

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2252

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

18 **SECTION 1.** Section 43-11-1, Mississippi Code of 1972, is
19 amended as follows:

20 43-11-1. When used in this chapter, the following words
21 shall have the following meaning:

22 (a) "Institutions for the aged or infirm" means a place
23 either governmental or private that provides group living
24 arrangements for four (4) or more persons who are unrelated to the
25 operator and who are being provided food, shelter and personal
26 care, whether any such place is organized or operated for profit
27 or not. The term "institution for the aged or infirm" includes



28 nursing homes, pediatric skilled nursing facilities, psychiatric
29 residential treatment facilities, convalescent homes, homes for
30 the aged * * *, adult foster care facilities * * * and special
31 care facilities for paroled inmates, provided that these
32 institutions fall within the scope of the definitions set forth
33 above. The term "institution for the aged or infirm" does not
34 include hospitals, clinics or mental institutions devoted
35 primarily to providing medical service, and does not include any
36 private residence in which the owner of the residence is providing
37 personal care services to disabled or homeless veterans under an
38 agreement with, and in compliance with the standards prescribed
39 by, the United States Department of Veterans Affairs, if the owner
40 of the residence also provided personal care services to disabled
41 or homeless veterans at any time during calendar year 2008.

42 (b) "Person" means any individual, firm, partnership,
43 corporation, company, association or joint-stock association, or
44 any licensee herein or the legal successor thereof.

45 (c) "Personal care" means assistance rendered by
46 personnel of the home to aged or infirm residents in performing
47 one or more of the activities of daily living, which includes, but
48 is not limited to, the bathing, walking, excretory functions,
49 feeding, personal grooming and dressing of such residents.

50 (d) "Psychiatric residential treatment facility" means
51 any nonhospital establishment with permanent facilities which
52 provides a twenty-four-hour program of care by qualified



53 therapists, including, but not limited to, duly licensed mental
54 health professionals, psychiatrists, psychologists,
55 psychotherapists and licensed certified social workers, for
56 emotionally disturbed children and adolescents referred to such
57 facility by a court, local school district or by the Department of
58 Human Services, who are not in an acute phase of illness requiring
59 the services of a psychiatric hospital, and are in need of such
60 restorative treatment services. For purposes of this paragraph,
61 the term "emotionally disturbed" means a condition exhibiting one
62 or more of the following characteristics over a long period of
63 time and to a marked degree, which adversely affects educational
64 performance:

65 1. An inability to learn which cannot be explained
66 by intellectual, sensory or health factors;

67 2. An inability to build or maintain satisfactory
68 relationships with peers and teachers;

69 3. Inappropriate types of behavior or feelings
70 under normal circumstances;

71 4. A general pervasive mood of unhappiness or
72 depression; or

73 5. A tendency to develop physical symptoms or
74 fears associated with personal or school problems. An
75 establishment furnishing primarily domiciliary care is not within
76 this definition.



77 (e) "Pediatric skilled nursing facility" means an
78 institution or a distinct part of an institution that is primarily
79 engaged in providing to inpatients skilled nursing care and
80 related services for persons under twenty-one (21) years of age
81 who require medical or nursing care or rehabilitation services for
82 the rehabilitation of injured, disabled or sick persons.

83 (f) "Licensing agency" means the State Department of
84 Health.

85 (g) "Medical records" mean, without restriction, those
86 medical histories, records, reports, summaries, diagnoses and
87 prognoses, records of treatment and medication ordered and given,
88 notes, entries, x-rays and other written or graphic data prepared,
89 kept, made or maintained in institutions for the aged or infirm
90 that pertain to residency in, or services rendered to residents
91 of, an institution for the aged or infirm.

92 (h) "Adult foster care facility" means a home setting
93 for vulnerable adults in the community who are unable to live
94 independently due to physical, emotional, developmental or mental
95 impairments, or in need of emergency and continuing protective
96 social services for purposes of preventing further abuse or
97 neglect and for safeguarding and enhancing the welfare of the
98 abused or neglected vulnerable adult. Adult foster care programs
99 shall be designed to meet the needs of vulnerable adults with
100 impairments through individual plans of care, which provide a
101 variety of health, social and related support services in a



102 protective setting, enabling participants to live in the
103 community. Adult foster care programs may be (i) traditional,
104 where the foster care provider lives in the residence and is the
105 primary caregiver to clients in the home; (ii) corporate, where
106 the foster care home is operated by a corporation with shift staff
107 delivering services to clients; or (iii) shelter, where the foster
108 care home accepts clients on an emergency short-term basis for up
109 to thirty (30) days.

110 (i) "Special Care Facility for Paroled Inmates" means a
111 long-term care and skilled nursing facility licensed as a special
112 care facility for medically frail paroled inmates, formed to ease
113 the burden of prison overcrowding and provide compassionate
114 release and medical parole initiatives while impacting economic
115 outcomes for the Mississippi Prison System. The facility shall
116 meet all Mississippi Department of Health and federal Center for
117 Medicaid Services (CMS) requirements and shall be regulated by
118 both agencies. The facility will offer Physical, Occupational and
119 Speech Therapy, Nursing Services, Wound Care, a dedicated COVID
120 Services Unit, Individualized Patient Centered Plans of Care,
121 Social Services, Spiritual Services, Physical Activities,
122 Transportation, Medication, Durable Medical Equipment,
123 Personalized Meal Plans by a Licensed Dietician and Security
124 Services. The facility shall have not less than sixty (60) beds
125 nor more than one hundred (100) beds.



126 **SECTION 2.** Section 43-11-13, Mississippi Code of 1972, is
127 amended as follows:

128 43-11-13. (1) The licensing agency shall adopt, amend,
129 promulgate and enforce such rules, regulations and standards,
130 including classifications, with respect to all institutions for
131 the aged or infirm to be licensed under this chapter as may be
132 designed to further the accomplishment of the purpose of this
133 chapter in promoting adequate care of individuals in those
134 institutions in the interest of public health, safety and welfare.
135 Those rules, regulations and standards shall be adopted and
136 promulgated by the licensing agency and shall be recorded and
137 indexed in a book to be maintained by the licensing agency in its
138 main office in the State of Mississippi, entitled "Rules,
139 Regulations and Minimum Standards for Institutions for the Aged or
140 Infirm" and the book shall be open and available to all
141 institutions for the aged or infirm and the public generally at
142 all reasonable times. Upon the adoption of those rules,
143 regulations and standards, the licensing agency shall mail copies
144 thereof to all those institutions in the state that have filed
145 with the agency their names and addresses for this purpose, but
146 the failure to mail the same or the failure of the institutions to
147 receive the same shall in no way affect the validity thereof. The
148 rules, regulations and standards may be amended by the licensing
149 agency, from time to time, as necessary to promote the health,
150 safety and welfare of persons living in those institutions.



151 (2) The licensee shall keep posted in a conspicuous place on
152 the licensed premises all current rules, regulations and minimum
153 standards applicable to fire protection measures as adopted by the
154 licensing agency. The licensee shall furnish to the licensing
155 agency at least once each six (6) months a certificate of approval
156 and inspection by state or local fire authorities. Failure to
157 comply with state laws and/or municipal ordinances and current
158 rules, regulations and minimum standards as adopted by the
159 licensing agency, relative to fire prevention measures, shall be
160 prima facie evidence for revocation of license.

161 (3) The State Board of Health shall promulgate rules and
162 regulations restricting the storage, quantity and classes of drugs
163 allowed in personal care homes and adult foster care facilities.
164 Residents requiring administration of Schedule II Narcotics as
165 defined in the Uniform Controlled Substances Law may be admitted
166 to a personal care home. Schedule drugs may only be allowed in a
167 personal care home if they are administered or stored utilizing
168 proper procedures under the direct supervision of a licensed
169 physician or nurse.

170 (4) (a) Notwithstanding any determination by the licensing
171 agency that skilled nursing services would be appropriate for a
172 resident of a personal care home, that resident, the resident's
173 guardian or the legally recognized responsible party for the
174 resident may consent in writing for the resident to continue to
175 reside in the personal care home, if approved in writing by a



176 licensed physician. However, no personal care home shall allow
177 more than two (2) residents, or ten percent (10%) of the total
178 number of residents in the facility, whichever is greater, to
179 remain in the personal care home under the provisions of this
180 subsection (4). This consent shall be deemed to be appropriately
181 informed consent as described in the regulations promulgated by
182 the licensing agency. After that written consent has been
183 obtained, the resident shall have the right to continue to reside
184 in the personal care home for as long as the resident meets the
185 other conditions for residing in the personal care home. A copy
186 of the written consent and the physician's approval shall be
187 forwarded by the personal care home to the licensing agency.

188 (b) The State Board of Health shall promulgate rules
189 and regulations restricting the handling of a resident's personal
190 deposits by the director of a personal care home. Any funds given
191 or provided for the purpose of supplying extra comforts,
192 conveniences or services to any resident in any personal care
193 home, and any funds otherwise received and held from, for or on
194 behalf of any such resident, shall be deposited by the director or
195 other proper officer of the personal care home to the credit of
196 that resident in an account that shall be known as the Resident's
197 Personal Deposit Fund. No more than one (1) month's charge for
198 the care, support, maintenance and medical attention of the
199 resident shall be applied from the account at any one time. After
200 the death, discharge or transfer of any resident for whose benefit



201 any such fund has been provided, any unexpended balance remaining
202 in his personal deposit fund shall be applied for the payment of
203 care, cost of support, maintenance and medical attention that is
204 accrued. If any unexpended balance remains in that resident's
205 personal deposit fund after complete reimbursement has been made
206 for payment of care, support, maintenance and medical attention,
207 and the director or other proper officer of the personal care home
208 has been or shall be unable to locate the person or persons
209 entitled to the unexpended balance, the director or other proper
210 officer may, after the lapse of one (1) year from the date of that
211 death, discharge or transfer, deposit the unexpended balance to
212 the credit of the personal care home's operating fund.

213 (c) The State Board of Health shall promulgate rules
214 and regulations requiring personal care homes to maintain records
215 relating to health condition, medicine dispensed and administered,
216 and any reaction to that medicine. The director of the personal
217 care home shall be responsible for explaining the availability of
218 those records to the family of the resident at any time upon
219 reasonable request.

220 (5) The State Board of Health and the Mississippi Department
221 of Corrections shall jointly issue rules and regulations for the
222 operation of the Special Care Facility for Paroled Inmates.

223 (* * *6) (a) For the purposes of this subsection
224 (* * *6):



225 (i) "Licensed entity" means a hospital, nursing
226 home, personal care home, home health agency, hospice or adult
227 foster care facility;

228 (ii) "Covered entity" means a licensed entity or a
229 health care professional staffing agency;

230 (iii) "Employee" means any individual employed by
231 a covered entity, and also includes any individual who by contract
232 provides to the patients, residents or clients being served by the
233 covered entity direct, hands-on, medical patient care in a
234 patient's, resident's or client's room or in treatment or recovery
235 rooms. The term "employee" does not include health care
236 professional/vocational technical students performing clinical
237 training in a licensed entity under contracts between their
238 schools and the licensed entity, and does not include students at
239 high schools located in Mississippi who observe the treatment and
240 care of patients in a licensed entity as part of the requirements
241 of an allied-health course taught in the high school, if:

242 1. The student is under the supervision of a
243 licensed health care provider; and

244 2. The student has signed an affidavit that
245 is on file at the student's school stating that he or she has not
246 been convicted of or pleaded guilty or nolo contendere to a felony
247 listed in paragraph (d) of this subsection (* * *6), or that any
248 such conviction or plea was reversed on appeal or a pardon was
249 granted for the conviction or plea. Before any student may sign



250 such an affidavit, the student's school shall provide information
251 to the student explaining what a felony is and the nature of the
252 felonies listed in paragraph (d) of this subsection (* * *6).

