

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1174

BY: Committee

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

28 SECTION 1. The Department of Corrections is authorized to
29 provide for hospice care services for inmates who are confined in
30 facilities under the jurisdiction of the department and who are
31 terminally ill as defined in Section 41-85-3. The department may
32 have those hospice care services provided by properly qualified
33 employees of the department or may contract for the providing of
34 the hospice care services. If the department provides the hospice
35 care services with department employees, the department is not
36 required to have a license under the Mississippi Hospice Law.



37 **SECTION 2.** Section 41-85-5, Mississippi Code of 1972, is
38 amended as follows:

39 41-85-5. (1) It is unlawful for a person to operate or
40 maintain a hospice, use the title "hospice," or represent that the
41 person provides a hospice program of care, without first obtaining
42 a license therefor from the department.

43 (2) The license shall be displayed in a conspicuous place
44 inside the hospice program office; shall be valid only in the
45 possession of the person to which it is issued; shall not be
46 subject to sale, assignment or other transfer, voluntary or
47 involuntary; and shall not be valid for any hospice other than the
48 hospice for which originally issued.

49 (3) Services provided by a hospital, nursing home or other
50 health care facility or health care provider shall not be
51 considered to constitute a hospice program of care unless such
52 facility, provider or care giver establishes a freestanding or
53 distinct hospice unit, staff, facility and services to provide
54 hospice home care, homelike inpatient hospice care, or outpatient
55 hospice care under the separate and distinct administrative
56 authority of a hospice program.

57 (4) A license for a hospice program shall not be issued if
58 the hospice is to be located in an area in violation of any local
59 zoning ordinances or regulations.

60 (5) The Department of Corrections may provide hospice care
61 services to inmates confined in facilities under the jurisdiction



62 of the department as authorized under Section 1 of this act
63 without a license issued under this chapter.

64 **SECTION 3.** Section 43-11-1, Mississippi Code of 1972, is
65 amended as follows:

66 43-11-1. When used in this chapter, the following words
67 shall have the following meaning:

68 (a) "Institutions for the aged or infirm" means a place
69 either governmental or private that provides group living
70 arrangements for four (4) or more persons who are unrelated to the
71 operator and who are being provided food, shelter and personal
72 care, whether any such place is organized or operated for profit
73 or not. The term "institution for the aged or infirm" includes
74 nursing homes, pediatric skilled nursing facilities, psychiatric
75 residential treatment facilities, convalescent homes, homes for
76 the aged * * *, adult foster care facilities * * * and special
77 care facilities for paroled inmates, provided that these
78 institutions fall within the scope of the definitions set forth
79 above. The term "institution for the aged or infirm" does not
80 include hospitals, clinics or mental institutions devoted
81 primarily to providing medical service, and does not include any
82 private residence in which the owner of the residence is providing
83 personal care services to disabled or homeless veterans under an
84 agreement with, and in compliance with the standards prescribed
85 by, the United States Department of Veterans Affairs, if the owner



86 of the residence also provided personal care services to disabled
87 or homeless veterans at any time during calendar year 2008.

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

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

96 (d) "Psychiatric residential treatment facility" means
97 any nonhospital establishment with permanent facilities which
98 provides a twenty-four-hour program of care by qualified
99 therapists, including, but not limited to, duly licensed mental
100 health professionals, psychiatrists, psychologists,
101 psychotherapists and licensed certified social workers, for
102 emotionally disturbed children and adolescents referred to such
103 facility by a court, local school district or by the Department of
104 Human Services, who are not in an acute phase of illness requiring
105 the services of a psychiatric hospital, and are in need of such
106 restorative treatment services. For purposes of this paragraph,
107 the term "emotionally disturbed" means a condition exhibiting one
108 or more of the following characteristics over a long period of
109 time and to a marked degree, which adversely affects educational
110 performance:



- 111 1. An inability to learn which cannot be explained
112 by intellectual, sensory or health factors;
- 113 2. An inability to build or maintain satisfactory
114 relationships with peers and teachers;
- 115 3. Inappropriate types of behavior or feelings
116 under normal circumstances;
- 117 4. A general pervasive mood of unhappiness or
118 depression; or
- 119 5. A tendency to develop physical symptoms or
120 fears associated with personal or school problems. An
121 establishment furnishing primarily domiciliary care is not within
122 this definition.

123 (e) "Pediatric skilled nursing facility" means an
124 institution or a distinct part of an institution that is primarily
125 engaged in providing to inpatients skilled nursing care and
126 related services for persons under twenty-one (21) years of age
127 who require medical or nursing care or rehabilitation services for
128 the rehabilitation of injured, disabled or sick persons.

129 (f) "Licensing agency" means the State Department of
130 Health.

131 (g) "Medical records" mean, without restriction, those
132 medical histories, records, reports, summaries, diagnoses and
133 prognoses, records of treatment and medication ordered and given,
134 notes, entries, x-rays and other written or graphic data prepared,
135 kept, made or maintained in institutions for the aged or infirm



136 that pertain to residency in, or services rendered to residents
137 of, an institution for the aged or infirm.

138 (h) "Adult foster care facility" means a home setting
139 for vulnerable adults in the community who are unable to live
140 independently due to physical, emotional, developmental or mental
141 impairments, or in need of emergency and continuing protective
142 social services for purposes of preventing further abuse or
143 neglect and for safeguarding and enhancing the welfare of the
144 abused or neglected vulnerable adult. Adult foster care programs
145 shall be designed to meet the needs of vulnerable adults with
146 impairments through individual plans of care, which provide a
147 variety of health, social and related support services in a
148 protective setting, enabling participants to live in the
149 community. Adult foster care programs may be (i) traditional,
150 where the foster care provider lives in the residence and is the
151 primary caregiver to clients in the home; (ii) corporate, where
152 the foster care home is operated by a corporation with shift staff
153 delivering services to clients; or (iii) shelter, where the foster
154 care home accepts clients on an emergency short-term basis for up
155 to thirty (30) days.

156 (i) "Special Care Facility for Paroled Inmates" means a
157 long-term care and skilled nursing facility licensed as a special
158 care facility for medically frail paroled inmates, formed to ease
159 the burden of prison overcrowding and provide compassionate
160 release and medical parole initiatives while impacting economic



161 outcomes for the Mississippi Prison System. The facility shall
162 meet all Mississippi Department of Health and federal Center for
163 Medicaid Services (CMS) requirements and shall be regulated by
164 both agencies. The facility will offer Physical, Occupational and
165 Speech Therapy, Nursing Services, Wound Care, a dedicated COVID
166 Services Unit, Individualized Patient Centered Plans of Care,
167 Social Services, Spiritual Services, Physical Activities,
168 Transportation, Medication, Durable Medical Equipment,
169 Personalized Meal Plans by a Licensed Dietician and Security
170 Services. The facility shall have not less than sixty (60) beds
171 nor more than one hundred (100) beds.

172 **SECTION 4.** Section 43-11-13, Mississippi Code of 1972, is
173 amended as follows:

174 43-11-13. (1) The licensing agency shall adopt, amend,
175 promulgate and enforce such rules, regulations and standards,
176 including classifications, with respect to all institutions for
177 the aged or infirm to be licensed under this chapter as may be
178 designed to further the accomplishment of the purpose of this
179 chapter in promoting adequate care of individuals in those
180 institutions in the interest of public health, safety and welfare.
181 Those rules, regulations and standards shall be adopted and
182 promulgated by the licensing agency and shall be recorded and
183 indexed in a book to be maintained by the licensing agency in its
184 main office in the State of Mississippi, entitled "Rules,
185 Regulations and Minimum Standards for Institutions for the Aged or



186 Infirm" and the book shall be open and available to all
187 institutions for the aged or infirm and the public generally at
188 all reasonable times. Upon the adoption of those rules,
189 regulations and standards, the licensing agency shall mail copies
190 thereof to all those institutions in the state that have filed
191 with the agency their names and addresses for this purpose, but
192 the failure to mail the same or the failure of the institutions to
193 receive the same shall in no way affect the validity thereof. The
194 rules, regulations and standards may be amended by the licensing
195 agency, from time to time, as necessary to promote the health,
196 safety and welfare of persons living in those institutions.

197 (2) The licensee shall keep posted in a conspicuous place on
198 the licensed premises all current rules, regulations and minimum
199 standards applicable to fire protection measures as adopted by the
200 licensing agency. The licensee shall furnish to the licensing
201 agency at least once each six (6) months a certificate of approval
202 and inspection by state or local fire authorities. Failure to
203 comply with state laws and/or municipal ordinances and current
204 rules, regulations and minimum standards as adopted by the
205 licensing agency, relative to fire prevention measures, shall be
206 prima facie evidence for revocation of license.

207 (3) The State Board of Health shall promulgate rules and
208 regulations restricting the storage, quantity and classes of drugs
209 allowed in personal care homes and adult foster care facilities.
210 Residents requiring administration of Schedule II Narcotics as



211 defined in the Uniform Controlled Substances Law may be admitted
212 to a personal care home. Schedule drugs may only be allowed in a
213 personal care home if they are administered or stored utilizing
214 proper procedures under the direct supervision of a licensed
215 physician or nurse.

216 (4) (a) Notwithstanding any determination by the licensing
217 agency that skilled nursing services would be appropriate for a
218 resident of a personal care home, that resident, the resident's
219 guardian or the legally recognized responsible party for the
220 resident may consent in writing for the resident to continue to
221 reside in the personal care home, if approved in writing by a
222 licensed physician. However, no personal care home shall allow
223 more than two (2) residents, or ten percent (10%) of the total
224 number of residents in the facility, whichever is greater, to
225 remain in the personal care home under the provisions of this
226 subsection (4). This consent shall be deemed to be appropriately
227 informed consent as described in the regulations promulgated by
228 the licensing agency. After that written consent has been
229 obtained, the resident shall have the right to continue to reside
230 in the personal care home for as long as the resident meets the
231 other conditions for residing in the personal care home. A copy
232 of the written consent and the physician's approval shall be
233 forwarded by the personal care home to the licensing agency.

234 (b) The State Board of Health shall promulgate rules
235 and regulations restricting the handling of a resident's personal



236 deposits by the director of a personal care home. Any funds given
237 or provided for the purpose of supplying extra comforts,
238 conveniences or services to any resident in any personal care
239 home, and any funds otherwise received and held from, for or on
240 behalf of any such resident, shall be deposited by the director or
241 other proper officer of the personal care home to the credit of
242 that resident in an account that shall be known as the Resident's
243 Personal Deposit Fund. No more than one (1) month's charge for
244 the care, support, maintenance and medical attention of the
245 resident shall be applied from the account at any one time. After
246 the death, discharge or transfer of any resident for whose benefit
247 any such fund has been provided, any unexpended balance remaining
248 in his personal deposit fund shall be applied for the payment of
249 care, cost of support, maintenance and medical attention that is
250 accrued. If any unexpended balance remains in that resident's
251 personal deposit fund after complete reimbursement has been made
252 for payment of care, support, maintenance and medical attention,
253 and the director or other proper officer of the personal care home
254 has been or shall be unable to locate the person or persons
255 entitled to the unexpended balance, the director or other proper
256 officer may, after the lapse of one (1) year from the date of that
257 death, discharge or transfer, deposit the unexpended balance to
258 the credit of the personal care home's operating fund.

