
1122 of the notice. Any hospital which is subject to the requirements
1123 of the two (2) preceding sentences of this subsection may be
1124 suspended from participation in the swing-bed program for a
1125 reasonable period of time by the State Department of Health if the
1126 department, after a hearing complying with due process, determines
1127 that the hospital has failed to comply with any of those
1128 requirements.

1129 (8) The Department of Health shall not grant approval for or
1130 issue a certificate of need to any person proposing the new
1131 construction of, addition to or expansion of a health care
1132 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1133 except as hereinafter provided: The department may issue a
1134 certificate of need to a nonprofit corporation located in Madison
1135 County, Mississippi, for the construction, expansion or conversion
1136 of not more than twenty (20) beds in a community living program
1137 for developmentally disabled adults in a facility as defined in
1138 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1139 subsection (8), the provisions of Section 41-7-193(1) requiring
1140 substantial compliance with the projection of need as reported in
1141 the current State Health Plan and the provisions of Section
1142 41-7-197 requiring a formal certificate of need hearing process
1143 are waived. There shall be no prohibition or restrictions on



1144 participation in the Medicaid program for the person receiving the
1145 certificate of need authorized under this subsection (8).

1146 (9) The Department of Health shall not grant approval for or
1147 issue a certificate of need to any person proposing the
1148 establishment of, or expansion of the currently approved territory
1149 of, or the contracting to establish a home office, subunit or
1150 branch office within the space operated as a health care facility
1151 as defined in Section 41-7-173(h) (i) through (viii) by a health
1152 care facility as defined in subparagraph (ix) of Section
1153 41-7-173(h).

1154 (10) Health care facilities owned and/or operated by the
1155 state or its agencies are exempt from the restraints in this
1156 section against issuance of a certificate of need if such addition
1157 or expansion consists of repairing or renovation necessary to
1158 comply with the state licensure law. This exception shall not
1159 apply to the new construction of any building by such state
1160 facility. This exception shall not apply to any health care
1161 facilities owned and/or operated by counties, municipalities,
1162 districts, unincorporated areas, other defined persons, or any
1163 combination thereof.

1164 (11) The new construction, renovation or expansion of or
1165 addition to any health care facility defined in subparagraph (ii)
1166 (psychiatric hospital), subparagraph (iv) (skilled nursing
1167 facility), subparagraph (vi) (intermediate care facility),
1168 subparagraph (viii) (intermediate care facility for the mentally



1169 retarded) and subparagraph (x) (psychiatric residential treatment
1170 facility) of Section 41-7-173(h) which is owned by the State of
1171 Mississippi and under the direction and control of the State
1172 Department of Mental Health, and the addition of new beds or the
1173 conversion of beds from one category to another in any such
1174 defined health care facility which is owned by the State of
1175 Mississippi and under the direction and control of the State
1176 Department of Mental Health, shall not require the issuance of a
1177 certificate of need under Section 41-7-171 et seq.,
1178 notwithstanding any provision in Section 41-7-171 et seq. to the
1179 contrary.

1180 (12) The new construction, renovation or expansion of or
1181 addition to any veterans homes or domiciliaries for eligible
1182 veterans of the State of Mississippi as authorized under Section
1183 35-1-19 shall not require the issuance of a certificate of need,
1184 notwithstanding any provision in Section 41-7-171 et seq. to the
1185 contrary.

1186 (13) The repair or the rebuilding of an existing, operating
1187 health care facility that sustained significant damage from a
1188 natural disaster that occurred after April 15, 2014, in an area
1189 that is proclaimed a disaster area or subject to a state of
1190 emergency by the Governor or by the President of the United States
1191 shall be exempt from all of the requirements of the Mississippi
1192 Certificate of Need Law (Section 41-7-171 et seq.) and any and all



1193 rules and regulations promulgated under that law, subject to the
1194 following conditions:

1195 (a) The repair or the rebuilding of any such damaged
1196 health care facility must be within one (1) mile of the
1197 pre-disaster location of the campus of the damaged health care
1198 facility, except that any temporary post-disaster health care
1199 facility operating location may be within five (5) miles of the
1200 pre-disaster location of the damaged health care facility;

1201 (b) The repair or the rebuilding of the damaged health
1202 care facility (i) does not increase or change the complement of
1203 its bed capacity that it had before the Governor's or the
1204 President's proclamation, (ii) does not increase or change its
1205 levels and types of health care services that it provided before
1206 the Governor's or the President's proclamation, and (iii) does not
1207 rebuild in a different county; however, this paragraph does not
1208 restrict or prevent a health care facility from decreasing its bed
1209 capacity that it had before the Governor's or the President's
1210 proclamation, or from decreasing the levels of or decreasing or
1211 eliminating the types of health care services that it provided
1212 before the Governor's or the President's proclamation, when the
1213 damaged health care facility is repaired or rebuilt;

1214 (c) The exemption from Certificate of Need Law provided
1215 under this subsection (13) is valid for only five (5) years from
1216 the date of the Governor's or the President's proclamation. If



1217 actual construction has not begun within that five-year period,
1218 the exemption provided under this subsection is inapplicable; and

1219 (d) The Division of Health Facilities Licensure and
1220 Certification of the State Department of Health shall provide the
1221 same oversight for the repair or the rebuilding of the damaged
1222 health care facility that it provides to all health care facility
1223 construction projects in the state.