253 However, the health care professional/vocational technical
254 academic program in which the student is enrolled may require the
255 student to obtain criminal history record checks. In such
256 incidences, paragraph (a)(iii)1 and 2 of this subsection (* * *6)
257 does not preclude the licensing entity from processing submitted
258 fingerprints of students from healthcare-related
259 professional/vocational technical programs who, as part of their
260 program of study, conduct observations and provide clinical care
261 and services in a covered entity.

262 (b) Under regulations promulgated by the State Board of
263 Health, the licensing agency shall require to be performed a
264 criminal history record check on (i) every new employee of a
265 covered entity who provides direct patient care or services and
266 who is employed on or after July 1, 2003, and (ii) every employee
267 of a covered entity employed before July 1, 2003, who has a
268 documented disciplinary action by his or her present employer. In
269 addition, the licensing agency shall require the covered entity to
270 perform a disciplinary check with the professional licensing
271 agency of each employee, if any, to determine if any disciplinary
272 action has been taken against the employee by that agency.

273 Except as otherwise provided in paragraph (c) of this
274 subsection (* * *6), no such employee hired on or after July 1,



275 2003, shall be permitted to provide direct patient care until the
276 results of the criminal history record check have revealed no
277 disqualifying record or the employee has been granted a waiver.
278 In order to determine the employee applicant's suitability for
279 employment, the applicant shall be fingerprinted. Fingerprints
280 shall be submitted to the licensing agency from scanning, with the
281 results processed through the Department of Public Safety's
282 Criminal Information Center. The fingerprints shall then be
283 forwarded by the Department of Public Safety to the Federal Bureau
284 of Investigation for a national criminal history record check.
285 The licensing agency shall notify the covered entity of the
286 results of an employee applicant's criminal history record check.
287 If the criminal history record check discloses a felony
288 conviction, guilty plea or plea of nolo contendere to a felony of
289 possession or sale of drugs, murder, manslaughter, armed robbery,
290 rape, sexual battery, sex offense listed in Section 45-33-23(h),
291 child abuse, arson, grand larceny, burglary, gratification of lust
292 or aggravated assault, or felonious abuse and/or battery of a
293 vulnerable adult that has not been reversed on appeal or for which
294 a pardon has not been granted, the employee applicant shall not be
295 eligible to be employed by the covered entity.

296 (c) Any such new employee applicant may, however, be
297 employed on a temporary basis pending the results of the criminal
298 history record check, but any employment contract with the new
299 employee shall be voidable if the new employee receives a



300 disqualifying criminal history record check and no waiver is
301 granted as provided in this subsection (* * *6).

302 (d) Under regulations promulgated by the State Board of
303 Health, the licensing agency shall require every employee of a
304 covered entity employed before July 1, 2003, to sign an affidavit
305 stating that he or she has not been convicted of or pleaded guilty
306 or nolo contendere to a felony of possession or sale of drugs,
307 murder, manslaughter, armed robbery, rape, sexual battery, any sex
308 offense listed in Section 45-33-23(h), child abuse, arson, grand
309 larceny, burglary, gratification of lust, aggravated assault, or
310 felonious abuse and/or battery of a vulnerable adult, or that any
311 such conviction or plea was reversed on appeal or a pardon was
312 granted for the conviction or plea. No such employee of a covered
313 entity hired before July 1, 2003, shall be permitted to provide
314 direct patient care until the employee has signed the affidavit
315 required by this paragraph (d). All such existing employees of
316 covered entities must sign the affidavit required by this
317 paragraph (d) within six (6) months of the final adoption of the
318 regulations promulgated by the State Board of Health. If a person
319 signs the affidavit required by this paragraph (d), and it is
320 later determined that the person actually had been convicted of or
321 pleaded guilty or nolo contendere to any of the offenses listed in
322 this paragraph (d) and the conviction or plea has not been
323 reversed on appeal or a pardon has not been granted for the
324 conviction or plea, the person is guilty of perjury. If the



325 offense that the person was convicted of or pleaded guilty or nolo
326 contendere to was a violent offense, the person, upon a conviction
327 of perjury under this paragraph, shall be punished as provided in
328 Section 97-9-61. If the offense that the person was convicted of
329 or pleaded guilty or nolo contendere to was a nonviolent offense,
330 the person, upon a conviction of perjury under this paragraph,
331 shall be punished by a fine of not more than Five Hundred Dollars
332 (\$500.00), or by imprisonment in the county jail for not more than
333 six (6) months, or by both such fine and imprisonment.

334 (e) The covered entity may, in its discretion, allow
335 any employee who is unable to sign the affidavit required by
336 paragraph (d) of this subsection (* * *6) or any employee
337 applicant aggrieved by an employment decision under this
338 subsection (* * *6) to appear before the covered entity's hiring
339 officer, or his or her designee, to show mitigating circumstances
340 that may exist and allow the employee or employee applicant to be
341 employed by the covered entity. The covered entity, upon report
342 and recommendation of the hiring officer, may grant waivers for
343 those mitigating circumstances, which shall include, but not be
344 limited to: (i) age at which the crime was committed; (ii)
345 circumstances surrounding the crime; (iii) length of time since
346 the conviction and criminal history since the conviction; (iv)
347 work history; (v) current employment and character references; and
348 (vi) other evidence demonstrating the ability of the individual to
349 perform the employment responsibilities competently and that the



350 individual does not pose a threat to the health or safety of the
351 patients of the covered entity.

352 (f) The licensing agency may charge the covered entity
353 submitting the fingerprints a fee not to exceed Fifty Dollars
354 (\$50.00), which covered entity may, in its discretion, charge the
355 same fee, or a portion thereof, to the employee applicant. Any
356 increase in the fee charged by the licensing agency under this
357 paragraph shall be in accordance with the provisions of Section
358 41-3-65. Any costs incurred by a covered entity implementing this
359 subsection (* * *6) shall be reimbursed as an allowable cost
360 under Section 43-13-116.

361 (g) If the results of an employee applicant's criminal
362 history record check reveals no disqualifying event, then the
363 covered entity shall, within two (2) weeks of the notification of
364 no disqualifying event, provide the employee applicant with a
365 notarized letter signed by the chief executive officer of the
366 covered entity, or his or her authorized designee, confirming the
367 employee applicant's suitability for employment based on his or
368 her criminal history record check. An employee applicant may use
369 that letter for a period of two (2) years from the date of the
370 letter to seek employment with any covered entity without the
371 necessity of an additional criminal history record check. Any
372 covered entity presented with the letter may rely on the letter
373 with respect to an employee applicant's criminal background and is
374 not required for a period of two (2) years from the date of the



375 letter to conduct or have conducted a criminal history record
376 check as required in this subsection (* * *6).

377 (h) The licensing agency, the covered entity, and their
378 agents, officers, employees, attorneys and representatives, shall
379 be presumed to be acting in good faith for any employment decision
380 or action taken under this subsection (* * *6). The presumption
381 of good faith may be overcome by a preponderance of the evidence
382 in any civil action. No licensing agency, covered entity, nor
383 their agents, officers, employees, attorneys and representatives
384 shall be held liable in any employment decision or action based in
385 whole or in part on compliance with or attempts to comply with the
386 requirements of this subsection (* * *6).

387 (i) The licensing agency shall promulgate regulations
388 to implement this subsection (* * *6).

389 (j) The provisions of this subsection (* * *6) shall
390 not apply to:

391 (i) Applicants and employees of the University of
392 Mississippi Medical Center for whom criminal history record checks
393 and fingerprinting are obtained in accordance with Section
394 37-115-41; or

395 (ii) Health care professional/vocational technical
396 students for whom criminal history record checks and
397 fingerprinting are obtained in accordance with Section 37-29-232.



398 (* * *7) The State Board of Health shall promulgate rules,
399 regulations and standards regarding the operation of adult foster
400 care facilities.

401 **SECTION 3.** Section 47-5-28, Mississippi Code of 1972, is
402 amended as follows:

403 47-5-28. The commissioner shall have the following powers
404 and duties:

405 (a) To implement and administer laws and policy
406 relating to corrections and coordinate the efforts of the
407 department with those of the federal government and other state
408 departments and agencies, county governments, municipal
409 governments, and private agencies concerned with providing
410 offender services;

411 (b) To establish standards, in cooperation with other
412 state agencies having responsibility as provided by law, provide
413 technical assistance, and exercise the requisite supervision as it
414 relates to correctional programs over all state-supported adult
415 correctional facilities and community-based programs;

416 (c) To promulgate and publish such rules, regulations
417 and policies of the department as are needed for the efficient
418 government and maintenance of all facilities and programs in
419 accord insofar as possible with currently accepted standards of
420 adult offender care and treatment;

421 (d) To provide the Parole Board with suitable and
422 sufficient office space and support resources and staff necessary



423 to * * * conduct Parole Board business under the guidance of the
424 Chairman of the Parole Board;

425 (e) To contract for transitional reentry center beds
426 that will be used as noncorrections housing for offenders released
427 from the department on parole, probation or post-release
428 supervision but do not have appropriate housing available upon
429 release. At least one hundred (100) but no more than eight
430 hundred (800) transitional reentry center beds contracted by the
431 department and chosen by the Parole Board shall be available for
432 the Parole Board to place parolees without appropriate housing;

433 (f) To designate deputy commissioners while performing
434 their officially assigned duties relating to the custody, control,
435 transportation, recapture or arrest of any offender within the
436 jurisdiction of the department or any offender of any jail,
437 penitentiary, public workhouse or overnight lockup of the state or
438 any political subdivision thereof not within the jurisdiction of
439 the department, to the status of peace officers anywhere in the
440 state in any matter relating to the custody, control,
441 transportation or recapture of such offender, and shall have the
442 status of law enforcement officers and peace officers as
443 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

444 For the purpose of administration and enforcement of this
445 chapter, deputy commissioners of the Mississippi Department of
446 Corrections, who are certified by the Mississippi Board on Law
447 Enforcement Officer Standards and Training, have the powers of a



448 law enforcement officer of this state. Such powers shall include
449 to make arrests and to serve and execute search warrants and other
450 valid legal process anywhere within the State of Mississippi while
451 performing their officially assigned duties relating to the
452 custody, control, transportation, recapture or arrest of any
453 offender within the jurisdiction of the department or any offender
454 of any jail, penitentiary, public workhouse or overnight lockup of
455 the state or any political subdivision thereof not within the
456 jurisdiction of the department in any matter relating to the
457 custody, control, transportation or recapture of such
458 offender * * *;

459 (g) To make an annual report to the Governor and the
460 Legislature reflecting the activities of the department and make
461 recommendations for improvement of the services to be performed by
462 the department;

463 (h) To cooperate fully with periodic independent
464 internal investigations of the department and to file the report
465 with the Governor and the Legislature;

466 (i) To make personnel actions for a period of one (1)
467 year beginning July 1, 2016, that are exempt from State Personnel
468 Board rules, regulations and procedures in order to give the
469 commissioner flexibility in making an orderly, effective and
470 timely reorganization and realignment of the department; * * *

471 (j) To contract with a licensed Special Care Facility
472 for Paroled Inmates to provide authorized medical services and



473 support services for medically frail inmates who have been paroled
474 and committed to the custody of such facility; and

475 (* * *k) To perform such other duties necessary to
476 effectively and efficiently carry out the purposes of the
477 department as may be directed by the Governor.