259 (c) The State Board of Health shall promulgate rules
260 and regulations requiring personal care homes to maintain records



261 relating to health condition, medicine dispensed and administered,
262 and any reaction to that medicine. The director of the personal
263 care home shall be responsible for explaining the availability of
264 those records to the family of the resident at any time upon
265 reasonable request.

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

269 (* * *6) (a) For the purposes of this subsection
270 (* * *6):

271 (i) "Licensed entity" means a hospital, nursing
272 home, personal care home, home health agency, hospice or adult
273 foster care facility;

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

276 (iii) "Employee" means any individual employed by
277 a covered entity, and also includes any individual who by contract
278 provides to the patients, residents or clients being served by the
279 covered entity direct, hands-on, medical patient care in a
280 patient's, resident's or client's room or in treatment or recovery
281 rooms. The term "employee" does not include health care
282 professional/vocational technical students performing clinical
283 training in a licensed entity under contracts between their
284 schools and the licensed entity, and does not include students at
285 high schools located in Mississippi who observe the treatment and



286 care of patients in a licensed entity as part of the requirements
287 of an allied-health course taught in the high school, if:

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

290 2. The student has signed an affidavit that
291 is on file at the student's school stating that he or she has not
292 been convicted of or pleaded guilty or nolo contendere to a felony
293 listed in paragraph (d) of this subsection (* * *6), or that any
294 such conviction or plea was reversed on appeal or a pardon was
295 granted for the conviction or plea. Before any student may sign
296 such an affidavit, the student's school shall provide information
297 to the student explaining what a felony is and the nature of the
298 felonies listed in paragraph (d) of this subsection (* * *6).

299 However, the health care professional/vocational technical
300 academic program in which the student is enrolled may require the
301 student to obtain criminal history record checks. In such
302 incidences, paragraph (a)(iii)1 and 2 of this subsection (* * *6)
303 does not preclude the licensing entity from processing submitted
304 fingerprints of students from healthcare-related
305 professional/vocational technical programs who, as part of their
306 program of study, conduct observations and provide clinical care
307 and services in a covered entity.

308 (b) Under regulations promulgated by the State Board of
309 Health, the licensing agency shall require to be performed a
310 criminal history record check on (i) every new employee of a



311 covered entity who provides direct patient care or services and
312 who is employed on or after July 1, 2003, and (ii) every employee
313 of a covered entity employed before July 1, 2003, who has a
314 documented disciplinary action by his or her present employer. In
315 addition, the licensing agency shall require the covered entity to
316 perform a disciplinary check with the professional licensing
317 agency of each employee, if any, to determine if any disciplinary
318 action has been taken against the employee by that agency.

319 Except as otherwise provided in paragraph (c) of this
320 subsection (* * *6), no such employee hired on or after July 1,
321 2003, shall be permitted to provide direct patient care until the
322 results of the criminal history record check have revealed no
323 disqualifying record or the employee has been granted a waiver.
324 In order to determine the employee applicant's suitability for
325 employment, the applicant shall be fingerprinted. Fingerprints
326 shall be submitted to the licensing agency from scanning, with the
327 results processed through the Department of Public Safety's
328 Criminal Information Center. The fingerprints shall then be
329 forwarded by the Department of Public Safety to the Federal Bureau
330 of Investigation for a national criminal history record check.
331 The licensing agency shall notify the covered entity of the
332 results of an employee applicant's criminal history record check.
333 If the criminal history record check discloses a felony
334 conviction, guilty plea or plea of nolo contendere to a felony of
335 possession or sale of drugs, murder, manslaughter, armed robbery,



336 rape, sexual battery, sex offense listed in Section 45-33-23(h),
337 child abuse, arson, grand larceny, burglary, gratification of lust
338 or aggravated assault, or felonious abuse and/or battery of a
339 vulnerable adult that has not been reversed on appeal or for which
340 a pardon has not been granted, the employee applicant shall not be
341 eligible to be employed by the covered entity.

342 (c) Any such new employee applicant may, however, be
343 employed on a temporary basis pending the results of the criminal
344 history record check, but any employment contract with the new
345 employee shall be voidable if the new employee receives a
346 disqualifying criminal history record check and no waiver is
347 granted as provided in this subsection (* * *6).

348 (d) Under regulations promulgated by the State Board of
349 Health, the licensing agency shall require every employee of a
350 covered entity employed before July 1, 2003, to sign an affidavit
351 stating that he or she has not been convicted of or pleaded guilty
352 or nolo contendere to a felony of possession or sale of drugs,
353 murder, manslaughter, armed robbery, rape, sexual battery, any sex
354 offense listed in Section 45-33-23(h), child abuse, arson, grand
355 larceny, burglary, gratification of lust, aggravated assault, or
356 felonious abuse and/or battery of a vulnerable adult, or that any
357 such conviction or plea was reversed on appeal or a pardon was
358 granted for the conviction or plea. No such employee of a covered
359 entity hired before July 1, 2003, shall be permitted to provide
360 direct patient care until the employee has signed the affidavit



361 required by this paragraph (d). All such existing employees of
362 covered entities must sign the affidavit required by this
363 paragraph (d) within six (6) months of the final adoption of the
364 regulations promulgated by the State Board of Health. If a person
365 signs the affidavit required by this paragraph (d), and it is
366 later determined that the person actually had been convicted of or
367 pleaded guilty or nolo contendere to any of the offenses listed in
368 this paragraph (d) and the conviction or plea has not been
369 reversed on appeal or a pardon has not been granted for the
370 conviction or plea, the person is guilty of perjury. If the
371 offense that the person was convicted of or pleaded guilty or nolo
372 contendere to was a violent offense, the person, upon a conviction
373 of perjury under this paragraph, shall be punished as provided in
374 Section 97-9-61. If the offense that the person was convicted of
375 or pleaded guilty or nolo contendere to was a nonviolent offense,
376 the person, upon a conviction of perjury under this paragraph,
377 shall be punished by a fine of not more than Five Hundred Dollars
378 (\$500.00), or by imprisonment in the county jail for not more than
379 six (6) months, or by both such fine and imprisonment.

380 (e) The covered entity may, in its discretion, allow
381 any employee who is unable to sign the affidavit required by
382 paragraph (d) of this subsection (* * *6) or any employee
383 applicant aggrieved by an employment decision under this
384 subsection (* * *6) to appear before the covered entity's hiring
385 officer, or his or her designee, to show mitigating circumstances



386 that may exist and allow the employee or employee applicant to be
387 employed by the covered entity. The covered entity, upon report
388 and recommendation of the hiring officer, may grant waivers for
389 those mitigating circumstances, which shall include, but not be
390 limited to: (i) age at which the crime was committed; (ii)
391 circumstances surrounding the crime; (iii) length of time since
392 the conviction and criminal history since the conviction; (iv)
393 work history; (v) current employment and character references; and
394 (vi) other evidence demonstrating the ability of the individual to
395 perform the employment responsibilities competently and that the
396 individual does not pose a threat to the health or safety of the
397 patients of the covered entity.

398 (f) The licensing agency may charge the covered entity
399 submitting the fingerprints a fee not to exceed Fifty Dollars
400 (\$50.00), which covered entity may, in its discretion, charge the
401 same fee, or a portion thereof, to the employee applicant. Any
402 increase in the fee charged by the licensing agency under this
403 paragraph shall be in accordance with the provisions of Section
404 41-3-65. Any costs incurred by a covered entity implementing this
405 subsection (* * *6) shall be reimbursed as an allowable cost
406 under Section 43-13-116.

407 (g) If the results of an employee applicant's criminal
408 history record check reveals no disqualifying event, then the
409 covered entity shall, within two (2) weeks of the notification of
410 no disqualifying event, provide the employee applicant with a



411 notarized letter signed by the chief executive officer of the
412 covered entity, or his or her authorized designee, confirming the
413 employee applicant's suitability for employment based on his or
414 her criminal history record check. An employee applicant may use
415 that letter for a period of two (2) years from the date of the
416 letter to seek employment with any covered entity without the
417 necessity of an additional criminal history record check. Any
418 covered entity presented with the letter may rely on the letter
419 with respect to an employee applicant's criminal background and is
420 not required for a period of two (2) years from the date of the
421 letter to conduct or have conducted a criminal history record
422 check as required in this subsection (* * *6).

423 (h) The licensing agency, the covered entity, and their
424 agents, officers, employees, attorneys and representatives, shall
425 be presumed to be acting in good faith for any employment decision
426 or action taken under this subsection (* * *6). The presumption
427 of good faith may be overcome by a preponderance of the evidence
428 in any civil action. No licensing agency, covered entity, nor
429 their agents, officers, employees, attorneys and representatives
430 shall be held liable in any employment decision or action based in
431 whole or in part on compliance with or attempts to comply with the
432 requirements of this subsection (* * *6).

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



435 (j) The provisions of this subsection (* * *6) shall
436 not apply to:

437 (i) Applicants and employees of the University of
438 Mississippi Medical Center for whom criminal history record checks
439 and fingerprinting are obtained in accordance with Section
440 37-115-41; or

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

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

447 **SECTION 5.** Section 47-5-28, Mississippi Code of 1972, is
448 amended as follows:

449 47-5-28. The commissioner shall have the following powers
450 and duties:

451 (a) To implement and administer laws and policy
452 relating to corrections and coordinate the efforts of the
453 department with those of the federal government and other state
454 departments and agencies, county governments, municipal
455 governments, and private agencies concerned with providing
456 offender services;

457 (b) To establish standards, in cooperation with other
458 state agencies having responsibility as provided by law, provide
459 technical assistance, and exercise the requisite supervision as it



460 relates to correctional programs over all state-supported adult
461 correctional facilities and community-based programs;

462 (c) To promulgate and publish such rules, regulations
463 and policies of the department as are needed for the efficient
464 government and maintenance of all facilities and programs in
465 accord insofar as possible with currently accepted standards of
466 adult offender care and treatment;

467 (d) To provide the Parole Board with suitable and
468 sufficient office space and support resources and staff necessary
469 to * * * conduct Parole Board business under the guidance of the
470 Chairman of the Parole Board;

471 (e) To contract for transitional reentry center beds
472 that will be used as noncorrections housing for offenders released
473 from the department on parole, probation or post-release
474 supervision but do not have appropriate housing available upon
475 release. At least one hundred (100) but no more than eight
476 hundred (800) transitional reentry center beds contracted by the
477 department and chosen by the Parole Board shall be available for
478 the Parole Board to place parolees without appropriate housing;