1224 For the purposes of this subsection (13), "significant
1225 damage" to a health care facility means damage to the health care
1226 facility requiring an expenditure of at least One Million Dollars
1227 (\$1,000,000.00).

1228 (14) The State Department of Health shall issue a
1229 certificate of need to any hospital which is currently licensed
1230 for two hundred fifty (250) or more acute care beds and is located
1231 in any general hospital service area not having a comprehensive
1232 cancer center, for the establishment and equipping of such a
1233 center which provides facilities and services for outpatient
1234 radiation oncology therapy, outpatient medical oncology therapy,
1235 and appropriate support services including the provision of
1236 radiation therapy services. The provisions of Section 41-7-193(1)
1237 regarding substantial compliance with the projection of need as
1238 reported in the current State Health Plan are waived for the
1239 purpose of this subsection.

1240 (15) The State Department of Health may authorize the
1241 transfer of hospital beds, not to exceed sixty (60) beds, from the



1242 North Panola Community Hospital to the South Panola Community
1243 Hospital. The authorization for the transfer of those beds shall
1244 be exempt from the certificate of need review process.

1245 (16) The State Department of Health shall issue any
1246 certificates of need necessary for Mississippi State University
1247 and a public or private health care provider to jointly acquire
1248 and operate a linear accelerator and a magnetic resonance imaging
1249 unit. Those certificates of need shall cover all capital
1250 expenditures related to the project between Mississippi State
1251 University and the health care provider, including, but not
1252 limited to, the acquisition of the linear accelerator, the
1253 magnetic resonance imaging unit and other radiological modalities;
1254 the offering of linear accelerator and magnetic resonance imaging
1255 services; and the cost of construction of facilities in which to
1256 locate these services. The linear accelerator and the magnetic
1257 resonance imaging unit shall be (a) located in the City of
1258 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1259 Mississippi State University and the public or private health care
1260 provider selected by Mississippi State University through a
1261 request for proposals (RFP) process in which Mississippi State
1262 University selects, and the Board of Trustees of State
1263 Institutions of Higher Learning approves, the health care provider
1264 that makes the best overall proposal; (c) available to Mississippi
1265 State University for research purposes two-thirds (2/3) of the
1266 time that the linear accelerator and magnetic resonance imaging



1267 unit are operational; and (d) available to the public or private
1268 health care provider selected by Mississippi State University and
1269 approved by the Board of Trustees of State Institutions of Higher
1270 Learning one-third (1/3) of the time for clinical, diagnostic and
1271 treatment purposes. For purposes of this subsection, the
1272 provisions of Section 41-7-193(1) requiring substantial compliance
1273 with the projection of need as reported in the current State
1274 Health Plan are waived.

1275 (17) The State Department of Health shall issue a
1276 certificate of need for the construction of an acute care hospital
1277 in Kemper County, not to exceed twenty-five (25) beds, which shall
1278 be named the "John C. Stennis Memorial Hospital." In issuing the
1279 certificate of need under this subsection, the department shall
1280 give priority to a hospital located in Lauderdale County that has
1281 two hundred fifteen (215) beds. For purposes of this subsection,
1282 the provisions of Section 41-7-193(1) requiring substantial
1283 compliance with the projection of need as reported in the current
1284 State Health Plan and the provisions of Section 41-7-197 requiring
1285 a formal certificate of need hearing process are waived. There
1286 shall be no prohibition or restrictions on participation in the
1287 Medicaid program (Section 43-13-101 et seq.) for the person or
1288 entity receiving the certificate of need authorized under this
1289 subsection or for the beds constructed under the authority of that
1290 certificate of need.



1291 (18) The planning, design, construction, renovation,
1292 addition, furnishing and equipping of a clinical research unit at
1293 any health care facility defined in Section 41-7-173(h) that is
1294 under the direction and control of the University of Mississippi
1295 Medical Center and located in Jackson, Mississippi, and the
1296 addition of new beds or the conversion of beds from one (1)
1297 category to another in any such clinical research unit, shall not
1298 require the issuance of a certificate of need under Section
1299 41-7-171 et seq., notwithstanding any provision in Section
1300 41-7-171 et seq. to the contrary.

1301 (19) [Repealed]

1302 (20) Nothing in this section or in any other provision of
1303 Section 41-7-171 et seq. shall prevent any nursing facility from
1304 designating an appropriate number of existing beds in the facility
1305 as beds for providing care exclusively to patients with
1306 Alzheimer's disease.

1307 (21) Nothing in this section or any other provision of
1308 Section 41-7-171 et seq. shall prevent any health care facility
1309 from the new construction, renovation, conversion or expansion of
1310 new beds in the facility designated as intensive care units,
1311 negative pressure rooms, or isolation rooms pursuant to the
1312 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1313 this subsection, the provisions of Section 41-7-193(1) requiring
1314 substantial compliance with the projection of need as reported in
1315 the current State Health Plan and the provisions of Section



1316 41-7-197 requiring a formal certificate of need hearing process
1317 are waived.

1318 **SECTION 2.** This act shall take effect and be in force from
1319 and after its passage.