478 **SECTION 4.** Section 47-7-4, Mississippi Code of 1972, is
479 amended as follows:

480 47-7-4. (1) The commissioner and the medical director of
481 the department may place an offender who has served not less than
482 one (1) year of his or her sentence, except an offender convicted
483 of a sex crime, on conditional medical release. However, a
484 nonviolent offender who is bedridden may be placed on conditional
485 medical release regardless of the time served on his or her
486 sentence. Upon the release of a nonviolent offender who is
487 bedridden, the state shall not be responsible or liable for any
488 medical costs that may be incurred if such costs are acquired
489 after the offender is no longer incarcerated due to his or her
490 placement on conditional medical release. The commissioner shall
491 not place an offender on conditional medical release unless the
492 medical director of the department certifies to the commissioner
493 that (a) the offender is suffering from a significant permanent
494 physical medical condition with no possibility of recovery; (b)
495 that his or her further incarceration will serve no rehabilitative
496 purposes; and (c) that the state would incur unreasonable expenses
497 as a result of his or her continued incarceration. Any offender



498 placed on conditional medical release shall be supervised by the
499 Division of Community Corrections of the department for the
500 remainder of his or her sentence. An offender's conditional
501 medical release may be revoked and the offender returned and
502 placed in actual custody of the department if the offender
503 violates an order or condition of his or her conditional medical
504 release. An offender who is no longer bedridden shall be returned
505 and placed in the actual custody of the department.

506 (2) (a) The State Parole Board may grant a medical parole
507 and referral to a licensed Special Care Facility for Paroled
508 Inmates for an inmate determined to be "medically frail" as
509 defined in this subsection.

510 (b) For purposes of this subsection (2), the term
511 "medically frail" means an individual who is a minimal threat to
512 society as a result of his or her medical condition, whose ability
513 to perform activities of daily living is significantly impaired,
514 and who may have limited mobility as the result of one or more of
515 the following conditions from which the individual is not expected
516 to recover:

517 (i) A disabling mental disorder, including
518 dementia, Alzheimer's or a similar degenerative brain disorder;

519 (ii) A serious and complex medical condition; or

520 (iii) A physical disability.

521 (c) The following conditions apply to a parole granted
522 under this subsection (2):



523 (i) An inmate who has been sentenced to capital
524 punishment is not eligible;

525 (ii) An inmate who has been convicted as a
526 criminal sex offender is not eligible;

527 (iii) An inmate does not pose a public safety risk
528 as determined by the State Parole Board;

529 (iv) If the prisoner is incapacitated, an
530 individual legally entitled to agree to the inmate's placement
531 agrees to the inmate's placement in a licensed Special Care
532 Facility for Paroled Inmates or in a medical facility where
533 medical care and treatment are determined to be appropriate for
534 the parolee by the State Parole Board;

535 (v) An inmate shall agree to the release of his or
536 her medical records that are directly relevant to the condition or
537 conditions rendering the inmate medically frail to the prosecutor
538 of the county from which the inmate was committed before the State
539 Parole Board determines whether or not to grant parole under this
540 subsection;

541 (vi) If the inmate is granted parole under this
542 subsection (2), the inmate shall agree to the quarterly release of
543 his or her medical records that are directly relevant to the
544 condition or conditions rendering the inmate medically frail at
545 the request of the prosecutor of the county from which the inmate
546 was committed;



547 (vii) The parolee shall adhere to the terms of his
548 or her parole for the length of his or her parole term, and the
549 parole shall be for a term not less than the time necessary to
550 reach the prisoner's earliest release date;

551 (viii) A parolee who violates the terms of his or
552 her parole or is determined not to be eligible for parole under
553 this subsection (2) may be transferred to a setting more
554 appropriate for the medical needs of the parolee;

555 (ix) The Department of Corrections or the State
556 Parole Board shall not retain authority over the medical treatment
557 plan for the inmate granted parole under this subsection (2);

558 (x) The department and the State Parole Board
559 shall ensure that the placement and terms and conditions of parole
560 granted under this subsection (2) do not violate any other state
561 or federal regulations;

562 (xi) A medical facility utilized by the department
563 to facilitate parole under this subsection (2) shall be operated
564 in a manner that ensures the safety of the residents of the
565 facility.

566 (d) The Mississippi Department of Corrections may enter
567 into contracts to facilitate the placement of paroled inmates
568 under this subsection (2). The Mississippi Department of
569 Corrections shall appoint a specialist in the appropriate field of
570 medicine, who is not employed by the department, to evaluate the
571 condition of the inmate considered for parole under this



572 subsection (2) and to report on that condition to the department
573 and the State Parole Board. The State Parole Board shall
574 determine whether the inmate is medically frail in consultation
575 with the Mississippi Department of Mental Health.

576 **SECTION 5.** The following shall be codified as Section
577 43-13-117.6, Mississippi Code of 1972:

578 43-13-117.6. (1) The Division of Medicaid shall apply to
579 the federal Center for Medicaid Services (CMS) for necessary
580 waivers to provide federal funding under the Medicaid program for
581 providing reimbursement for authorized services to medically frail
582 inmates who qualify for nursing home-level care and who the state
583 deems are not public safety risks, provided through a Special Care
584 Facility for Paroled Inmates licensed by the State Department of
585 Health under contract with the Mississippi Department of
586 Corrections, as specifically authorized under this act.

587 (2) The program for paroled inmates shall be funded from
588 monies that are appropriated or otherwise made available to the
589 division specifically to cover the cost of the paroled inmate
590 program and shall not be a part of the division's regular
591 appropriation for the operation of the federal-state Medicaid
592 program. This program shall be a separate program within the
593 Division of Medicaid as the administering agent.

594 **SECTION 6.** Section 41-7-191, Mississippi Code of 1972, is
595 amended as follows:



596 41-7-191. (1) No person shall engage in any of the
597 following activities without obtaining the required certificate of
598 need:

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

603 (b) The relocation of a health care facility or portion
604 thereof, or major medical equipment, unless such relocation of a
605 health care facility or portion thereof, or major medical
606 equipment, which does not involve a capital expenditure by or on
607 behalf of a health care facility, is within five thousand two
608 hundred eighty (5,280) feet from the main entrance of the health
609 care facility;

610 (c) Any change in the existing bed complement of any
611 health care facility through the addition or conversion of any
612 beds or the alteration, modernizing or refurbishing of any unit or
613 department in which the beds may be located; however, if a health
614 care facility has voluntarily delicensed some of its existing bed
615 complement, it may later relicense some or all of its delicensed
616 beds without the necessity of having to acquire a certificate of
617 need. The State Department of Health shall maintain a record of
618 the delicensing health care facility and its voluntarily
619 delicensed beds and continue counting those beds as part of the
620 state's total bed count for health care planning purposes. If a



621 health care facility that has voluntarily delicensed some of its
622 beds later desires to relicense some or all of its voluntarily
623 delicensed beds, it shall notify the State Department of Health of
624 its intent to increase the number of its licensed beds. The State
625 Department of Health shall survey the health care facility within
626 thirty (30) days of that notice and, if appropriate, issue the
627 health care facility a new license reflecting the new contingent
628 of beds. However, in no event may a health care facility that has
629 voluntarily delicensed some of its beds be reissued a license to
630 operate beds in excess of its bed count before the voluntary
631 delicensure of some of its beds without seeking certificate of
632 need approval;

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

- 637 (i) Open-heart surgery services;
- 638 (ii) Cardiac catheterization services;
- 639 (iii) Comprehensive inpatient rehabilitation
640 services;
- 641 (iv) Licensed psychiatric services;
- 642 (v) Licensed chemical dependency services;
- 643 (vi) Radiation therapy services;
- 644 (vii) Diagnostic imaging services of an invasive
645 nature, i.e. invasive digital angiography;



646 (viii) Nursing home care as defined in
647 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
648 (ix) Home health services;
649 (x) Swing-bed services;
650 (xi) Ambulatory surgical services;
651 (xii) Magnetic resonance imaging services;
652 (xiii) [Deleted]
653 (xiv) Long-term care hospital services;
654 (xv) Positron emission tomography (PET) services;
655 (e) The relocation of one or more health services from
656 one physical facility or site to another physical facility or
657 site, unless such relocation, which does not involve a capital
658 expenditure by or on behalf of a health care facility, (i) is to a
659 physical facility or site within five thousand two hundred eighty
660 (5,280) feet from the main entrance of the health care facility
661 where the health care service is located, or (ii) is the result of
662 an order of a court of appropriate jurisdiction or a result of
663 pending litigation in such court, or by order of the State
664 Department of Health, or by order of any other agency or legal
665 entity of the state, the federal government, or any political
666 subdivision of either, whose order is also approved by the State
667 Department of Health;
668 (f) The acquisition or otherwise control of any major
669 medical equipment for the provision of medical services; however,
670 (i) the acquisition of any major medical equipment used only for



671 research purposes, and (ii) the acquisition of major medical
672 equipment to replace medical equipment for which a facility is
673 already providing medical services and for which the State
674 Department of Health has been notified before the date of such
675 acquisition shall be exempt from this paragraph; an acquisition
676 for less than fair market value must be reviewed, if the
677 acquisition at fair market value would be subject to review;

678 (g) Changes of ownership of existing health care
679 facilities in which a notice of intent is not filed with the State
680 Department of Health at least thirty (30) days prior to the date
681 such change of ownership occurs, or a change in services or bed
682 capacity as prescribed in paragraph (c) or (d) of this subsection
683 as a result of the change of ownership; an acquisition for less
684 than fair market value must be reviewed, if the acquisition at
685 fair market value would be subject to review;

686 (h) The change of ownership of any health care facility
687 defined in subparagraphs (iv), (vi) and (viii) of Section
688 41-7-173(h), in which a notice of intent as described in paragraph
689 (g) has not been filed and if the Executive Director, Division of
690 Medicaid, Office of the Governor, has not certified in writing
691 that there will be no increase in allowable costs to Medicaid from
692 revaluation of the assets or from increased interest and
693 depreciation as a result of the proposed change of ownership;

694 (i) Any activity described in paragraphs (a) through
695 (h) if undertaken by any person if that same activity would



696 require certificate of need approval if undertaken by a health
697 care facility;

698 (j) Any capital expenditure or deferred capital
699 expenditure by or on behalf of a health care facility not covered
700 by paragraphs (a) through (h);

701 (k) The contracting of a health care facility as
702 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
703 to establish a home office, subunit, or branch office in the space
704 operated as a health care facility through a formal arrangement
705 with an existing health care facility as defined in subparagraph
706 (ix) of Section 41-7-173(h);

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

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

716 (2) The State Department of Health shall not grant approval
717 for or issue a certificate of need to any person proposing the new
718 construction of, addition to, or expansion of any health care
719 facility defined in subparagraphs (iv) (skilled nursing facility)
720 and (vi) (intermediate care facility) of Section 41-7-173(h) or



721 the conversion of vacant hospital beds to provide skilled or
722 intermediate nursing home care, except as hereinafter authorized:

723 (a) The department may issue a certificate of need to
724 any person proposing the new construction of any health care
725 facility defined in subparagraphs (iv) and (vi) of Section
726 41-7-173(h) as part of a life care retirement facility, in any
727 county bordering on the Gulf of Mexico in which is located a
728 National Aeronautics and Space Administration facility, not to
729 exceed forty (40) beds. From and after July 1, 1999, there shall
730 be no prohibition or restrictions on participation in the Medicaid
731 program (Section 43-13-101 et seq.) for the beds in the health
732 care facility that were authorized under this paragraph (a).