479 (f) To designate deputy commissioners while performing
480 their officially assigned duties relating to the custody, control,
481 transportation, recapture or arrest of any offender within the
482 jurisdiction of the department or any offender of any jail,
483 penitentiary, public workhouse or overnight lockup of the state or
484 any political subdivision thereof not within the jurisdiction of



485 the department, to the status of peace officers anywhere in the
486 state in any matter relating to the custody, control,
487 transportation or recapture of such offender, and shall have the
488 status of law enforcement officers and peace officers as
489 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

490 For the purpose of administration and enforcement of this
491 chapter, deputy commissioners of the Mississippi Department of
492 Corrections, who are certified by the Mississippi Board on Law
493 Enforcement Officer Standards and Training, have the powers of a
494 law enforcement officer of this state. Such powers shall include
495 to make arrests and to serve and execute search warrants and other
496 valid legal process anywhere within the State of Mississippi while
497 performing their officially assigned duties relating to the
498 custody, control, transportation, recapture or arrest of any
499 offender within the jurisdiction of the department or any offender
500 of any jail, penitentiary, public workhouse or overnight lockup of
501 the state or any political subdivision thereof not within the
502 jurisdiction of the department in any matter relating to the
503 custody, control, transportation or recapture of such
504 offender * * *;

505 (g) To make an annual report to the Governor and the
506 Legislature reflecting the activities of the department and make
507 recommendations for improvement of the services to be performed by
508 the department;



509 (h) To cooperate fully with periodic independent
510 internal investigations of the department and to file the report
511 with the Governor and the Legislature;

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

517 (j) To contract with a licensed Special Care Facility
518 for Paroled Inmates to provide authorized medical services and
519 support services for medically frail inmates who have been paroled
520 and committed to the custody of such facility; and

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

524 **SECTION 6.** Section 47-7-4, Mississippi Code of 1972, is
525 amended as follows:

526 47-7-4. (1) The commissioner and the medical director of
527 the department may place an offender who has served not less than
528 one (1) year of his or her sentence, except an offender convicted
529 of a sex crime, on conditional medical release. However, a
530 nonviolent offender who is bedridden may be placed on conditional
531 medical release regardless of the time served on his or her
532 sentence. Upon the release of a nonviolent offender who is
533 bedridden, the state shall not be responsible or liable for any



534 medical costs that may be incurred if such costs are acquired
535 after the offender is no longer incarcerated due to his or her
536 placement on conditional medical release. The commissioner shall
537 not place an offender on conditional medical release unless the
538 medical director of the department certifies to the commissioner
539 that (a) the offender is suffering from a significant permanent
540 physical medical condition with no possibility of recovery; (b)
541 that his or her further incarceration will serve no rehabilitative
542 purposes; and (c) that the state would incur unreasonable expenses
543 as a result of his or her continued incarceration. Any offender
544 placed on conditional medical release shall be supervised by the
545 Division of Community Corrections of the department for the
546 remainder of his or her sentence. An offender's conditional
547 medical release may be revoked and the offender returned and
548 placed in actual custody of the department if the offender
549 violates an order or condition of his or her conditional medical
550 release. An offender who is no longer bedridden shall be returned
551 and placed in the actual custody of the department.

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

556 (b) For purposes of this subsection (2), the term
557 "medically frail" means an individual who is a minimal threat to
558 society as a result of his or her medical condition, whose ability



559 to perform activities of daily living is significantly impaired,
560 and who may have limited mobility as the result of one or more of
561 the following conditions from which the individual is not expected
562 to recover:

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

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

566 (iii) A physical disability.

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

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

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

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

575 (iv) If the prisoner is incapacitated, an
576 individual legally entitled to agree to the inmate's placement
577 agrees to the inmate's placement in a licensed Special Care
578 Facility for Paroled Inmates or in a medical facility where
579 medical care and treatment are determined to be appropriate for
580 the parolee by the State Parole Board;

581 (v) An inmate shall agree to the release of his or
582 her medical records that are directly relevant to the condition or
583 conditions rendering the inmate medically frail to the prosecutor



584 of the county from which the inmate was committed before the State
585 Parole Board determines whether or not to grant parole under this
586 subsection;

587 (vi) If the inmate is granted parole under this
588 subsection (2), the inmate shall agree to the quarterly release of
589 his or her medical records that are directly relevant to the
590 condition or conditions rendering the inmate medically frail at
591 the request of the prosecutor of the county from which the inmate
592 was committed;

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

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

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

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



608 (xi) A medical facility utilized by the department
609 to facilitate parole under this subsection (2) shall be operated
610 in a manner that ensures the safety of the residents of the
611 facility.

612 (d) The Mississippi Department of Corrections may enter
613 into contracts to facilitate the placement of paroled inmates
614 under this subsection (2). The Mississippi Department of
615 Corrections shall appoint a specialist in the appropriate field of
616 medicine, who is not employed by the department, to evaluate the
617 condition of the inmate considered for parole under this
618 subsection (2) and to report on that condition to the department
619 and the State Parole Board. The State Parole Board shall
620 determine whether the inmate is medically frail in consultation
621 with the Mississippi Department of Mental Health.

622 **SECTION 7.** The following shall be codified as Section
623 43-13-117.6, Mississippi Code of 1972:

624 43-13-117.6. (1) The Division of Medicaid shall apply to
625 the federal Center for Medicaid Services (CMS) for necessary
626 waivers to provide federal funding under the Medicaid program for
627 providing reimbursement for authorized services to medically frail
628 inmates who qualify for nursing home-level care and who the state
629 deems are not public safety risks, provided through a Special Care
630 Facility for Paroled Inmates licensed by the State Department of
631 Health under contract with the Mississippi Department of
632 Corrections, as specifically authorized under this act.



633 (2) The program for paroled inmates shall be funded from
634 monies that are appropriated or otherwise made available to the
635 division specifically to cover the cost of the paroled inmate
636 program and shall not be a part of the division's regular
637 appropriation for the operation of the federal-state Medicaid
638 program. This program shall be a separate program within the
639 Division of Medicaid as the administering agent.

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

642 41-7-191. (1) No person shall engage in any of the
643 following activities without obtaining the required certificate of
644 need:

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

649 (b) The relocation of a health care facility or portion
650 thereof, or major medical equipment, unless such relocation of a
651 health care facility or portion thereof, or major medical
652 equipment, which does not involve a capital expenditure by or on
653 behalf of a health care facility, is within five thousand two
654 hundred eighty (5,280) feet from the main entrance of the health
655 care facility;

656 (c) Any change in the existing bed complement of any
657 health care facility through the addition or conversion of any



658 beds or the alteration, modernizing or refurbishing of any unit or
659 department in which the beds may be located; however, if a health
660 care facility has voluntarily delicensed some of its existing bed
661 complement, it may later relicense some or all of its delicensed
662 beds without the necessity of having to acquire a certificate of
663 need. The State Department of Health shall maintain a record of
664 the delicensing health care facility and its voluntarily
665 delicensed beds and continue counting those beds as part of the
666 state's total bed count for health care planning purposes. If a
667 health care facility that has voluntarily delicensed some of its
668 beds later desires to relicense some or all of its voluntarily
669 delicensed beds, it shall notify the State Department of Health of
670 its intent to increase the number of its licensed beds. The State
671 Department of Health shall survey the health care facility within
672 thirty (30) days of that notice and, if appropriate, issue the
673 health care facility a new license reflecting the new contingent
674 of beds. However, in no event may a health care facility that has
675 voluntarily delicensed some of its beds be reissued a license to
676 operate beds in excess of its bed count before the voluntary
677 delicensure of some of its beds without seeking certificate of
678 need approval;

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



683 (i) Open-heart surgery services;
684 (ii) Cardiac catheterization services;
685 (iii) Comprehensive inpatient rehabilitation
686 services;
687 (iv) Licensed psychiatric services;
688 (v) Licensed chemical dependency services;
689 (vi) Radiation therapy services;
690 (vii) Diagnostic imaging services of an invasive
691 nature, i.e. invasive digital angiography;
692 (viii) Nursing home care as defined in
693 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
694 (ix) Home health services;
695 (x) Swing-bed services;
696 (xi) Ambulatory surgical services;
697 (xii) Magnetic resonance imaging services;
698 (xiii) [Deleted]
699 (xiv) Long-term care hospital services;
700 (xv) Positron emission tomography (PET) services;
701 (e) The relocation of one or more health services from
702 one physical facility or site to another physical facility or
703 site, unless such relocation, which does not involve a capital
704 expenditure by or on behalf of a health care facility, (i) is to a
705 physical facility or site within five thousand two hundred eighty
706 (5,280) feet from the main entrance of the health care facility
707 where the health care service is located, or (ii) is the result of



708 an order of a court of appropriate jurisdiction or a result of
709 pending litigation in such court, or by order of the State
710 Department of Health, or by order of any other agency or legal
711 entity of the state, the federal government, or any political
712 subdivision of either, whose order is also approved by the State
713 Department of Health;

714 (f) The acquisition or otherwise control of any major
715 medical equipment for the provision of medical services; however,
716 (i) the acquisition of any major medical equipment used only for
717 research purposes, and (ii) the acquisition of major medical
718 equipment to replace medical equipment for which a facility is
719 already providing medical services and for which the State
720 Department of Health has been notified before the date of such
721 acquisition shall be exempt from this paragraph; an acquisition
722 for less than fair market value must be reviewed, if the
723 acquisition at fair market value would be subject to review;

724 (g) Changes of ownership of existing health care
725 facilities in which a notice of intent is not filed with the State
726 Department of Health at least thirty (30) days prior to the date
727 such change of ownership occurs, or a change in services or bed
728 capacity as prescribed in paragraph (c) or (d) of this subsection
729 as a result of the change of ownership; an acquisition for less
730 than fair market value must be reviewed, if the acquisition at
731 fair market value would be subject to review;



732 (h) The change of ownership of any health care facility
733 defined in subparagraphs (iv), (vi) and (viii) of Section
734 41-7-173(h), in which a notice of intent as described in paragraph
735 (g) has not been filed and if the Executive Director, Division of
736 Medicaid, Office of the Governor, has not certified in writing
737 that there will be no increase in allowable costs to Medicaid from
738 revaluation of the assets or from increased interest and
739 depreciation as a result of the proposed change of ownership;

740 (i) Any activity described in paragraphs (a) through
741 (h) if undertaken by any person if that same activity would
742 require certificate of need approval if undertaken by a health
743 care facility;

744 (j) Any capital expenditure or deferred capital
745 expenditure by or on behalf of a health care facility not covered
746 by paragraphs (a) through (h);

747 (k) The contracting of a health care facility as
748 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
749 to establish a home office, subunit, or branch office in the space
750 operated as a health care facility through a formal arrangement
751 with an existing health care facility as defined in subparagraph
752 (ix) of Section 41-7-173(h);

753 (l) The replacement or relocation of a health care
754 facility designated as a critical access hospital shall be exempt
755 from subsection (1) of this section so long as the critical access



756 hospital complies with all applicable federal law and regulations
757 regarding such replacement or relocation;

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

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

769 (a) The department may issue a certificate of need to
770 any person proposing the new construction of any health care
771 facility defined in subparagraphs (iv) and (vi) of Section
772 41-7-173(h) as part of a life care retirement facility, in any
773 county bordering on the Gulf of Mexico in which is located a
774 National Aeronautics and Space Administration facility, not to
775 exceed forty (40) beds. From and after July 1, 1999, there shall
776 be no prohibition or restrictions on participation in the Medicaid
777 program (Section 43-13-101 et seq.) for the beds in the health
778 care facility that were authorized under this paragraph (a).

779 (b) The department may issue certificates of need in
780 Harrison County to provide skilled nursing home care for



781 Alzheimer's disease patients and other patients, not to exceed one
782 hundred fifty (150) beds. From and after July 1, 1999, there
783 shall be no prohibition or restrictions on participation in the
784 Medicaid program (Section 43-13-101 et seq.) for the beds in the
785 nursing facilities that were authorized under this paragraph (b).

786 (c) The department may issue a certificate of need for
787 the addition to or expansion of any skilled nursing facility that
788 is part of an existing continuing care retirement community
789 located in Madison County, provided that the recipient of the
790 certificate of need agrees in writing that the skilled nursing
791 facility will not at any time participate in the Medicaid program
792 (Section 43-13-101 et seq.) or admit or keep any patients in the
793 skilled nursing facility who are participating in the Medicaid
794 program. This written agreement by the recipient of the
795 certificate of need shall be fully binding on any subsequent owner
796 of the skilled nursing facility, if the ownership of the facility
797 is transferred at any time after the issuance of the certificate
798 of need. Agreement that the skilled nursing facility will not
799 participate in the Medicaid program shall be a condition of the
800 issuance of a certificate of need to any person under this
801 paragraph (c), and if such skilled nursing facility at any time
802 after the issuance of the certificate of need, regardless of the
803 ownership of the facility, participates in the Medicaid program or
804 admits or keeps any patients in the facility who are participating
805 in the Medicaid program, the State Department of Health shall



806 revoke the certificate of need, if it is still outstanding, and
807 shall deny or revoke the license of the skilled nursing facility,
808 at the time that the department determines, after a hearing
809 complying with due process, that the facility has failed to comply
810 with any of the conditions upon which the certificate of need was
811 issued, as provided in this paragraph and in the written agreement
812 by the recipient of the certificate of need. The total number of
813 beds that may be authorized under the authority of this paragraph
814 (c) shall not exceed sixty (60) beds.

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

823 (e) The State Department of Health may issue a
824 certificate of need for the construction of a nursing facility or
825 the conversion of beds to nursing facility beds at a personal care
826 facility for the elderly in Lowndes County that is owned and
827 operated by a Mississippi nonprofit corporation, not to exceed
828 sixty (60) beds. From and after July 1, 1999, there shall be no
829 prohibition or restrictions on participation in the Medicaid



830 program (Section 43-13-101 et seq.) for the beds in the nursing
831 facility that were authorized under this paragraph (e).

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

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

848 (h) The State Department of Health may issue a
849 certificate of need for the construction or expansion of nursing
850 facility beds or the conversion of other beds to nursing facility
851 beds in either Hancock, Harrison or Jackson County, not to exceed
852 sixty (60) beds. From and after July 1, 1999, there shall be no
853 prohibition or restrictions on participation in the Medicaid



854 program (Section 43-13-101 et seq.) for the beds in the facility
855 that were authorized under this paragraph (h).

856 (i) The department may issue a certificate of need for
857 the new construction of a skilled nursing facility in Leake
858 County, provided that the recipient of the certificate of need
859 agrees in writing that the skilled nursing facility will not at
860 any time participate in the Medicaid program (Section 43-13-101 et
861 seq.) or admit or keep any patients in the skilled nursing
862 facility who are participating in the Medicaid program. This
863 written agreement by the recipient of the certificate of need
864 shall be fully binding on any subsequent owner of the skilled
865 nursing facility, if the ownership of the facility is transferred
866 at any time after the issuance of the certificate of need.
867 Agreement that the skilled nursing facility will not participate
868 in the Medicaid program shall be a condition of the issuance of a
869 certificate of need to any person under this paragraph (i), and if
870 such skilled nursing facility at any time after the issuance of
871 the certificate of need, regardless of the ownership of the
872 facility, participates in the Medicaid program or admits or keeps
873 any patients in the facility who are participating in the Medicaid
874 program, the State Department of Health shall revoke the
875 certificate of need, if it is still outstanding, and shall deny or
876 revoke the license of the skilled nursing facility, at the time
877 that the department determines, after a hearing complying with due
878 process, that the facility has failed to comply with any of the



879 conditions upon which the certificate of need was issued, as
880 provided in this paragraph and in the written agreement by the
881 recipient of the certificate of need. The provision of Section
882 41-7-193(1) regarding substantial compliance of the projection of
883 need as reported in the current State Health Plan is waived for
884 the purposes of this paragraph. The total number of nursing
885 facility beds that may be authorized by any certificate of need
886 issued under this paragraph (i) shall not exceed sixty (60) beds.
887 If the skilled nursing facility authorized by the certificate of
888 need issued under this paragraph is not constructed and fully
889 operational within eighteen (18) months after July 1, 1994, the
890 State Department of Health, after a hearing complying with due
891 process, shall revoke the certificate of need, if it is still
892 outstanding, and shall not issue a license for the skilled nursing
893 facility at any time after the expiration of the eighteen-month
894 period.

895 (j) The department may issue certificates of need to
896 allow any existing freestanding long-term care facility in
897 Tishomingo County and Hancock County that on July 1, 1995, is
898 licensed with fewer than sixty (60) beds. For the purposes of
899 this paragraph (j), the provisions of Section 41-7-193(1)
900 requiring substantial compliance with the projection of need as
901 reported in the current State Health Plan are waived. From and
902 after July 1, 1999, there shall be no prohibition or restrictions
903 on participation in the Medicaid program (Section 43-13-101 et



904 seq.) for the beds in the long-term care facilities that were
905 authorized under this paragraph (j).

906 (k) The department may issue a certificate of need for
907 the construction of a nursing facility at a continuing care
908 retirement community in Lowndes County. The total number of beds
909 that may be authorized under the authority of this paragraph (k)
910 shall not exceed sixty (60) beds. From and after July 1, 2001,
911 the prohibition on the facility participating in the Medicaid
912 program (Section 43-13-101 et seq.) that was a condition of
913 issuance of the certificate of need under this paragraph (k) shall
914 be revised as follows: The nursing facility may participate in
915 the Medicaid program from and after July 1, 2001, if the owner of
916 the facility on July 1, 2001, agrees in writing that no more than
917 thirty (30) of the beds at the facility will be certified for
918 participation in the Medicaid program, and that no claim will be
919 submitted for Medicaid reimbursement for more than thirty (30)
920 patients in the facility in any month or for any patient in the
921 facility who is in a bed that is not Medicaid-certified. This
922 written agreement by the owner of the facility shall be a
923 condition of licensure of the facility, and the agreement shall be
924 fully binding on any subsequent owner of the facility if the
925 ownership of the facility is transferred at any time after July 1,
926 2001. After this written agreement is executed, the Division of
927 Medicaid and the State Department of Health shall not certify more
928 than thirty (30) of the beds in the facility for participation in



929 the Medicaid program. If the facility violates the terms of the
930 written agreement by admitting or keeping in the facility on a
931 regular or continuing basis more than thirty (30) patients who are
932 participating in the Medicaid program, the State Department of
933 Health shall revoke the license of the facility, at the time that
934 the department determines, after a hearing complying with due
935 process, that the facility has violated the written agreement.

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

946 (m) The State Department of Health may issue a
947 certificate of need to a county-owned hospital in the Second
948 Judicial District of Panola County for the conversion of not more
949 than seventy-two (72) hospital beds to nursing facility beds,
950 provided that the recipient of the certificate of need agrees in
951 writing that none of the beds at the nursing facility will be
952 certified for participation in the Medicaid program (Section
953 43-13-101 et seq.), and that no claim will be submitted for



954 Medicaid reimbursement in the nursing facility in any day or for
955 any patient in the nursing facility. This written agreement by
956 the recipient of the certificate of need shall be a condition of
957 the issuance of the certificate of need under this paragraph, and
958 the agreement shall be fully binding on any subsequent owner of
959 the nursing facility if the ownership of the nursing facility is
960 transferred at any time after the issuance of the certificate of
961 need. After this written agreement is executed, the Division of
962 Medicaid and the State Department of Health shall not certify any
963 of the beds in the nursing facility for participation in the
964 Medicaid program. If the nursing facility violates the terms of
965 the written agreement by admitting or keeping in the nursing
966 facility on a regular or continuing basis any patients who are
967 participating in the Medicaid program, the State Department of
968 Health shall revoke the license of the nursing facility, at the
969 time that the department determines, after a hearing complying
970 with due process, that the nursing facility has violated the
971 condition upon which the certificate of need was issued, as
972 provided in this paragraph and in the written agreement. If the
973 certificate of need authorized under this paragraph is not issued
974 within twelve (12) months after July 1, 2001, the department shall
975 deny the application for the certificate of need and shall not
976 issue the certificate of need at any time after the twelve-month
977 period, unless the issuance is contested. If the certificate of
978 need is issued and substantial construction of the nursing



979 facility beds has not commenced within eighteen (18) months after
980 July 1, 2001, the State Department of Health, after a hearing
981 complying with due process, shall revoke the certificate of need
982 if it is still outstanding, and the department shall not issue a
983 license for the nursing facility at any time after the
984 eighteen-month period. However, if the issuance of the
985 certificate of need is contested, the department shall require
986 substantial construction of the nursing facility beds within six
987 (6) months after final adjudication on the issuance of the
988 certificate of need.