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

740 (c) The department may issue a certificate of need for
741 the addition to or expansion of any skilled nursing facility that
742 is part of an existing continuing care retirement community
743 located in Madison County, provided that the recipient of the
744 certificate of need agrees in writing that the skilled nursing
745 facility will not at any time participate in the Medicaid program



746 (Section 43-13-101 et seq.) or admit or keep any patients in the
747 skilled nursing facility who are participating in the Medicaid
748 program. This written agreement by the recipient of the
749 certificate of need shall be fully binding on any subsequent owner
750 of the skilled nursing facility, if the ownership of the facility
751 is transferred at any time after the issuance of the certificate
752 of need. Agreement that the skilled nursing facility will not
753 participate in the Medicaid program shall be a condition of the
754 issuance of a certificate of need to any person under this
755 paragraph (c), and if such skilled nursing facility at any time
756 after the issuance of the certificate of need, regardless of the
757 ownership of the facility, participates in the Medicaid program or
758 admits or keeps any patients in the facility who are participating
759 in the Medicaid program, the State Department of Health shall
760 revoke the certificate of need, if it is still outstanding, and
761 shall deny or revoke the license of the skilled nursing facility,
762 at the time that the department determines, after a hearing
763 complying with due process, that the facility has failed to comply
764 with any of the conditions upon which the certificate of need was
765 issued, as provided in this paragraph and in the written agreement
766 by the recipient of the certificate of need. The total number of
767 beds that may be authorized under the authority of this paragraph
768 (c) shall not exceed sixty (60) beds.

769 (d) The State Department of Health may issue a
770 certificate of need to any hospital located in DeSoto County for



771 the new construction of a skilled nursing facility, not to exceed
772 one hundred twenty (120) beds, in DeSoto County. From and after
773 July 1, 1999, there shall be no prohibition or restrictions on
774 participation in the Medicaid program (Section 43-13-101 et seq.)
775 for the beds in the nursing facility that were authorized under
776 this paragraph (d).

777 (e) The State Department of Health may issue a
778 certificate of need for the construction of a nursing facility or
779 the conversion of beds to nursing facility beds at a personal care
780 facility for the elderly in Lowndes County that is owned and
781 operated by a Mississippi nonprofit corporation, not to exceed
782 sixty (60) beds. From and after July 1, 1999, there shall be no
783 prohibition or restrictions on participation in the Medicaid
784 program (Section 43-13-101 et seq.) for the beds in the nursing
785 facility that were authorized under this paragraph (e).

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

794 (g) The State Department of Health may issue a
795 certificate of need for the construction or expansion of nursing



796 facility beds or the conversion of other beds to nursing facility
797 beds in either Hinds, Madison or Rankin County, not to exceed
798 sixty (60) beds. From and after July 1, 1999, there shall be no
799 prohibition or restrictions on participation in the Medicaid
800 program (Section 43-13-101 et seq.) for the beds in the nursing
801 facility that were authorized under this paragraph (g).

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

810 (i) The department may issue a certificate of need for
811 the new construction of a skilled nursing facility in Leake
812 County, provided that the recipient of the certificate of need
813 agrees in writing that the skilled nursing facility will not at
814 any time participate in the Medicaid program (Section 43-13-101 et
815 seq.) or admit or keep any patients in the skilled nursing
816 facility who are participating in the Medicaid program. This
817 written agreement by the recipient of the certificate of need
818 shall be fully binding on any subsequent owner of the skilled
819 nursing facility, if the ownership of the facility is transferred
820 at any time after the issuance of the certificate of need.



821 Agreement that the skilled nursing facility will not participate
822 in the Medicaid program shall be a condition of the issuance of a
823 certificate of need to any person under this paragraph (i), and if
824 such skilled nursing facility at any time after the issuance of
825 the certificate of need, regardless of the ownership of the
826 facility, participates in the Medicaid program or admits or keeps
827 any patients in the facility who are participating in the Medicaid
828 program, the State Department of Health shall revoke the
829 certificate of need, if it is still outstanding, and shall deny or
830 revoke the license of the skilled nursing facility, at the time
831 that the department determines, after a hearing complying with due
832 process, that the facility has failed to comply with any of the
833 conditions upon which the certificate of need was issued, as
834 provided in this paragraph and in the written agreement by the
835 recipient of the certificate of need. The provision of Section
836 41-7-193(1) regarding substantial compliance of the projection of
837 need as reported in the current State Health Plan is waived for
838 the purposes of this paragraph. The total number of nursing
839 facility beds that may be authorized by any certificate of need
840 issued under this paragraph (i) shall not exceed sixty (60) beds.
841 If the skilled nursing facility authorized by the certificate of
842 need issued under this paragraph is not constructed and fully
843 operational within eighteen (18) months after July 1, 1994, the
844 State Department of Health, after a hearing complying with due
845 process, shall revoke the certificate of need, if it is still



846 outstanding, and shall not issue a license for the skilled nursing
847 facility at any time after the expiration of the eighteen-month
848 period.

849 (j) The department may issue certificates of need to
850 allow any existing freestanding long-term care facility in
851 Tishomingo County and Hancock County that on July 1, 1995, is
852 licensed with fewer than sixty (60) beds. For the purposes of
853 this paragraph (j), the provisions of Section 41-7-193(1)
854 requiring substantial compliance with the projection of need as
855 reported in the current State Health Plan are waived. From and
856 after July 1, 1999, there shall be no prohibition or restrictions
857 on participation in the Medicaid program (Section 43-13-101 et
858 seq.) for the beds in the long-term care facilities that were
859 authorized under this paragraph (j).

860 (k) The department may issue a certificate of need for
861 the construction of a nursing facility at a continuing care
862 retirement community in Lowndes County. The total number of beds
863 that may be authorized under the authority of this paragraph (k)
864 shall not exceed sixty (60) beds. From and after July 1, 2001,
865 the prohibition on the facility participating in the Medicaid
866 program (Section 43-13-101 et seq.) that was a condition of
867 issuance of the certificate of need under this paragraph (k) shall
868 be revised as follows: The nursing facility may participate in
869 the Medicaid program from and after July 1, 2001, if the owner of
870 the facility on July 1, 2001, agrees in writing that no more than



871 thirty (30) of the beds at the facility will be certified for
872 participation in the Medicaid program, and that no claim will be
873 submitted for Medicaid reimbursement for more than thirty (30)
874 patients in the facility in any month or for any patient in the
875 facility who is in a bed that is not Medicaid-certified. This
876 written agreement by the owner of the facility shall be a
877 condition of licensure of the facility, and the agreement shall be
878 fully binding on any subsequent owner of the facility if the
879 ownership of the facility is transferred at any time after July 1,
880 2001. After this written agreement is executed, the Division of
881 Medicaid and the State Department of Health shall not certify more
882 than thirty (30) of the beds in the facility for participation in
883 the Medicaid program. If the facility violates the terms of the
884 written agreement by admitting or keeping in the facility on a
885 regular or continuing basis more than thirty (30) patients who are
886 participating in the Medicaid program, the State Department of
887 Health shall revoke the license of the facility, at the time that
888 the department determines, after a hearing complying with due
889 process, that the facility has violated the written agreement.

890 (1) Provided that funds are specifically appropriated
891 therefor by the Legislature, the department may issue a
892 certificate of need to a rehabilitation hospital in Hinds County
893 for the construction of a sixty-bed long-term care nursing
894 facility dedicated to the care and treatment of persons with
895 severe disabilities including persons with spinal cord and



896 closed-head injuries and ventilator dependent patients. The
897 provisions of Section 41-7-193(1) regarding substantial compliance
898 with projection of need as reported in the current State Health
899 Plan are waived for the purpose of this paragraph.

900 (m) The State Department of Health may issue a
901 certificate of need to a county-owned hospital in the Second
902 Judicial District of Panola County for the conversion of not more
903 than seventy-two (72) hospital beds to nursing facility beds,
904 provided that the recipient of the certificate of need agrees in
905 writing that none of the beds at the nursing facility will be
906 certified for participation in the Medicaid program (Section
907 43-13-101 et seq.), and that no claim will be submitted for
908 Medicaid reimbursement in the nursing facility in any day or for
909 any patient in the nursing facility. This written agreement by
910 the recipient of the certificate of need shall be a condition of
911 the issuance of the certificate of need under this paragraph, and
912 the agreement shall be fully binding on any subsequent owner of
913 the nursing facility if the ownership of the nursing facility is
914 transferred at any time after the issuance of the certificate of
915 need. After this written agreement is executed, the Division of
916 Medicaid and the State Department of Health shall not certify any
917 of the beds in the nursing facility for participation in the
918 Medicaid program. If the nursing facility violates the terms of
919 the written agreement by admitting or keeping in the nursing
920 facility on a regular or continuing basis any patients who are



921 participating in the Medicaid program, the State Department of
922 Health shall revoke the license of the nursing facility, at the
923 time that the department determines, after a hearing complying
924 with due process, that the nursing facility has violated the
925 condition upon which the certificate of need was issued, as
926 provided in this paragraph and in the written agreement. If the
927 certificate of need authorized under this paragraph is not issued
928 within twelve (12) months after July 1, 2001, the department shall
929 deny the application for the certificate of need and shall not
930 issue the certificate of need at any time after the twelve-month
931 period, unless the issuance is contested. If the certificate of
932 need is issued and substantial construction of the nursing
933 facility beds has not commenced within eighteen (18) months after
934 July 1, 2001, the State Department of Health, after a hearing
935 complying with due process, shall revoke the certificate of need
936 if it is still outstanding, and the department shall not issue a
937 license for the nursing facility at any time after the
938 eighteen-month period. However, if the issuance of the
939 certificate of need is contested, the department shall require
940 substantial construction of the nursing facility beds within six
941 (6) months after final adjudication on the issuance of the
942 certificate of need.

943 (n) The department may issue a certificate of need for
944 the new construction, addition or conversion of skilled nursing
945 facility beds in Madison County, provided that the recipient of



946 the certificate of need agrees in writing that the skilled nursing
947 facility will not at any time participate in the Medicaid program
948 (Section 43-13-101 et seq.) or admit or keep any patients in the
949 skilled nursing facility who are participating in the Medicaid
950 program. This written agreement by the recipient of the
951 certificate of need shall be fully binding on any subsequent owner
952 of the skilled nursing facility, if the ownership of the facility
953 is transferred at any time after the issuance of the certificate
954 of need. Agreement that the skilled nursing facility will not
955 participate in the Medicaid program shall be a condition of the
956 issuance of a certificate of need to any person under this
957 paragraph (n), and if such skilled nursing facility at any time
958 after the issuance of the certificate of need, regardless of the
959 ownership of the facility, participates in the Medicaid program or
960 admits or keeps any patients in the facility who are participating
961 in the Medicaid program, the State Department of Health shall
962 revoke the certificate of need, if it is still outstanding, and
963 shall deny or revoke the license of the skilled nursing facility,
964 at the time that the department determines, after a hearing
965 complying with due process, that the facility has failed to comply
966 with any of the conditions upon which the certificate of need was
967 issued, as provided in this paragraph and in the written agreement
968 by the recipient of the certificate of need. The total number of
969 nursing facility beds that may be authorized by any certificate of
970 need issued under this paragraph (n) shall not exceed sixty (60)



971 beds. If the certificate of need authorized under this paragraph
972 is not issued within twelve (12) months after July 1, 1998, the
973 department shall deny the application for the certificate of need
974 and shall not issue the certificate of need at any time after the
975 twelve-month period, unless the issuance is contested. If the
976 certificate of need is issued and substantial construction of the
977 nursing facility beds has not commenced within eighteen (18)
978 months after July 1, 1998, the State Department of Health, after a
979 hearing complying with due process, shall revoke the certificate
980 of need if it is still outstanding, and the department shall not
981 issue a license for the nursing facility at any time after the
982 eighteen-month period. However, if the issuance of the
983 certificate of need is contested, the department shall require
984 substantial construction of the nursing facility beds within six
985 (6) months after final adjudication on the issuance of the
986 certificate of need.