989 (n) The department may issue a certificate of need for
990 the new construction, addition or conversion of skilled nursing
991 facility beds in Madison County, provided that the recipient of
992 the certificate of need agrees in writing that the skilled nursing
993 facility will not at any time participate in the Medicaid program
994 (Section 43-13-101 et seq.) or admit or keep any patients in the
995 skilled nursing facility who are participating in the Medicaid
996 program. This written agreement by the recipient of the
997 certificate of need shall be fully binding on any subsequent owner
998 of the skilled nursing facility, if the ownership of the facility
999 is transferred at any time after the issuance of the certificate
1000 of need. Agreement that the skilled nursing facility will not
1001 participate in the Medicaid program shall be a condition of the
1002 issuance of a certificate of need to any person under this
1003 paragraph (n), and if such skilled nursing facility at any time



1004 after the issuance of the certificate of need, regardless of the
1005 ownership of the facility, participates in the Medicaid program or
1006 admits or keeps any patients in the facility who are participating
1007 in the Medicaid program, the State Department of Health shall
1008 revoke the certificate of need, if it is still outstanding, and
1009 shall deny or revoke the license of the skilled nursing facility,
1010 at the time that the department determines, after a hearing
1011 complying with due process, that the facility has failed to comply
1012 with any of the conditions upon which the certificate of need was
1013 issued, as provided in this paragraph and in the written agreement
1014 by the recipient of the certificate of need. The total number of
1015 nursing facility beds that may be authorized by any certificate of
1016 need issued under this paragraph (n) shall not exceed sixty (60)
1017 beds. If the certificate of need authorized under this paragraph
1018 is not issued within twelve (12) months after July 1, 1998, the
1019 department shall deny the application for the certificate of need
1020 and shall not issue the certificate of need at any time after the
1021 twelve-month period, unless the issuance is contested. If the
1022 certificate of need is issued and substantial construction of the
1023 nursing facility beds has not commenced within eighteen (18)
1024 months after July 1, 1998, the State Department of Health, after a
1025 hearing complying with due process, shall revoke the certificate
1026 of need if it is still outstanding, and the department shall not
1027 issue a license for the nursing facility at any time after the
1028 eighteen-month period. However, if the issuance of the



1029 certificate of need is contested, the department shall require
1030 substantial construction of the nursing facility beds within six
1031 (6) months after final adjudication on the issuance of the
1032 certificate of need.

1033 (o) The department may issue a certificate of need for
1034 the new construction, addition or conversion of skilled nursing
1035 facility beds in Leake County, provided that the recipient of the
1036 certificate of need agrees in writing that the skilled nursing
1037 facility will not at any time participate in the Medicaid program
1038 (Section 43-13-101 et seq.) or admit or keep any patients in the
1039 skilled nursing facility who are participating in the Medicaid
1040 program. This written agreement by the recipient of the
1041 certificate of need shall be fully binding on any subsequent owner
1042 of the skilled nursing facility, if the ownership of the facility
1043 is transferred at any time after the issuance of the certificate
1044 of need. Agreement that the skilled nursing facility will not
1045 participate in the Medicaid program shall be a condition of the
1046 issuance of a certificate of need to any person under this
1047 paragraph (o), and if such skilled nursing facility at any time
1048 after the issuance of the certificate of need, regardless of the
1049 ownership of the facility, participates in the Medicaid program or
1050 admits or keeps any patients in the facility who are participating
1051 in the Medicaid program, the State Department of Health shall
1052 revoke the certificate of need, if it is still outstanding, and
1053 shall deny or revoke the license of the skilled nursing facility,



1054 at the time that the department determines, after a hearing
1055 complying with due process, that the facility has failed to comply
1056 with any of the conditions upon which the certificate of need was
1057 issued, as provided in this paragraph and in the written agreement
1058 by the recipient of the certificate of need. The total number of
1059 nursing facility beds that may be authorized by any certificate of
1060 need issued under this paragraph (o) shall not exceed sixty (60)
1061 beds. If the certificate of need authorized under this paragraph
1062 is not issued within twelve (12) months after July 1, 2001, the
1063 department shall deny the application for the certificate of need
1064 and shall not issue the certificate of need at any time after the
1065 twelve-month period, unless the issuance is contested. If the
1066 certificate of need is issued and substantial construction of the
1067 nursing facility beds has not commenced within eighteen (18)
1068 months after July 1, 2001, the State Department of Health, after a
1069 hearing complying with due process, shall revoke the certificate
1070 of need if it is still outstanding, and the department shall not
1071 issue a license for the nursing facility at any time after the
1072 eighteen-month period. However, if the issuance of the
1073 certificate of need is contested, the department shall require
1074 substantial construction of the nursing facility beds within six
1075 (6) months after final adjudication on the issuance of the
1076 certificate of need.

1077 (p) The department may issue a certificate of need for
1078 the construction of a municipally owned nursing facility within



1079 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1080 beds, provided that the recipient of the certificate of need
1081 agrees in writing that the skilled nursing facility will not at
1082 any time participate in the Medicaid program (Section 43-13-101 et
1083 seq.) or admit or keep any patients in the skilled nursing
1084 facility who are participating in the Medicaid program. This
1085 written agreement by the recipient of the certificate of need
1086 shall be fully binding on any subsequent owner of the skilled
1087 nursing facility, if the ownership of the facility is transferred
1088 at any time after the issuance of the certificate of need.
1089 Agreement that the skilled nursing facility will not participate
1090 in the Medicaid program shall be a condition of the issuance of a
1091 certificate of need to any person under this paragraph (p), and if
1092 such skilled nursing facility at any time after the issuance of
1093 the certificate of need, regardless of the ownership of the
1094 facility, participates in the Medicaid program or admits or keeps
1095 any patients in the facility who are participating in the Medicaid
1096 program, the State Department of Health shall revoke the
1097 certificate of need, if it is still outstanding, and shall deny or
1098 revoke the license of the skilled nursing facility, at the time
1099 that the department determines, after a hearing complying with due
1100 process, that the facility has failed to comply with any of the
1101 conditions upon which the certificate of need was issued, as
1102 provided in this paragraph and in the written agreement by the
1103 recipient of the certificate of need. The provision of Section



1104 41-7-193(1) regarding substantial compliance of the projection of
1105 need as reported in the current State Health Plan is waived for
1106 the purposes of this paragraph. If the certificate of need
1107 authorized under this paragraph is not issued within twelve (12)
1108 months after July 1, 1998, the department shall deny the
1109 application for the certificate of need and shall not issue the
1110 certificate of need at any time after the twelve-month period,
1111 unless the issuance is contested. If the certificate of need is
1112 issued and substantial construction of the nursing facility beds
1113 has not commenced within eighteen (18) months after July 1, 1998,
1114 the State Department of Health, after a hearing complying with due
1115 process, shall revoke the certificate of need if it is still
1116 outstanding, and the department shall not issue a license for the
1117 nursing facility at any time after the eighteen-month period.
1118 However, if the issuance of the certificate of need is contested,
1119 the department shall require substantial construction of the
1120 nursing facility beds within six (6) months after final
1121 adjudication on the issuance of the certificate of need.

1122 (q) (i) Beginning on July 1, 1999, the State
1123 Department of Health shall issue certificates of need during each
1124 of the next four (4) fiscal years for the construction or
1125 expansion of nursing facility beds or the conversion of other beds
1126 to nursing facility beds in each county in the state having a need
1127 for fifty (50) or more additional nursing facility beds, as shown
1128 in the fiscal year 1999 State Health Plan, in the manner provided



1129 in this paragraph (q). The total number of nursing facility beds
1130 that may be authorized by any certificate of need authorized under
1131 this paragraph (q) shall not exceed sixty (60) beds.

1132 (ii) Subject to the provisions of subparagraph
1133 (v), during each of the next four (4) fiscal years, the department
1134 shall issue six (6) certificates of need for new nursing facility
1135 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1136 (1) certificate of need shall be issued for new nursing facility
1137 beds in the county in each of the four (4) Long-Term Care Planning
1138 Districts designated in the fiscal year 1999 State Health Plan
1139 that has the highest need in the district for those beds; and two
1140 (2) certificates of need shall be issued for new nursing facility
1141 beds in the two (2) counties from the state at large that have the
1142 highest need in the state for those beds, when considering the
1143 need on a statewide basis and without regard to the Long-Term Care
1144 Planning Districts in which the counties are located. During
1145 fiscal year 2003, one (1) certificate of need shall be issued for
1146 new nursing facility beds in any county having a need for fifty
1147 (50) or more additional nursing facility beds, as shown in the
1148 fiscal year 1999 State Health Plan, that has not received a
1149 certificate of need under this paragraph (q) during the three (3)
1150 previous fiscal years. During fiscal year 2000, in addition to
1151 the six (6) certificates of need authorized in this subparagraph,
1152 the department also shall issue a certificate of need for new



1153 nursing facility beds in Amite County and a certificate of need
1154 for new nursing facility beds in Carroll County.

1155 (iii) Subject to the provisions of subparagraph
1156 (v), the certificate of need issued under subparagraph (ii) for
1157 nursing facility beds in each Long-Term Care Planning District
1158 during each fiscal year shall first be available for nursing
1159 facility beds in the county in the district having the highest
1160 need for those beds, as shown in the fiscal year 1999 State Health
1161 Plan. If there are no applications for a certificate of need for
1162 nursing facility beds in the county having the highest need for
1163 those beds by the date specified by the department, then the
1164 certificate of need shall be available for nursing facility beds
1165 in other counties in the district in descending order of the need
1166 for those beds, from the county with the second highest need to
1167 the county with the lowest need, until an application is received
1168 for nursing facility beds in an eligible county in the district.

1169 (iv) Subject to the provisions of subparagraph
1170 (v), the certificate of need issued under subparagraph (ii) for
1171 nursing facility beds in the two (2) counties from the state at
1172 large during each fiscal year shall first be available for nursing
1173 facility beds in the two (2) counties that have the highest need
1174 in the state for those beds, as shown in the fiscal year 1999
1175 State Health Plan, when considering the need on a statewide basis
1176 and without regard to the Long-Term Care Planning Districts in
1177 which the counties are located. If there are no applications for



1178 a certificate of need for nursing facility beds in either of the
1179 two (2) counties having the highest need for those beds on a
1180 statewide basis by the date specified by the department, then the
1181 certificate of need shall be available for nursing facility beds
1182 in other counties from the state at large in descending order of
1183 the need for those beds on a statewide basis, from the county with
1184 the second highest need to the county with the lowest need, until
1185 an application is received for nursing facility beds in an
1186 eligible county from the state at large.

1187 (v) If a certificate of need is authorized to be
1188 issued under this paragraph (q) for nursing facility beds in a
1189 county on the basis of the need in the Long-Term Care Planning
1190 District during any fiscal year of the four-year period, a
1191 certificate of need shall not also be available under this
1192 paragraph (q) for additional nursing facility beds in that county
1193 on the basis of the need in the state at large, and that county
1194 shall be excluded in determining which counties have the highest
1195 need for nursing facility beds in the state at large for that
1196 fiscal year. After a certificate of need has been issued under
1197 this paragraph (q) for nursing facility beds in a county during
1198 any fiscal year of the four-year period, a certificate of need
1199 shall not be available again under this paragraph (q) for
1200 additional nursing facility beds in that county during the
1201 four-year period, and that county shall be excluded in determining



1202 which counties have the highest need for nursing facility beds in
1203 succeeding fiscal years.

1204 (vi) If more than one (1) application is made for
1205 a certificate of need for nursing home facility beds available
1206 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1207 County, and one (1) of the applicants is a county-owned hospital
1208 located in the county where the nursing facility beds are
1209 available, the department shall give priority to the county-owned
1210 hospital in granting the certificate of need if the following
1211 conditions are met:

1212 1. The county-owned hospital fully meets all
1213 applicable criteria and standards required to obtain a certificate
1214 of need for the nursing facility beds; and

1215 2. The county-owned hospital's qualifications
1216 for the certificate of need, as shown in its application and as
1217 determined by the department, are at least equal to the
1218 qualifications of the other applicants for the certificate of
1219 need.

1220 (r) (i) Beginning on July 1, 1999, the State
1221 Department of Health shall issue certificates of need during each
1222 of the next two (2) fiscal years for the construction or expansion
1223 of nursing facility beds or the conversion of other beds to
1224 nursing facility beds in each of the four (4) Long-Term Care
1225 Planning Districts designated in the fiscal year 1999 State Health



1226 Plan, to provide care exclusively to patients with Alzheimer's
1227 disease.

1228 (ii) Not more than twenty (20) beds may be
1229 authorized by any certificate of need issued under this paragraph
1230 (r), and not more than a total of sixty (60) beds may be
1231 authorized in any Long-Term Care Planning District by all
1232 certificates of need issued under this paragraph (r). However,
1233 the total number of beds that may be authorized by all
1234 certificates of need issued under this paragraph (r) during any
1235 fiscal year shall not exceed one hundred twenty (120) beds, and
1236 the total number of beds that may be authorized in any Long-Term
1237 Care Planning District during any fiscal year shall not exceed
1238 forty (40) beds. Of the certificates of need that are issued for
1239 each Long-Term Care Planning District during the next two (2)
1240 fiscal years, at least one (1) shall be issued for beds in the
1241 northern part of the district, at least one (1) shall be issued
1242 for beds in the central part of the district, and at least one (1)
1243 shall be issued for beds in the southern part of the district.

1244 (iii) The State Department of Health, in
1245 consultation with the Department of Mental Health and the Division
1246 of Medicaid, shall develop and prescribe the staffing levels,
1247 space requirements and other standards and requirements that must
1248 be met with regard to the nursing facility beds authorized under
1249 this paragraph (r) to provide care exclusively to patients with
1250 Alzheimer's disease.



1251 (s) The State Department of Health may issue a
1252 certificate of need to a nonprofit skilled nursing facility using
1253 the Green House model of skilled nursing care and located in Yazoo
1254 City, Yazoo County, Mississippi, for the construction, expansion
1255 or conversion of not more than nineteen (19) nursing facility
1256 beds. For purposes of this paragraph (s), the provisions of
1257 Section 41-7-193(1) requiring substantial compliance with the
1258 projection of need as reported in the current State Health Plan
1259 and the provisions of Section 41-7-197 requiring a formal
1260 certificate of need hearing process are waived. There shall be no
1261 prohibition or restrictions on participation in the Medicaid
1262 program for the person receiving the certificate of need
1263 authorized under this paragraph (s).

1264 (t) The State Department of Health shall issue
1265 certificates of need to the owner of a nursing facility in
1266 operation at the time of Hurricane Katrina in Hancock County that
1267 was not operational on December 31, 2005, because of damage
1268 sustained from Hurricane Katrina to authorize the following: (i)
1269 the construction of a new nursing facility in Harrison County;
1270 (ii) the relocation of forty-nine (49) nursing facility beds from
1271 the Hancock County facility to the new Harrison County facility;
1272 (iii) the establishment of not more than twenty (20) non-Medicaid
1273 nursing facility beds at the Hancock County facility; and (iv) the
1274 establishment of not more than twenty (20) non-Medicaid beds at
1275 the new Harrison County facility. The certificates of need that



1276 authorize the non-Medicaid nursing facility beds under
1277 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1278 subject to the following conditions: The owner of the Hancock
1279 County facility and the new Harrison County facility must agree in
1280 writing that no more than fifty (50) of the beds at the Hancock
1281 County facility and no more than forty-nine (49) of the beds at
1282 the Harrison County facility will be certified for participation
1283 in the Medicaid program, and that no claim will be submitted for
1284 Medicaid reimbursement for more than fifty (50) patients in the
1285 Hancock County facility in any month, or for more than forty-nine
1286 (49) patients in the Harrison County facility in any month, or for
1287 any patient in either facility who is in a bed that is not
1288 Medicaid-certified. This written agreement by the owner of the
1289 nursing facilities shall be a condition of the issuance of the
1290 certificates of need under this paragraph (t), and the agreement
1291 shall be fully binding on any later owner or owners of either
1292 facility if the ownership of either facility is transferred at any
1293 time after the certificates of need are issued. After this
1294 written agreement is executed, the Division of Medicaid and the
1295 State Department of Health shall not certify more than fifty (50)
1296 of the beds at the Hancock County facility or more than forty-nine
1297 (49) of the beds at the Harrison County facility for participation
1298 in the Medicaid program. If the Hancock County facility violates
1299 the terms of the written agreement by admitting or keeping in the
1300 facility on a regular or continuing basis more than fifty (50)



1301 patients who are participating in the Medicaid program, or if the
1302 Harrison County facility violates the terms of the written
1303 agreement by admitting or keeping in the facility on a regular or
1304 continuing basis more than forty-nine (49) patients who are
1305 participating in the Medicaid program, the State Department of
1306 Health shall revoke the license of the facility that is in
1307 violation of the agreement, at the time that the department
1308 determines, after a hearing complying with due process, that the
1309 facility has violated the agreement.

1310 (u) The State Department of Health shall issue a
1311 certificate of need to a nonprofit venture for the establishment,
1312 construction and operation of a skilled nursing facility of not
1313 more than sixty (60) beds to provide skilled nursing care for
1314 ventilator dependent or otherwise medically dependent pediatric
1315 patients who require medical and nursing care or rehabilitation
1316 services to be located in a county in which an academic medical
1317 center and a children's hospital are located, and for any
1318 construction and for the acquisition of equipment related to those
1319 beds. The facility shall be authorized to keep such ventilator
1320 dependent or otherwise medically dependent pediatric patients
1321 beyond age twenty-one (21) in accordance with regulations of the
1322 State Board of Health. For purposes of this paragraph (u), the
1323 provisions of Section 41-7-193(1) requiring substantial compliance
1324 with the projection of need as reported in the current State
1325 Health Plan are waived, and the provisions of Section 41-7-197



1326 requiring a formal certificate of need hearing process are waived.
1327 The beds authorized by this paragraph shall be counted as
1328 pediatric skilled nursing facility beds for health planning
1329 purposes under Section 41-7-171 et seq. There shall be no
1330 prohibition of or restrictions on participation in the Medicaid
1331 program for the person receiving the certificate of need
1332 authorized by this paragraph.

1333 (3) The State Department of Health may grant approval for
1334 and issue certificates of need to any person proposing the new
1335 construction of, addition to, conversion of beds of or expansion
1336 of any health care facility defined in subparagraph (x)
1337 (psychiatric residential treatment facility) of Section
1338 41-7-173(h). The total number of beds which may be authorized by
1339 such certificates of need shall not exceed three hundred
1340 thirty-four (334) beds for the entire state.

1341 (a) Of the total number of beds authorized under this
1342 subsection, the department shall issue a certificate of need to a
1343 privately owned psychiatric residential treatment facility in
1344 Simpson County for the conversion of sixteen (16) intermediate
1345 care facility for the mentally retarded (ICF-MR) beds to
1346 psychiatric residential treatment facility beds, provided that
1347 facility agrees in writing that the facility shall give priority
1348 for the use of those sixteen (16) beds to Mississippi residents
1349 who are presently being treated in out-of-state facilities.



1350 (b) Of the total number of beds authorized under this
1351 subsection, the department may issue a certificate or certificates
1352 of need for the construction or expansion of psychiatric
1353 residential treatment facility beds or the conversion of other
1354 beds to psychiatric residential treatment facility beds in Warren
1355 County, not to exceed sixty (60) psychiatric residential treatment
1356 facility beds, provided that the facility agrees in writing that
1357 no more than thirty (30) of the beds at the psychiatric
1358 residential treatment facility will be certified for participation
1359 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1360 any patients other than those who are participating only in the
1361 Medicaid program of another state, and that no claim will be
1362 submitted to the Division of Medicaid for Medicaid reimbursement
1363 for more than thirty (30) patients in the psychiatric residential
1364 treatment facility in any day or for any patient in the
1365 psychiatric residential treatment facility who is in a bed that is
1366 not Medicaid-certified. This written agreement by the recipient
1367 of the certificate of need shall be a condition of the issuance of
1368 the certificate of need under this paragraph, and the agreement
1369 shall be fully binding on any subsequent owner of the psychiatric
1370 residential treatment facility if the ownership of the facility is
1371 transferred at any time after the issuance of the certificate of
1372 need. After this written agreement is executed, the Division of
1373 Medicaid and the State Department of Health shall not certify more
1374 than thirty (30) of the beds in the psychiatric residential



1375 treatment facility for participation in the Medicaid program for
1376 the use of any patients other than those who are participating
1377 only in the Medicaid program of another state. If the psychiatric
1378 residential treatment facility violates the terms of the written
1379 agreement by admitting or keeping in the facility on a regular or
1380 continuing basis more than thirty (30) patients who are
1381 participating in the Mississippi Medicaid program, the State
1382 Department of Health shall revoke the license of the facility, at
1383 the time that the department determines, after a hearing complying
1384 with due process, that the facility has violated the condition
1385 upon which the certificate of need was issued, as provided in this
1386 paragraph and in the written agreement.

1387 The State Department of Health, on or before July 1, 2002,
1388 shall transfer the certificate of need authorized under the
1389 authority of this paragraph (b), or reissue the certificate of
1390 need if it has expired, to River Region Health System.

1391 (c) Of the total number of beds authorized under this
1392 subsection, the department shall issue a certificate of need to a
1393 hospital currently operating Medicaid-certified acute psychiatric
1394 beds for adolescents in DeSoto County, for the establishment of a
1395 forty-bed psychiatric residential treatment facility in DeSoto
1396 County, provided that the hospital agrees in writing (i) that the
1397 hospital shall give priority for the use of those forty (40) beds
1398 to Mississippi residents who are presently being treated in
1399 out-of-state facilities, and (ii) that no more than fifteen (15)



1400 of the beds at the psychiatric residential treatment facility will
1401 be certified for participation in the Medicaid program (Section
1402 43-13-101 et seq.), and that no claim will be submitted for
1403 Medicaid reimbursement for more than fifteen (15) patients in the
1404 psychiatric residential treatment facility in any day or for any
1405 patient in the psychiatric residential treatment facility who is
1406 in a bed that is not Medicaid-certified. This written agreement
1407 by the recipient of the certificate of need shall be a condition
1408 of the issuance of the certificate of need under this paragraph,
1409 and the agreement shall be fully binding on any subsequent owner
1410 of the psychiatric residential treatment facility if the ownership
1411 of the facility is transferred at any time after the issuance of
1412 the certificate of need. After this written agreement is
1413 executed, the Division of Medicaid and the State Department of
1414 Health shall not certify more than fifteen (15) of the beds in the
1415 psychiatric residential treatment facility for participation in
1416 the Medicaid program. If the psychiatric residential treatment
1417 facility violates the terms of the written agreement by admitting
1418 or keeping in the facility on a regular or continuing basis more
1419 than fifteen (15) patients who are participating in the Medicaid
1420 program, the State Department of Health shall revoke the license
1421 of the facility, at the time that the department determines, after
1422 a hearing complying with due process, that the facility has
1423 violated the condition upon which the certificate of need was



1424 issued, as provided in this paragraph and in the written
1425 agreement.