987 (o) The department may issue a certificate of need for
988 the new construction, addition or conversion of skilled nursing
989 facility beds in Leake County, provided that the recipient of the
990 certificate of need agrees in writing that the skilled nursing
991 facility will not at any time participate in the Medicaid program
992 (Section 43-13-101 et seq.) or admit or keep any patients in the
993 skilled nursing facility who are participating in the Medicaid
994 program. This written agreement by the recipient of the
995 certificate of need shall be fully binding on any subsequent owner



996 of the skilled nursing facility, if the ownership of the facility
997 is transferred at any time after the issuance of the certificate
998 of need. Agreement that the skilled nursing facility will not
999 participate in the Medicaid program shall be a condition of the
1000 issuance of a certificate of need to any person under this
1001 paragraph (o), and if such skilled nursing facility at any time
1002 after the issuance of the certificate of need, regardless of the
1003 ownership of the facility, participates in the Medicaid program or
1004 admits or keeps any patients in the facility who are participating
1005 in the Medicaid program, the State Department of Health shall
1006 revoke the certificate of need, if it is still outstanding, and
1007 shall deny or revoke the license of the skilled nursing facility,
1008 at the time that the department determines, after a hearing
1009 complying with due process, that the facility has failed to comply
1010 with any of the conditions upon which the certificate of need was
1011 issued, as provided in this paragraph and in the written agreement
1012 by the recipient of the certificate of need. The total number of
1013 nursing facility beds that may be authorized by any certificate of
1014 need issued under this paragraph (o) shall not exceed sixty (60)
1015 beds. If the certificate of need authorized under this paragraph
1016 is not issued within twelve (12) months after July 1, 2001, the
1017 department shall deny the application for the certificate of need
1018 and shall not issue the certificate of need at any time after the
1019 twelve-month period, unless the issuance is contested. If the
1020 certificate of need is issued and substantial construction of the



1021 nursing facility beds has not commenced within eighteen (18)
1022 months after July 1, 2001, the State Department of Health, after a
1023 hearing complying with due process, shall revoke the certificate
1024 of need if it is still outstanding, and the department shall not
1025 issue a license for the nursing facility at any time after the
1026 eighteen-month period. However, if the issuance of the
1027 certificate of need is contested, the department shall require
1028 substantial construction of the nursing facility beds within six
1029 (6) months after final adjudication on the issuance of the
1030 certificate of need.

1031 (p) The department may issue a certificate of need for
1032 the construction of a municipally owned nursing facility within
1033 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1034 beds, provided that the recipient of the certificate of need
1035 agrees in writing that the skilled nursing facility will not at
1036 any time participate in the Medicaid program (Section 43-13-101 et
1037 seq.) or admit or keep any patients in the skilled nursing
1038 facility who are participating in the Medicaid program. This
1039 written agreement by the recipient of the certificate of need
1040 shall be fully binding on any subsequent owner of the skilled
1041 nursing facility, if the ownership of the facility is transferred
1042 at any time after the issuance of the certificate of need.
1043 Agreement that the skilled nursing facility will not participate
1044 in the Medicaid program shall be a condition of the issuance of a
1045 certificate of need to any person under this paragraph (p), and if



1046 such skilled nursing facility at any time after the issuance of
1047 the certificate of need, regardless of the ownership of the
1048 facility, participates in the Medicaid program or admits or keeps
1049 any patients in the facility who are participating in the Medicaid
1050 program, the State Department of Health shall revoke the
1051 certificate of need, if it is still outstanding, and shall deny or
1052 revoke the license of the skilled nursing facility, at the time
1053 that the department determines, after a hearing complying with due
1054 process, that the facility has failed to comply with any of the
1055 conditions upon which the certificate of need was issued, as
1056 provided in this paragraph and in the written agreement by the
1057 recipient of the certificate of need. The provision of Section
1058 41-7-193(1) regarding substantial compliance of the projection of
1059 need as reported in the current State Health Plan is waived for
1060 the purposes of this paragraph. If the certificate of need
1061 authorized under this paragraph is not issued within twelve (12)
1062 months after July 1, 1998, the department shall deny the
1063 application for the certificate of need and shall not issue the
1064 certificate of need at any time after the twelve-month period,
1065 unless the issuance is contested. If the certificate of need is
1066 issued and substantial construction of the nursing facility beds
1067 has not commenced within eighteen (18) months after July 1, 1998,
1068 the State Department of Health, after a hearing complying with due
1069 process, shall revoke the certificate of need if it is still
1070 outstanding, and the department shall not issue a license for the



1071 nursing facility at any time after the eighteen-month period.
1072 However, if the issuance of the certificate of need is contested,
1073 the department shall require substantial construction of the
1074 nursing facility beds within six (6) months after final
1075 adjudication on the issuance of the certificate of need.

1076 (q) (i) Beginning on July 1, 1999, the State
1077 Department of Health shall issue certificates of need during each
1078 of the next four (4) fiscal years for the construction or
1079 expansion of nursing facility beds or the conversion of other beds
1080 to nursing facility beds in each county in the state having a need
1081 for fifty (50) or more additional nursing facility beds, as shown
1082 in the fiscal year 1999 State Health Plan, in the manner provided
1083 in this paragraph (q). The total number of nursing facility beds
1084 that may be authorized by any certificate of need authorized under
1085 this paragraph (q) shall not exceed sixty (60) beds.

1086 (ii) Subject to the provisions of subparagraph
1087 (v), during each of the next four (4) fiscal years, the department
1088 shall issue six (6) certificates of need for new nursing facility
1089 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1090 (1) certificate of need shall be issued for new nursing facility
1091 beds in the county in each of the four (4) Long-Term Care Planning
1092 Districts designated in the fiscal year 1999 State Health Plan
1093 that has the highest need in the district for those beds; and two
1094 (2) certificates of need shall be issued for new nursing facility
1095 beds in the two (2) counties from the state at large that have the



1096 highest need in the state for those beds, when considering the
1097 need on a statewide basis and without regard to the Long-Term Care
1098 Planning Districts in which the counties are located. During
1099 fiscal year 2003, one (1) certificate of need shall be issued for
1100 new nursing facility beds in any county having a need for fifty
1101 (50) or more additional nursing facility beds, as shown in the
1102 fiscal year 1999 State Health Plan, that has not received a
1103 certificate of need under this paragraph (q) during the three (3)
1104 previous fiscal years. During fiscal year 2000, in addition to
1105 the six (6) certificates of need authorized in this subparagraph,
1106 the department also shall issue a certificate of need for new
1107 nursing facility beds in Amite County and a certificate of need
1108 for new nursing facility beds in Carroll County.

1109 (iii) Subject to the provisions of subparagraph
1110 (v), the certificate of need issued under subparagraph (ii) for
1111 nursing facility beds in each Long-Term Care Planning District
1112 during each fiscal year shall first be available for nursing
1113 facility beds in the county in the district having the highest
1114 need for those beds, as shown in the fiscal year 1999 State Health
1115 Plan. If there are no applications for a certificate of need for
1116 nursing facility beds in the county having the highest need for
1117 those beds by the date specified by the department, then the
1118 certificate of need shall be available for nursing facility beds
1119 in other counties in the district in descending order of the need
1120 for those beds, from the county with the second highest need to



1121 the county with the lowest need, until an application is received
1122 for nursing facility beds in an eligible county in the district.

1123 (iv) Subject to the provisions of subparagraph
1124 (v), the certificate of need issued under subparagraph (ii) for
1125 nursing facility beds in the two (2) counties from the state at
1126 large during each fiscal year shall first be available for nursing
1127 facility beds in the two (2) counties that have the highest need
1128 in the state for those beds, as shown in the fiscal year 1999
1129 State Health Plan, when considering the need on a statewide basis
1130 and without regard to the Long-Term Care Planning Districts in
1131 which the counties are located. If there are no applications for
1132 a certificate of need for nursing facility beds in either of the
1133 two (2) counties having the highest need for those beds on a
1134 statewide basis by the date specified by the department, then the
1135 certificate of need shall be available for nursing facility beds
1136 in other counties from the state at large in descending order of
1137 the need for those beds on a statewide basis, from the county with
1138 the second highest need to the county with the lowest need, until
1139 an application is received for nursing facility beds in an
1140 eligible county from the state at large.

1141 (v) If a certificate of need is authorized to be
1142 issued under this paragraph (q) for nursing facility beds in a
1143 county on the basis of the need in the Long-Term Care Planning
1144 District during any fiscal year of the four-year period, a
1145 certificate of need shall not also be available under this



1146 paragraph (q) for additional nursing facility beds in that county
1147 on the basis of the need in the state at large, and that county
1148 shall be excluded in determining which counties have the highest
1149 need for nursing facility beds in the state at large for that
1150 fiscal year. After a certificate of need has been issued under
1151 this paragraph (q) for nursing facility beds in a county during
1152 any fiscal year of the four-year period, a certificate of need
1153 shall not be available again under this paragraph (q) for
1154 additional nursing facility beds in that county during the
1155 four-year period, and that county shall be excluded in determining
1156 which counties have the highest need for nursing facility beds in
1157 succeeding fiscal years.

1158 (vi) If more than one (1) application is made for
1159 a certificate of need for nursing home facility beds available
1160 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1161 County, and one (1) of the applicants is a county-owned hospital
1162 located in the county where the nursing facility beds are
1163 available, the department shall give priority to the county-owned
1164 hospital in granting the certificate of need if the following
1165 conditions are met:

1166 1. The county-owned hospital fully meets all
1167 applicable criteria and standards required to obtain a certificate
1168 of need for the nursing facility beds; and

1169 2. The county-owned hospital's qualifications
1170 for the certificate of need, as shown in its application and as



1171 determined by the department, are at least equal to the
1172 qualifications of the other applicants for the certificate of
1173 need.

1174 (r) (i) Beginning on July 1, 1999, the State
1175 Department of Health shall issue certificates of need during each
1176 of the next two (2) fiscal years for the construction or expansion
1177 of nursing facility beds or the conversion of other beds to
1178 nursing facility beds in each of the four (4) Long-Term Care
1179 Planning Districts designated in the fiscal year 1999 State Health
1180 Plan, to provide care exclusively to patients with Alzheimer's
1181 disease.

1182 (ii) Not more than twenty (20) beds may be
1183 authorized by any certificate of need issued under this paragraph
1184 (r), and not more than a total of sixty (60) beds may be
1185 authorized in any Long-Term Care Planning District by all
1186 certificates of need issued under this paragraph (r). However,
1187 the total number of beds that may be authorized by all
1188 certificates of need issued under this paragraph (r) during any
1189 fiscal year shall not exceed one hundred twenty (120) beds, and
1190 the total number of beds that may be authorized in any Long-Term
1191 Care Planning District during any fiscal year shall not exceed
1192 forty (40) beds. Of the certificates of need that are issued for
1193 each Long-Term Care Planning District during the next two (2)
1194 fiscal years, at least one (1) shall be issued for beds in the
1195 northern part of the district, at least one (1) shall be issued



1196 for beds in the central part of the district, and at least one (1)
1197 shall be issued for beds in the southern part of the district.

1198 (iii) The State Department of Health, in
1199 consultation with the Department of Mental Health and the Division
1200 of Medicaid, shall develop and prescribe the staffing levels,
1201 space requirements and other standards and requirements that must
1202 be met with regard to the nursing facility beds authorized under
1203 this paragraph (r) to provide care exclusively to patients with
1204 Alzheimer's disease.

1205 (s) The State Department of Health may issue a
1206 certificate of need to a nonprofit skilled nursing facility using
1207 the Green House model of skilled nursing care and located in Yazoo
1208 City, Yazoo County, Mississippi, for the construction, expansion
1209 or conversion of not more than nineteen (19) nursing facility
1210 beds. For purposes of this paragraph (s), the provisions of
1211 Section 41-7-193(1) requiring substantial compliance with the
1212 projection of need as reported in the current State Health Plan
1213 and the provisions of Section 41-7-197 requiring a formal
1214 certificate of need hearing process are waived. There shall be no
1215 prohibition or restrictions on participation in the Medicaid
1216 program for the person receiving the certificate of need
1217 authorized under this paragraph (s).

1218 (t) The State Department of Health shall issue
1219 certificates of need to the owner of a nursing facility in
1220 operation at the time of Hurricane Katrina in Hancock County that



1221 was not operational on December 31, 2005, because of damage
1222 sustained from Hurricane Katrina to authorize the following: (i)
1223 the construction of a new nursing facility in Harrison County;
1224 (ii) the relocation of forty-nine (49) nursing facility beds from
1225 the Hancock County facility to the new Harrison County facility;
1226 (iii) the establishment of not more than twenty (20) non-Medicaid
1227 nursing facility beds at the Hancock County facility; and (iv) the
1228 establishment of not more than twenty (20) non-Medicaid beds at
1229 the new Harrison County facility. The certificates of need that
1230 authorize the non-Medicaid nursing facility beds under
1231 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1232 subject to the following conditions: The owner of the Hancock
1233 County facility and the new Harrison County facility must agree in
1234 writing that no more than fifty (50) of the beds at the Hancock
1235 County facility and no more than forty-nine (49) of the beds at
1236 the Harrison County facility will be certified for participation
1237 in the Medicaid program, and that no claim will be submitted for
1238 Medicaid reimbursement for more than fifty (50) patients in the
1239 Hancock County facility in any month, or for more than forty-nine
1240 (49) patients in the Harrison County facility in any month, or for
1241 any patient in either facility who is in a bed that is not
1242 Medicaid-certified. This written agreement by the owner of the
1243 nursing facilities shall be a condition of the issuance of the
1244 certificates of need under this paragraph (t), and the agreement
1245 shall be fully binding on any later owner or owners of either



1246 facility if the ownership of either facility is transferred at any
1247 time after the certificates of need are issued. After this
1248 written agreement is executed, the Division of Medicaid and the
1249 State Department of Health shall not certify more than fifty (50)
1250 of the beds at the Hancock County facility or more than forty-nine
1251 (49) of the beds at the Harrison County facility for participation
1252 in the Medicaid program. If the Hancock County facility violates
1253 the terms of the written agreement by admitting or keeping in the
1254 facility on a regular or continuing basis more than fifty (50)
1255 patients who are participating in the Medicaid program, or if the
1256 Harrison County facility violates the terms of the written
1257 agreement by admitting or keeping in the facility on a regular or
1258 continuing basis more than forty-nine (49) patients who are
1259 participating in the Medicaid program, the State Department of
1260 Health shall revoke the license of the facility that is in
1261 violation of the agreement, at the time that the department
1262 determines, after a hearing complying with due process, that the
1263 facility has violated the agreement.

1264 (u) The State Department of Health shall issue a
1265 certificate of need to a nonprofit venture for the establishment,
1266 construction and operation of a skilled nursing facility of not
1267 more than sixty (60) beds to provide skilled nursing care for
1268 ventilator dependent or otherwise medically dependent pediatric
1269 patients who require medical and nursing care or rehabilitation
1270 services to be located in a county in which an academic medical



1271 center and a children's hospital are located, and for any
1272 construction and for the acquisition of equipment related to those
1273 beds. The facility shall be authorized to keep such ventilator
1274 dependent or otherwise medically dependent pediatric patients
1275 beyond age twenty-one (21) in accordance with regulations of the
1276 State Board of Health. For purposes of this paragraph (u), the
1277 provisions of Section 41-7-193(1) requiring substantial compliance
1278 with the projection of need as reported in the current State
1279 Health Plan are waived, and the provisions of Section 41-7-197
1280 requiring a formal certificate of need hearing process are waived.
1281 The beds authorized by this paragraph shall be counted as
1282 pediatric skilled nursing facility beds for health planning
1283 purposes under Section 41-7-171 et seq. There shall be no
1284 prohibition of or restrictions on participation in the Medicaid
1285 program for the person receiving the certificate of need
1286 authorized by this paragraph.

1287 (3) The State Department of Health may grant approval for
1288 and issue certificates of need to any person proposing the new
1289 construction of, addition to, conversion of beds of or expansion
1290 of any health care facility defined in subparagraph (x)
1291 (psychiatric residential treatment facility) of Section
1292 41-7-173(h). The total number of beds which may be authorized by
1293 such certificates of need shall not exceed three hundred
1294 thirty-four (334) beds for the entire state.



1295 (a) Of the total number of beds authorized under this
1296 subsection, the department shall issue a certificate of need to a
1297 privately owned psychiatric residential treatment facility in
1298 Simpson County for the conversion of sixteen (16) intermediate
1299 care facility for the mentally retarded (ICF-MR) beds to
1300 psychiatric residential treatment facility beds, provided that
1301 facility agrees in writing that the facility shall give priority
1302 for the use of those sixteen (16) beds to Mississippi residents
1303 who are presently being treated in out-of-state facilities.

1304 (b) Of the total number of beds authorized under this
1305 subsection, the department may issue a certificate or certificates
1306 of need for the construction or expansion of psychiatric
1307 residential treatment facility beds or the conversion of other
1308 beds to psychiatric residential treatment facility beds in Warren
1309 County, not to exceed sixty (60) psychiatric residential treatment
1310 facility beds, provided that the facility agrees in writing that
1311 no more than thirty (30) of the beds at the psychiatric
1312 residential treatment facility will be certified for participation
1313 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1314 any patients other than those who are participating only in the
1315 Medicaid program of another state, and that no claim will be
1316 submitted to the Division of Medicaid for Medicaid reimbursement
1317 for more than thirty (30) patients in the psychiatric residential
1318 treatment facility in any day or for any patient in the
1319 psychiatric residential treatment facility who is in a bed that is



1320 not Medicaid-certified. This written agreement by the recipient
1321 of the certificate of need shall be a condition of the issuance of
1322 the certificate of need under this paragraph, and the agreement
1323 shall be fully binding on any subsequent owner of the psychiatric
1324 residential treatment facility if the ownership of the facility is
1325 transferred at any time after the issuance of the certificate of
1326 need. After this written agreement is executed, the Division of
1327 Medicaid and the State Department of Health shall not certify more
1328 than thirty (30) of the beds in the psychiatric residential
1329 treatment facility for participation in the Medicaid program for
1330 the use of any patients other than those who are participating
1331 only in the Medicaid program of another state. If the psychiatric
1332 residential treatment facility violates the terms of the written
1333 agreement by admitting or keeping in the facility on a regular or
1334 continuing basis more than thirty (30) patients who are
1335 participating in the Mississippi Medicaid program, the State
1336 Department of Health shall revoke the license of the facility, at
1337 the time that the department determines, after a hearing complying
1338 with due process, that the facility has violated the condition
1339 upon which the certificate of need was issued, as provided in this
1340 paragraph and in the written agreement.

1341 The State Department of Health, on or before July 1, 2002,
1342 shall transfer the certificate of need authorized under the
1343 authority of this paragraph (b), or reissue the certificate of
1344 need if it has expired, to River Region Health System.



1345 (c) Of the total number of beds authorized under this
1346 subsection, the department shall issue a certificate of need to a
1347 hospital currently operating Medicaid-certified acute psychiatric
1348 beds for adolescents in DeSoto County, for the establishment of a
1349 forty-bed psychiatric residential treatment facility in DeSoto
1350 County, provided that the hospital agrees in writing (i) that the
1351 hospital shall give priority for the use of those forty (40) beds
1352 to Mississippi residents who are presently being treated in
1353 out-of-state facilities, and (ii) that no more than fifteen (15)
1354 of the beds at the psychiatric residential treatment facility will
1355 be certified for participation in the Medicaid program (Section
1356 43-13-101 et seq.), and that no claim will be submitted for
1357 Medicaid reimbursement for more than fifteen (15) patients in the
1358 psychiatric residential treatment facility in any day or for any
1359 patient in the psychiatric residential treatment facility who is
1360 in a bed that is not Medicaid-certified. This written agreement
1361 by the recipient of the certificate of need shall be a condition
1362 of the issuance of the certificate of need under this paragraph,
1363 and the agreement shall be fully binding on any subsequent owner
1364 of the psychiatric residential treatment facility if the ownership
1365 of the facility is transferred at any time after the issuance of
1366 the certificate of need. After this written agreement is
1367 executed, the Division of Medicaid and the State Department of
1368 Health shall not certify more than fifteen (15) of the beds in the
1369 psychiatric residential treatment facility for participation in



1370 the Medicaid program. If the psychiatric residential treatment
1371 facility violates the terms of the written agreement by admitting
1372 or keeping in the facility on a regular or continuing basis more
1373 than fifteen (15) patients who are participating in the Medicaid
1374 program, the State Department of Health shall revoke the license
1375 of the facility, at the time that the department determines, after
1376 a hearing complying with due process, that the facility has
1377 violated the condition upon which the certificate of need was
1378 issued, as provided in this paragraph and in the written
1379 agreement.

1380 (d) Of the total number of beds authorized under this
1381 subsection, the department may issue a certificate or certificates
1382 of need for the construction or expansion of psychiatric
1383 residential treatment facility beds or the conversion of other
1384 beds to psychiatric treatment facility beds, not to exceed thirty
1385 (30) psychiatric residential treatment facility beds, in either
1386 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1387 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1388 (e) Of the total number of beds authorized under this
1389 subsection (3) the department shall issue a certificate of need to
1390 a privately owned, nonprofit psychiatric residential treatment
1391 facility in Hinds County for an eight-bed expansion of the
1392 facility, provided that the facility agrees in writing that the
1393 facility shall give priority for the use of those eight (8) beds



1394 to Mississippi residents who are presently being treated in
1395 out-of-state facilities.

1396 (f) The department shall issue a certificate of need to
1397 a one-hundred-thirty-four-bed specialty hospital located on
1398 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1399 at 5900 Highway 39 North in Meridian (Lauderdale County),
1400 Mississippi, for the addition, construction or expansion of
1401 child/adolescent psychiatric residential treatment facility beds
1402 in Lauderdale County. As a condition of issuance of the
1403 certificate of need under this paragraph, the facility shall give
1404 priority in admissions to the child/adolescent psychiatric
1405 residential treatment facility beds authorized under this
1406 paragraph to patients who otherwise would require out-of-state
1407 placement. The Division of Medicaid, in conjunction with the
1408 Department of Human Services, shall furnish the facility a list of
1409 all out-of-state patients on a quarterly basis. Furthermore,
1410 notice shall also be provided to the parent, custodial parent or
1411 guardian of each out-of-state patient notifying them of the
1412 priority status granted by this paragraph. For purposes of this
1413 paragraph, the provisions of Section 41-7-193(1) requiring
1414 substantial compliance with the projection of need as reported in
1415 the current State Health Plan are waived. The total number of
1416 child/adolescent psychiatric residential treatment facility beds
1417 that may be authorized under the authority of this paragraph shall
1418 be sixty (60) beds. There shall be no prohibition or restrictions



1419 on participation in the Medicaid program (Section 43-13-101 et
1420 seq.) for the person receiving the certificate of need authorized
1421 under this paragraph or for the beds converted pursuant to the
1422 authority of that certificate of need.