1426 (d) Of the total number of beds authorized under this
1427 subsection, the department may issue a certificate or certificates
1428 of need for the construction or expansion of psychiatric
1429 residential treatment facility beds or the conversion of other
1430 beds to psychiatric treatment facility beds, not to exceed thirty
1431 (30) psychiatric residential treatment facility beds, in either
1432 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1433 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1434 (e) Of the total number of beds authorized under this
1435 subsection (3) the department shall issue a certificate of need to
1436 a privately owned, nonprofit psychiatric residential treatment
1437 facility in Hinds County for an eight-bed expansion of the
1438 facility, provided that the facility agrees in writing that the
1439 facility shall give priority for the use of those eight (8) beds
1440 to Mississippi residents who are presently being treated in
1441 out-of-state facilities.

1442 (f) The department shall issue a certificate of need to
1443 a one-hundred-thirty-four-bed specialty hospital located on
1444 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1445 at 5900 Highway 39 North in Meridian (Lauderdale County),
1446 Mississippi, for the addition, construction or expansion of
1447 child/adolescent psychiatric residential treatment facility beds
1448 in Lauderdale County. As a condition of issuance of the



1449 certificate of need under this paragraph, the facility shall give
1450 priority in admissions to the child/adolescent psychiatric
1451 residential treatment facility beds authorized under this
1452 paragraph to patients who otherwise would require out-of-state
1453 placement. The Division of Medicaid, in conjunction with the
1454 Department of Human Services, shall furnish the facility a list of
1455 all out-of-state patients on a quarterly basis. Furthermore,
1456 notice shall also be provided to the parent, custodial parent or
1457 guardian of each out-of-state patient notifying them of the
1458 priority status granted by this paragraph. For purposes of this
1459 paragraph, the provisions of Section 41-7-193(1) requiring
1460 substantial compliance with the projection of need as reported in
1461 the current State Health Plan are waived. The total number of
1462 child/adolescent psychiatric residential treatment facility beds
1463 that may be authorized under the authority of this paragraph shall
1464 be sixty (60) beds. There shall be no prohibition or restrictions
1465 on participation in the Medicaid program (Section 43-13-101 et
1466 seq.) for the person receiving the certificate of need authorized
1467 under this paragraph or for the beds converted pursuant to the
1468 authority of that certificate of need.

1469 (4) (a) From and after July 1, 1993, the department shall
1470 not issue a certificate of need to any person for the new
1471 construction of any hospital, psychiatric hospital or chemical
1472 dependency hospital that will contain any child/adolescent
1473 psychiatric or child/adolescent chemical dependency beds, or for



1474 the conversion of any other health care facility to a hospital,
1475 psychiatric hospital or chemical dependency hospital that will
1476 contain any child/adolescent psychiatric or child/adolescent
1477 chemical dependency beds, or for the addition of any
1478 child/adolescent psychiatric or child/adolescent chemical
1479 dependency beds in any hospital, psychiatric hospital or chemical
1480 dependency hospital, or for the conversion of any beds of another
1481 category in any hospital, psychiatric hospital or chemical
1482 dependency hospital to child/adolescent psychiatric or
1483 child/adolescent chemical dependency beds, except as hereinafter
1484 authorized:

1485 (i) The department may issue certificates of need
1486 to any person for any purpose described in this subsection,
1487 provided that the hospital, psychiatric hospital or chemical
1488 dependency hospital does not participate in the Medicaid program
1489 (Section 43-13-101 et seq.) at the time of the application for the
1490 certificate of need and the owner of the hospital, psychiatric
1491 hospital or chemical dependency hospital agrees in writing that
1492 the hospital, psychiatric hospital or chemical dependency hospital
1493 will not at any time participate in the Medicaid program or admit
1494 or keep any patients who are participating in the Medicaid program
1495 in the hospital, psychiatric hospital or chemical dependency
1496 hospital. This written agreement by the recipient of the
1497 certificate of need shall be fully binding on any subsequent owner
1498 of the hospital, psychiatric hospital or chemical dependency



1499 hospital, if the ownership of the facility is transferred at any
1500 time after the issuance of the certificate of need. Agreement
1501 that the hospital, psychiatric hospital or chemical dependency
1502 hospital will not participate in the Medicaid program shall be a
1503 condition of the issuance of a certificate of need to any person
1504 under this subparagraph (i), and if such hospital, psychiatric
1505 hospital or chemical dependency hospital at any time after the
1506 issuance of the certificate of need, regardless of the ownership
1507 of the facility, participates in the Medicaid program or admits or
1508 keeps any patients in the hospital, psychiatric hospital or
1509 chemical dependency hospital who are participating in the Medicaid
1510 program, the State Department of Health shall revoke the
1511 certificate of need, if it is still outstanding, and shall deny or
1512 revoke the license of the hospital, psychiatric hospital or
1513 chemical dependency hospital, at the time that the department
1514 determines, after a hearing complying with due process, that the
1515 hospital, psychiatric hospital or chemical dependency hospital has
1516 failed to comply with any of the conditions upon which the
1517 certificate of need was issued, as provided in this subparagraph
1518 (i) and in the written agreement by the recipient of the
1519 certificate of need.

1520 (ii) The department may issue a certificate of
1521 need for the conversion of existing beds in a county hospital in
1522 Choctaw County from acute care beds to child/adolescent chemical
1523 dependency beds. For purposes of this subparagraph (ii), the



1524 provisions of Section 41-7-193(1) requiring substantial compliance
1525 with the projection of need as reported in the current State
1526 Health Plan are waived. The total number of beds that may be
1527 authorized under authority of this subparagraph shall not exceed
1528 twenty (20) beds. There shall be no prohibition or restrictions
1529 on participation in the Medicaid program (Section 43-13-101 et
1530 seq.) for the hospital receiving the certificate of need
1531 authorized under this subparagraph or for the beds converted
1532 pursuant to the authority of that certificate of need.

1533 (iii) The department may issue a certificate or
1534 certificates of need for the construction or expansion of
1535 child/adolescent psychiatric beds or the conversion of other beds
1536 to child/adolescent psychiatric beds in Warren County. For
1537 purposes of this subparagraph (iii), the provisions of Section
1538 41-7-193(1) requiring substantial compliance with the projection
1539 of need as reported in the current State Health Plan are waived.
1540 The total number of beds that may be authorized under the
1541 authority of this subparagraph shall not exceed twenty (20) beds.
1542 There shall be no prohibition or restrictions on participation in
1543 the Medicaid program (Section 43-13-101 et seq.) for the person
1544 receiving the certificate of need authorized under this
1545 subparagraph or for the beds converted pursuant to the authority
1546 of that certificate of need.

1547 If by January 1, 2002, there has been no significant
1548 commencement of construction of the beds authorized under this



1549 subparagraph (iii), or no significant action taken to convert
1550 existing beds to the beds authorized under this subparagraph, then
1551 the certificate of need that was previously issued under this
1552 subparagraph shall expire. If the previously issued certificate
1553 of need expires, the department may accept applications for
1554 issuance of another certificate of need for the beds authorized
1555 under this subparagraph, and may issue a certificate of need to
1556 authorize the construction, expansion or conversion of the beds
1557 authorized under this subparagraph.

1558 (iv) The department shall issue a certificate of
1559 need to the Region 7 Mental Health/Retardation Commission for the
1560 construction or expansion of child/adolescent psychiatric beds or
1561 the conversion of other beds to child/adolescent psychiatric beds
1562 in any of the counties served by the commission. For purposes of
1563 this subparagraph (iv), the provisions of Section 41-7-193(1)
1564 requiring substantial compliance with the projection of need as
1565 reported in the current State Health Plan are waived. The total
1566 number of beds that may be authorized under the authority of this
1567 subparagraph shall not exceed twenty (20) beds. There shall be no
1568 prohibition or restrictions on participation in the Medicaid
1569 program (Section 43-13-101 et seq.) for the person receiving the
1570 certificate of need authorized under this subparagraph or for the
1571 beds converted pursuant to the authority of that certificate of
1572 need.



1573 (v) The department may issue a certificate of need
1574 to any county hospital located in Leflore County for the
1575 construction or expansion of adult psychiatric beds or the
1576 conversion of other beds to adult psychiatric beds, not to exceed
1577 twenty (20) beds, provided that the recipient of the certificate
1578 of need agrees in writing that the adult psychiatric beds will not
1579 at any time be certified for participation in the Medicaid program
1580 and that the hospital will not admit or keep any patients who are
1581 participating in the Medicaid program in any of such adult
1582 psychiatric beds. This written agreement by the recipient of the
1583 certificate of need shall be fully binding on any subsequent owner
1584 of the hospital if the ownership of the hospital is transferred at
1585 any time after the issuance of the certificate of need. Agreement
1586 that the adult psychiatric beds will not be certified for
1587 participation in the Medicaid program shall be a condition of the
1588 issuance of a certificate of need to any person under this
1589 subparagraph (v), and if such hospital at any time after the
1590 issuance of the certificate of need, regardless of the ownership
1591 of the hospital, has any of such adult psychiatric beds certified
1592 for participation in the Medicaid program or admits or keeps any
1593 Medicaid patients in such adult psychiatric beds, the State
1594 Department of Health shall revoke the certificate of need, if it
1595 is still outstanding, and shall deny or revoke the license of the
1596 hospital at the time that the department determines, after a
1597 hearing complying with due process, that the hospital has failed



1598 to comply with any of the conditions upon which the certificate of
1599 need was issued, as provided in this subparagraph and in the
1600 written agreement by the recipient of the certificate of need.

1601 (vi) The department may issue a certificate or
1602 certificates of need for the expansion of child psychiatric beds
1603 or the conversion of other beds to child psychiatric beds at the
1604 University of Mississippi Medical Center. For purposes of this
1605 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1606 substantial compliance with the projection of need as reported in
1607 the current State Health Plan are waived. The total number of
1608 beds that may be authorized under the authority of this
1609 subparagraph shall not exceed fifteen (15) beds. There shall be
1610 no prohibition or restrictions on participation in the Medicaid
1611 program (Section 43-13-101 et seq.) for the hospital receiving the
1612 certificate of need authorized under this subparagraph or for the
1613 beds converted pursuant to the authority of that certificate of
1614 need.

1615 (b) From and after July 1, 1990, no hospital,
1616 psychiatric hospital or chemical dependency hospital shall be
1617 authorized to add any child/adolescent psychiatric or
1618 child/adolescent chemical dependency beds or convert any beds of
1619 another category to child/adolescent psychiatric or
1620 child/adolescent chemical dependency beds without a certificate of
1621 need under the authority of subsection (1)(c) of this section.