1423 (4) (a) From and after July 1, 1993, the department shall
1424 not issue a certificate of need to any person for the new
1425 construction of any hospital, psychiatric hospital or chemical
1426 dependency hospital that will contain any child/adolescent
1427 psychiatric or child/adolescent chemical dependency beds, or for
1428 the conversion of any other health care facility to a hospital,
1429 psychiatric hospital or chemical dependency hospital that will
1430 contain any child/adolescent psychiatric or child/adolescent
1431 chemical dependency beds, or for the addition of any
1432 child/adolescent psychiatric or child/adolescent chemical
1433 dependency beds in any hospital, psychiatric hospital or chemical
1434 dependency hospital, or for the conversion of any beds of another
1435 category in any hospital, psychiatric hospital or chemical
1436 dependency hospital to child/adolescent psychiatric or
1437 child/adolescent chemical dependency beds, except as hereinafter
1438 authorized:

1439 (i) The department may issue certificates of need
1440 to any person for any purpose described in this subsection,
1441 provided that the hospital, psychiatric hospital or chemical
1442 dependency hospital does not participate in the Medicaid program
1443 (Section 43-13-101 et seq.) at the time of the application for the



1444 certificate of need and the owner of the hospital, psychiatric
1445 hospital or chemical dependency hospital agrees in writing that
1446 the hospital, psychiatric hospital or chemical dependency hospital
1447 will not at any time participate in the Medicaid program or admit
1448 or keep any patients who are participating in the Medicaid program
1449 in the hospital, psychiatric hospital or chemical dependency
1450 hospital. This written agreement by the recipient of the
1451 certificate of need shall be fully binding on any subsequent owner
1452 of the hospital, psychiatric hospital or chemical dependency
1453 hospital, if the ownership of the facility is transferred at any
1454 time after the issuance of the certificate of need. Agreement
1455 that the hospital, psychiatric hospital or chemical dependency
1456 hospital will not participate in the Medicaid program shall be a
1457 condition of the issuance of a certificate of need to any person
1458 under this subparagraph (i), and if such hospital, psychiatric
1459 hospital or chemical dependency hospital at any time after the
1460 issuance of the certificate of need, regardless of the ownership
1461 of the facility, participates in the Medicaid program or admits or
1462 keeps any patients in the hospital, psychiatric hospital or
1463 chemical dependency hospital who are participating in the Medicaid
1464 program, the State Department of Health shall revoke the
1465 certificate of need, if it is still outstanding, and shall deny or
1466 revoke the license of the hospital, psychiatric hospital or
1467 chemical dependency hospital, at the time that the department
1468 determines, after a hearing complying with due process, that the



1469 hospital, psychiatric hospital or chemical dependency hospital has
1470 failed to comply with any of the conditions upon which the
1471 certificate of need was issued, as provided in this subparagraph
1472 (i) and in the written agreement by the recipient of the
1473 certificate of need.

1474 (ii) The department may issue a certificate of
1475 need for the conversion of existing beds in a county hospital in
1476 Choctaw County from acute care beds to child/adolescent chemical
1477 dependency beds. For purposes of this subparagraph (ii), the
1478 provisions of Section 41-7-193(1) requiring substantial compliance
1479 with the projection of need as reported in the current State
1480 Health Plan are waived. The total number of beds that may be
1481 authorized under authority of this subparagraph shall not exceed
1482 twenty (20) beds. There shall be no prohibition or restrictions
1483 on participation in the Medicaid program (Section 43-13-101 et
1484 seq.) for the hospital receiving the certificate of need
1485 authorized under this subparagraph or for the beds converted
1486 pursuant to the authority of that certificate of need.

1487 (iii) The department may issue a certificate or
1488 certificates of need for the construction or expansion of
1489 child/adolescent psychiatric beds or the conversion of other beds
1490 to child/adolescent psychiatric beds in Warren County. For
1491 purposes of this subparagraph (iii), the provisions of Section
1492 41-7-193(1) requiring substantial compliance with the projection
1493 of need as reported in the current State Health Plan are waived.



1494 The total number of beds that may be authorized under the
1495 authority of this subparagraph shall not exceed twenty (20) beds.
1496 There shall be no prohibition or restrictions on participation in
1497 the Medicaid program (Section 43-13-101 et seq.) for the person
1498 receiving the certificate of need authorized under this
1499 subparagraph or for the beds converted pursuant to the authority
1500 of that certificate of need.

1501 If by January 1, 2002, there has been no significant
1502 commencement of construction of the beds authorized under this
1503 subparagraph (iii), or no significant action taken to convert
1504 existing beds to the beds authorized under this subparagraph, then
1505 the certificate of need that was previously issued under this
1506 subparagraph shall expire. If the previously issued certificate
1507 of need expires, the department may accept applications for
1508 issuance of another certificate of need for the beds authorized
1509 under this subparagraph, and may issue a certificate of need to
1510 authorize the construction, expansion or conversion of the beds
1511 authorized under this subparagraph.

1512 (iv) The department shall issue a certificate of
1513 need to the Region 7 Mental Health/Retardation Commission for the
1514 construction or expansion of child/adolescent psychiatric beds or
1515 the conversion of other beds to child/adolescent psychiatric beds
1516 in any of the counties served by the commission. For purposes of
1517 this subparagraph (iv), the provisions of Section 41-7-193(1)
1518 requiring substantial compliance with the projection of need as



1519 reported in the current State Health Plan are waived. The total
1520 number of beds that may be authorized under the authority of this
1521 subparagraph shall not exceed twenty (20) beds. There shall be no
1522 prohibition or restrictions on participation in the Medicaid
1523 program (Section 43-13-101 et seq.) for the person receiving the
1524 certificate of need authorized under this subparagraph or for the
1525 beds converted pursuant to the authority of that certificate of
1526 need.

1527 (v) The department may issue a certificate of need
1528 to any county hospital located in Leflore County for the
1529 construction or expansion of adult psychiatric beds or the
1530 conversion of other beds to adult psychiatric beds, not to exceed
1531 twenty (20) beds, provided that the recipient of the certificate
1532 of need agrees in writing that the adult psychiatric beds will not
1533 at any time be certified for participation in the Medicaid program
1534 and that the hospital will not admit or keep any patients who are
1535 participating in the Medicaid program in any of such adult
1536 psychiatric beds. This written agreement by the recipient of the
1537 certificate of need shall be fully binding on any subsequent owner
1538 of the hospital if the ownership of the hospital is transferred at
1539 any time after the issuance of the certificate of need. Agreement
1540 that the adult psychiatric beds will not be certified for
1541 participation in the Medicaid program shall be a condition of the
1542 issuance of a certificate of need to any person under this
1543 subparagraph (v), and if such hospital at any time after the



1544 issuance of the certificate of need, regardless of the ownership
1545 of the hospital, has any of such adult psychiatric beds certified
1546 for participation in the Medicaid program or admits or keeps any
1547 Medicaid patients in such adult psychiatric beds, the State
1548 Department of Health shall revoke the certificate of need, if it
1549 is still outstanding, and shall deny or revoke the license of the
1550 hospital at the time that the department determines, after a
1551 hearing complying with due process, that the hospital has failed
1552 to comply with any of the conditions upon which the certificate of
1553 need was issued, as provided in this subparagraph and in the
1554 written agreement by the recipient of the certificate of need.

1555 (vi) The department may issue a certificate or
1556 certificates of need for the expansion of child psychiatric beds
1557 or the conversion of other beds to child psychiatric beds at the
1558 University of Mississippi Medical Center. For purposes of this
1559 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1560 substantial compliance with the projection of need as reported in
1561 the current State Health Plan are waived. The total number of
1562 beds that may be authorized under the authority of this
1563 subparagraph shall not exceed fifteen (15) beds. There shall be
1564 no prohibition or restrictions on participation in the Medicaid
1565 program (Section 43-13-101 et seq.) for the hospital receiving the
1566 certificate of need authorized under this subparagraph or for the
1567 beds converted pursuant to the authority of that certificate of
1568 need.



1569 (b) From and after July 1, 1990, no hospital,
1570 psychiatric hospital or chemical dependency hospital shall be
1571 authorized to add any child/adolescent psychiatric or
1572 child/adolescent chemical dependency beds or convert any beds of
1573 another category to child/adolescent psychiatric or
1574 child/adolescent chemical dependency beds without a certificate of
1575 need under the authority of subsection (1)(c) of this section.

1576 (5) The department may issue a certificate of need to a
1577 county hospital in Winston County for the conversion of fifteen
1578 (15) acute care beds to geriatric psychiatric care beds.

1579 (6) The State Department of Health shall issue a certificate
1580 of need to a Mississippi corporation qualified to manage a
1581 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1582 Harrison County, not to exceed eighty (80) beds, including any
1583 necessary renovation or construction required for licensure and
1584 certification, provided that the recipient of the certificate of
1585 need agrees in writing that the long-term care hospital will not
1586 at any time participate in the Medicaid program (Section 43-13-101
1587 et seq.) or admit or keep any patients in the long-term care
1588 hospital who are participating in the Medicaid program. This
1589 written agreement by the recipient of the certificate of need
1590 shall be fully binding on any subsequent owner of the long-term
1591 care hospital, if the ownership of the facility is transferred at
1592 any time after the issuance of the certificate of need. Agreement
1593 that the long-term care hospital will not participate in the



1594 Medicaid program shall be a condition of the issuance of a
1595 certificate of need to any person under this subsection (6), and
1596 if such long-term care hospital at any time after the issuance of
1597 the certificate of need, regardless of the ownership of the
1598 facility, participates in the Medicaid program or admits or keeps
1599 any patients in the facility who are participating in the Medicaid
1600 program, the State Department of Health shall revoke the
1601 certificate of need, if it is still outstanding, and shall deny or
1602 revoke the license of the long-term care hospital, at the time
1603 that the department determines, after a hearing complying with due
1604 process, that the facility has failed to comply with any of the
1605 conditions upon which the certificate of need was issued, as
1606 provided in this subsection and in the written agreement by the
1607 recipient of the certificate of need. For purposes of this
1608 subsection, the provisions of Section 41-7-193(1) requiring
1609 substantial compliance with the projection of need as reported in
1610 the current State Health Plan are waived.

1611 (7) The State Department of Health may issue a certificate
1612 of need to any hospital in the state to utilize a portion of its
1613 beds for the "swing-bed" concept. Any such hospital must be in
1614 conformance with the federal regulations regarding such swing-bed
1615 concept at the time it submits its application for a certificate
1616 of need to the State Department of Health, except that such
1617 hospital may have more licensed beds or a higher average daily
1618 census (ADC) than the maximum number specified in federal



1619 regulations for participation in the swing-bed program. Any
1620 hospital meeting all federal requirements for participation in the
1621 swing-bed program which receives such certificate of need shall
1622 render services provided under the swing-bed concept to any
1623 patient eligible for Medicare (Title XVIII of the Social Security
1624 Act) who is certified by a physician to be in need of such
1625 services, and no such hospital shall permit any patient who is
1626 eligible for both Medicaid and Medicare or eligible only for
1627 Medicaid to stay in the swing beds of the hospital for more than
1628 thirty (30) days per admission unless the hospital receives prior
1629 approval for such patient from the Division of Medicaid, Office of
1630 the Governor. Any hospital having more licensed beds or a higher
1631 average daily census (ADC) than the maximum number specified in
1632 federal regulations for participation in the swing-bed program
1633 which receives such certificate of need shall develop a procedure
1634 to insure that before a patient is allowed to stay in the swing
1635 beds of the hospital, there are no vacant nursing home beds
1636 available for that patient located within a fifty-mile radius of
1637 the hospital. When any such hospital has a patient staying in the
1638 swing beds of the hospital and the hospital receives notice from a
1639 nursing home located within such radius that there is a vacant bed
1640 available for that patient, the hospital shall transfer the
1641 patient to the nursing home within a reasonable time after receipt
1642 of the notice. Any hospital which is subject to the requirements
1643 of the two (2) preceding sentences of this subsection may be



1644 suspended from participation in the swing-bed program for a
1645 reasonable period of time by the State Department of Health if the
1646 department, after a hearing complying with due process, determines
1647 that the hospital has failed to comply with any of those
1648 requirements.

1649 (8) The Department of Health shall not grant approval for or
1650 issue a certificate of need to any person proposing the new
1651 construction of, addition to or expansion of a health care
1652 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1653 except as hereinafter provided: The department may issue a
1654 certificate of need to a nonprofit corporation located in Madison
1655 County, Mississippi, for the construction, expansion or conversion
1656 of not more than twenty (20) beds in a community living program
1657 for developmentally disabled adults in a facility as defined in
1658 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1659 subsection (8), the provisions of Section 41-7-193(1) requiring
1660 substantial compliance with the projection of need as reported in
1661 the current State Health Plan and the provisions of Section
1662 41-7-197 requiring a formal certificate of need hearing process
1663 are waived. There shall be no prohibition or restrictions on
1664 participation in the Medicaid program for the person receiving the
1665 certificate of need authorized under this subsection (8).

1666 (9) The Department of Health shall not grant approval for or
1667 issue a certificate of need to any person proposing the
1668 establishment of, or expansion of the currently approved territory



1669 of, or the contracting to establish a home office, subunit or
1670 branch office within the space operated as a health care facility
1671 as defined in Section 41-7-173(h) (i) through (viii) by a health
1672 care facility as defined in subparagraph (ix) of Section
1673 41-7-173(h) .

1674 (10) Health care facilities owned and/or operated by the
1675 state or its agencies are exempt from the restraints in this
1676 section against issuance of a certificate of need if such addition
1677 or expansion consists of repairing or renovation necessary to
1678 comply with the state licensure law. This exception shall not
1679 apply to the new construction of any building by such state
1680 facility. This exception shall not apply to any health care
1681 facilities owned and/or operated by counties, municipalities,
1682 districts, unincorporated areas, other defined persons, or any
1683 combination thereof.

1684 (11) The new construction, renovation or expansion of or
1685 addition to any health care facility defined in subparagraph (ii)
1686 (psychiatric hospital), subparagraph (iv) (skilled nursing
1687 facility), subparagraph (vi) (intermediate care facility),
1688 subparagraph (viii) (intermediate care facility for the mentally
1689 retarded) and subparagraph (x) (psychiatric residential treatment
1690 facility) of Section 41-7-173(h) which is owned by the State of
1691 Mississippi and under the direction and control of the State
1692 Department of Mental Health, and the addition of new beds or the
1693 conversion of beds from one category to another in any such



1694 defined health care facility which is owned by the State of
1695 Mississippi and under the direction and control of the State
1696 Department of Mental Health, shall not require the issuance of a
1697 certificate of need under Section 41-7-171 et seq.,
1698 notwithstanding any provision in Section 41-7-171 et seq. to the
1699 contrary.

1700 (12) The new construction, renovation or expansion of or
1701 addition to any veterans homes or domiciliaries for eligible
1702 veterans of the State of Mississippi as authorized under Section
1703 35-1-19 shall not require the issuance of a certificate of need,
1704 notwithstanding any provision in Section 41-7-171 et seq. to the
1705 contrary.

1706 (13) The repair or the rebuilding of an existing, operating
1707 health care facility that sustained significant damage from a
1708 natural disaster that occurred after April 15, 2014, in an area
1709 that is proclaimed a disaster area or subject to a state of
1710 emergency by the Governor or by the President of the United States
1711 shall be exempt from all of the requirements of the Mississippi
1712 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1713 rules and regulations promulgated under that law, subject to the
1714 following conditions:

1715 (a) The repair or the rebuilding of any such damaged
1716 health care facility must be within one (1) mile of the
1717 pre-disaster location of the campus of the damaged health care
1718 facility, except that any temporary post-disaster health care



1719 facility operating location may be within five (5) miles of the
1720 pre-disaster location of the damaged health care facility;

1721 (b) The repair or the rebuilding of the damaged health
1722 care facility (i) does not increase or change the complement of
1723 its bed capacity that it had before the Governor's or the
1724 President's proclamation, (ii) does not increase or change its
1725 levels and types of health care services that it provided before
1726 the Governor's or the President's proclamation, and (iii) does not
1727 rebuild in a different county; however, this paragraph does not
1728 restrict or prevent a health care facility from decreasing its bed
1729 capacity that it had before the Governor's or the President's
1730 proclamation, or from decreasing the levels of or decreasing or
1731 eliminating the types of health care services that it provided
1732 before the Governor's or the President's proclamation, when the
1733 damaged health care facility is repaired or rebuilt;

1734 (c) The exemption from Certificate of Need Law provided
1735 under this subsection (13) is valid for only five (5) years from
1736 the date of the Governor's or the President's proclamation. If
1737 actual construction has not begun within that five-year period,
1738 the exemption provided under this subsection is inapplicable; and

1739 (d) The Division of Health Facilities Licensure and
1740 Certification of the State Department of Health shall provide the
1741 same oversight for the repair or the rebuilding of the damaged
1742 health care facility that it provides to all health care facility
1743 construction projects in the state.



1744 For the purposes of this subsection (13), "significant
1745 damage" to a health care facility means damage to the health care
1746 facility requiring an expenditure of at least One Million Dollars
1747 (\$1,000,000.00).

1748 (14) The State Department of Health shall issue a
1749 certificate of need to any hospital which is currently licensed
1750 for two hundred fifty (250) or more acute care beds and is located
1751 in any general hospital service area not having a comprehensive
1752 cancer center, for the establishment and equipping of such a
1753 center which provides facilities and services for outpatient
1754 radiation oncology therapy, outpatient medical oncology therapy,
1755 and appropriate support services including the provision of
1756 radiation therapy services. The provisions of Section 41-7-193(1)
1757 regarding substantial compliance with the projection of need as
1758 reported in the current State Health Plan are waived for the
1759 purpose of this subsection.

1760 (15) The State Department of Health may authorize the
1761 transfer of hospital beds, not to exceed sixty (60) beds, from the
1762 North Panola Community Hospital to the South Panola Community
1763 Hospital. The authorization for the transfer of those beds shall
1764 be exempt from the certificate of need review process.

1765 (16) The State Department of Health shall issue any
1766 certificates of need necessary for Mississippi State University
1767 and a public or private health care provider to jointly acquire
1768 and operate a linear accelerator and a magnetic resonance imaging



1769 unit. Those certificates of need shall cover all capital
1770 expenditures related to the project between Mississippi State
1771 University and the health care provider, including, but not
1772 limited to, the acquisition of the linear accelerator, the
1773 magnetic resonance imaging unit and other radiological modalities;
1774 the offering of linear accelerator and magnetic resonance imaging
1775 services; and the cost of construction of facilities in which to
1776 locate these services. The linear accelerator and the magnetic
1777 resonance imaging unit shall be (a) located in the City of
1778 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1779 Mississippi State University and the public or private health care
1780 provider selected by Mississippi State University through a
1781 request for proposals (RFP) process in which Mississippi State
1782 University selects, and the Board of Trustees of State
1783 Institutions of Higher Learning approves, the health care provider
1784 that makes the best overall proposal; (c) available to Mississippi
1785 State University for research purposes two-thirds (2/3) of the
1786 time that the linear accelerator and magnetic resonance imaging
1787 unit are operational; and (d) available to the public or private
1788 health care provider selected by Mississippi State University and
1789 approved by the Board of Trustees of State Institutions of Higher
1790 Learning one-third (1/3) of the time for clinical, diagnostic and
1791 treatment purposes. For purposes of this subsection, the
1792 provisions of Section 41-7-193(1) requiring substantial compliance



1793 with the projection of need as reported in the current State
1794 Health Plan are waived.

1795 (17) The State Department of Health shall issue a
1796 certificate of need for the construction of an acute care hospital
1797 in Kemper County, not to exceed twenty-five (25) beds, which shall
1798 be named the "John C. Stennis Memorial Hospital." In issuing the
1799 certificate of need under this subsection, the department shall
1800 give priority to a hospital located in Lauderdale County that has
1801 two hundred fifteen (215) beds. For purposes of this subsection,
1802 the provisions of Section 41-7-193(1) requiring substantial
1803 compliance with the projection of need as reported in the current
1804 State Health Plan and the provisions of Section 41-7-197 requiring
1805 a formal certificate of need hearing process are waived. There
1806 shall be no prohibition or restrictions on participation in the
1807 Medicaid program (Section 43-13-101 et seq.) for the person or
1808 entity receiving the certificate of need authorized under this
1809 subsection or for the beds constructed under the authority of that
1810 certificate of need.

1811 (18) The planning, design, construction, renovation,
1812 addition, furnishing and equipping of a clinical research unit at
1813 any health care facility defined in Section 41-7-173(h) that is
1814 under the direction and control of the University of Mississippi
1815 Medical Center and located in Jackson, Mississippi, and the
1816 addition of new beds or the conversion of beds from one (1)
1817 category to another in any such clinical research unit, shall not



1818 require the issuance of a certificate of need under Section
1819 41-7-171 et seq., notwithstanding any provision in Section
1820 41-7-171 et seq. to the contrary.

1821 (19) [Repealed]

1822 (20) Nothing in this section or in any other provision of
1823 Section 41-7-171 et seq. shall prevent any nursing facility from
1824 designating an appropriate number of existing beds in the facility
1825 as beds for providing care exclusively to patients with
1826 Alzheimer's disease.

1827 (21) Nothing in this section or any other provision of
1828 Section 41-7-171 et seq. shall prevent any health care facility
1829 from the new construction, renovation, conversion or expansion of
1830 new beds in the facility designated as intensive care units,
1831 negative pressure rooms, or isolation rooms pursuant to the
1832 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1833 this subsection, the provisions of Section 41-7-193(1) requiring
1834 substantial compliance with the projection of need as reported in
1835 the current State Health Plan and the provisions of Section
1836 41-7-197 requiring a formal certificate of need hearing process
1837 are waived.

1838 (22) The Department of Health may issue a certificate of
1839 need for the construction or conversion and operation of a Special
1840 Care Facility for Paroled Inmates which is licensed by the State
1841 Department of Health and is under contract with the Mississippi
1842 Department of Corrections and the State Parole Board to provide



1843 services for medically frail inmates which are placed in such
1844 facility pursuant to the specific authority and conditions of this
1845 act.

1846 **SECTION 7.** This act shall take effect and be in force from
1847 and after May 1, 2021, and shall stand repealed on April 29, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 43-11-1 AND 43-11-13, MISSISSIPPI
2 CODE OF 1972, TO DEFINE THE TERM "SPECIAL CARE FACILITY FOR
3 PAROLED INMATES" AND PRESCRIBE CONDITIONS FOR LICENSURE BY THE
4 STATE DEPARTMENT OF HEALTH; TO AMEND SECTIONS 47-5-28 AND 47-7-4,
5 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT
6 OF CORRECTIONS TO ESTABLISH A PROGRAM TO GRANT MEDICAL PAROLE TO
7 SUCH SPECIAL CARE FACILITY FOR MEDICALLY FRAIL INMATES AND TO
8 ESTABLISH ELIGIBILITY REQUIREMENTS FOR SUCH PAROLE; TO CODIFY
9 SECTION 43-13-117.6, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND
10 DIRECT THE DIVISION OF MEDICAID TO APPLY FOR NECESSARY WAIVERS FOR
11 MEDICAID REIMBURSEMENT FOR SERVICES PROVIDED AT SUCH SPECIAL CARE
12 FACILITY FOR PAROLED INMATES; TO AMEND SECTION 41-7-191,
13 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF
14 HEALTH TO ISSUE A HEALTH CARE CERTIFICATE OF NEED FOR THE
15 CONSTRUCTION, CONVERSION AND OPERATION OF A SPECIAL CARE FACILITY
16 FOR PAROLED INMATES; AND FOR RELATED PURPOSES.