1622 (5) The department may issue a certificate of need to a
1623 county hospital in Winston County for the conversion of fifteen
1624 (15) acute care beds to geriatric psychiatric care beds.

1625 (6) The State Department of Health shall issue a certificate
1626 of need to a Mississippi corporation qualified to manage a
1627 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1628 Harrison County, not to exceed eighty (80) beds, including any
1629 necessary renovation or construction required for licensure and
1630 certification, provided that the recipient of the certificate of
1631 need agrees in writing that the long-term care hospital will not
1632 at any time participate in the Medicaid program (Section 43-13-101
1633 et seq.) or admit or keep any patients in the long-term care
1634 hospital who are participating in the Medicaid program. This
1635 written agreement by the recipient of the certificate of need
1636 shall be fully binding on any subsequent owner of the long-term
1637 care hospital, if the ownership of the facility is transferred at
1638 any time after the issuance of the certificate of need. Agreement
1639 that the long-term care hospital will not participate in the
1640 Medicaid program shall be a condition of the issuance of a
1641 certificate of need to any person under this subsection (6), and
1642 if such long-term care hospital at any time after the issuance of
1643 the certificate of need, regardless of the ownership of the
1644 facility, participates in the Medicaid program or admits or keeps
1645 any patients in the facility who are participating in the Medicaid
1646 program, the State Department of Health shall revoke the



1647 certificate of need, if it is still outstanding, and shall deny or
1648 revoke the license of the long-term care hospital, at the time
1649 that the department determines, after a hearing complying with due
1650 process, that the facility has failed to comply with any of the
1651 conditions upon which the certificate of need was issued, as
1652 provided in this subsection and in the written agreement by the
1653 recipient of the certificate of need. For purposes of this
1654 subsection, the provisions of Section 41-7-193(1) requiring
1655 substantial compliance with the projection of need as reported in
1656 the current State Health Plan are waived.

1657 (7) The State Department of Health may issue a certificate
1658 of need to any hospital in the state to utilize a portion of its
1659 beds for the "swing-bed" concept. Any such hospital must be in
1660 conformance with the federal regulations regarding such swing-bed
1661 concept at the time it submits its application for a certificate
1662 of need to the State Department of Health, except that such
1663 hospital may have more licensed beds or a higher average daily
1664 census (ADC) than the maximum number specified in federal
1665 regulations for participation in the swing-bed program. Any
1666 hospital meeting all federal requirements for participation in the
1667 swing-bed program which receives such certificate of need shall
1668 render services provided under the swing-bed concept to any
1669 patient eligible for Medicare (Title XVIII of the Social Security
1670 Act) who is certified by a physician to be in need of such
1671 services, and no such hospital shall permit any patient who is



1672 eligible for both Medicaid and Medicare or eligible only for
1673 Medicaid to stay in the swing beds of the hospital for more than
1674 thirty (30) days per admission unless the hospital receives prior
1675 approval for such patient from the Division of Medicaid, Office of
1676 the Governor. Any hospital having more licensed beds or a higher
1677 average daily census (ADC) than the maximum number specified in
1678 federal regulations for participation in the swing-bed program
1679 which receives such certificate of need shall develop a procedure
1680 to insure that before a patient is allowed to stay in the swing
1681 beds of the hospital, there are no vacant nursing home beds
1682 available for that patient located within a fifty-mile radius of
1683 the hospital. When any such hospital has a patient staying in the
1684 swing beds of the hospital and the hospital receives notice from a
1685 nursing home located within such radius that there is a vacant bed
1686 available for that patient, the hospital shall transfer the
1687 patient to the nursing home within a reasonable time after receipt
1688 of the notice. Any hospital which is subject to the requirements
1689 of the two (2) preceding sentences of this subsection may be
1690 suspended from participation in the swing-bed program for a
1691 reasonable period of time by the State Department of Health if the
1692 department, after a hearing complying with due process, determines
1693 that the hospital has failed to comply with any of those
1694 requirements.

1695 (8) The Department of Health shall not grant approval for or
1696 issue a certificate of need to any person proposing the new



1697 construction of, addition to or expansion of a health care
1698 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1699 except as hereinafter provided: The department may issue a
1700 certificate of need to a nonprofit corporation located in Madison
1701 County, Mississippi, for the construction, expansion or conversion
1702 of not more than twenty (20) beds in a community living program
1703 for developmentally disabled adults in a facility as defined in
1704 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1705 subsection (8), the provisions of Section 41-7-193(1) requiring
1706 substantial compliance with the projection of need as reported in
1707 the current State Health Plan and the provisions of Section
1708 41-7-197 requiring a formal certificate of need hearing process
1709 are waived. There shall be no prohibition or restrictions on
1710 participation in the Medicaid program for the person receiving the
1711 certificate of need authorized under this subsection (8).

1712 (9) The Department of Health shall not grant approval for or
1713 issue a certificate of need to any person proposing the
1714 establishment of, or expansion of the currently approved territory
1715 of, or the contracting to establish a home office, subunit or
1716 branch office within the space operated as a health care facility
1717 as defined in Section 41-7-173(h) (i) through (viii) by a health
1718 care facility as defined in subparagraph (ix) of Section
1719 41-7-173(h).

1720 (10) Health care facilities owned and/or operated by the
1721 state or its agencies are exempt from the restraints in this



1722 section against issuance of a certificate of need if such addition
1723 or expansion consists of repairing or renovation necessary to
1724 comply with the state licensure law. This exception shall not
1725 apply to the new construction of any building by such state
1726 facility. This exception shall not apply to any health care
1727 facilities owned and/or operated by counties, municipalities,
1728 districts, unincorporated areas, other defined persons, or any
1729 combination thereof.

1730 (11) The new construction, renovation or expansion of or
1731 addition to any health care facility defined in subparagraph (ii)
1732 (psychiatric hospital), subparagraph (iv) (skilled nursing
1733 facility), subparagraph (vi) (intermediate care facility),
1734 subparagraph (viii) (intermediate care facility for the mentally
1735 retarded) and subparagraph (x) (psychiatric residential treatment
1736 facility) of Section 41-7-173(h) which is owned by the State of
1737 Mississippi and under the direction and control of the State
1738 Department of Mental Health, and the addition of new beds or the
1739 conversion of beds from one category to another in any such
1740 defined health care facility which is owned by the State of
1741 Mississippi and under the direction and control of the State
1742 Department of Mental Health, shall not require the issuance of a
1743 certificate of need under Section 41-7-171 et seq.,
1744 notwithstanding any provision in Section 41-7-171 et seq. to the
1745 contrary.



1746 (12) The new construction, renovation or expansion of or
1747 addition to any veterans homes or domiciliaries for eligible
1748 veterans of the State of Mississippi as authorized under Section
1749 35-1-19 shall not require the issuance of a certificate of need,
1750 notwithstanding any provision in Section 41-7-171 et seq. to the
1751 contrary.

1752 (13) The repair or the rebuilding of an existing, operating
1753 health care facility that sustained significant damage from a
1754 natural disaster that occurred after April 15, 2014, in an area
1755 that is proclaimed a disaster area or subject to a state of
1756 emergency by the Governor or by the President of the United States
1757 shall be exempt from all of the requirements of the Mississippi
1758 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1759 rules and regulations promulgated under that law, subject to the
1760 following conditions:

1761 (a) The repair or the rebuilding of any such damaged
1762 health care facility must be within one (1) mile of the
1763 pre-disaster location of the campus of the damaged health care
1764 facility, except that any temporary post-disaster health care
1765 facility operating location may be within five (5) miles of the
1766 pre-disaster location of the damaged health care facility;

1767 (b) The repair or the rebuilding of the damaged health
1768 care facility (i) does not increase or change the complement of
1769 its bed capacity that it had before the Governor's or the
1770 President's proclamation, (ii) does not increase or change its



1771 levels and types of health care services that it provided before
1772 the Governor's or the President's proclamation, and (iii) does not
1773 rebuild in a different county; however, this paragraph does not
1774 restrict or prevent a health care facility from decreasing its bed
1775 capacity that it had before the Governor's or the President's
1776 proclamation, or from decreasing the levels of or decreasing or
1777 eliminating the types of health care services that it provided
1778 before the Governor's or the President's proclamation, when the
1779 damaged health care facility is repaired or rebuilt;

1780 (c) The exemption from Certificate of Need Law provided
1781 under this subsection (13) is valid for only five (5) years from
1782 the date of the Governor's or the President's proclamation. If
1783 actual construction has not begun within that five-year period,
1784 the exemption provided under this subsection is inapplicable; and

1785 (d) The Division of Health Facilities Licensure and
1786 Certification of the State Department of Health shall provide the
1787 same oversight for the repair or the rebuilding of the damaged
1788 health care facility that it provides to all health care facility
1789 construction projects in the state.

1790 For the purposes of this subsection (13), "significant
1791 damage" to a health care facility means damage to the health care
1792 facility requiring an expenditure of at least One Million Dollars
1793 (\$1,000,000.00).

1794 (14) The State Department of Health shall issue a
1795 certificate of need to any hospital which is currently licensed



1796 for two hundred fifty (250) or more acute care beds and is located
1797 in any general hospital service area not having a comprehensive
1798 cancer center, for the establishment and equipping of such a
1799 center which provides facilities and services for outpatient
1800 radiation oncology therapy, outpatient medical oncology therapy,
1801 and appropriate support services including the provision of
1802 radiation therapy services. The provisions of Section 41-7-193(1)
1803 regarding substantial compliance with the projection of need as
1804 reported in the current State Health Plan are waived for the
1805 purpose of this subsection.

1806 (15) The State Department of Health may authorize the
1807 transfer of hospital beds, not to exceed sixty (60) beds, from the
1808 North Panola Community Hospital to the South Panola Community
1809 Hospital. The authorization for the transfer of those beds shall
1810 be exempt from the certificate of need review process.

1811 (16) The State Department of Health shall issue any
1812 certificates of need necessary for Mississippi State University
1813 and a public or private health care provider to jointly acquire
1814 and operate a linear accelerator and a magnetic resonance imaging
1815 unit. Those certificates of need shall cover all capital
1816 expenditures related to the project between Mississippi State
1817 University and the health care provider, including, but not
1818 limited to, the acquisition of the linear accelerator, the
1819 magnetic resonance imaging unit and other radiological modalities;
1820 the offering of linear accelerator and magnetic resonance imaging



1821 services; and the cost of construction of facilities in which to
1822 locate these services. The linear accelerator and the magnetic
1823 resonance imaging unit shall be (a) located in the City of
1824 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1825 Mississippi State University and the public or private health care
1826 provider selected by Mississippi State University through a
1827 request for proposals (RFP) process in which Mississippi State
1828 University selects, and the Board of Trustees of State
1829 Institutions of Higher Learning approves, the health care provider
1830 that makes the best overall proposal; (c) available to Mississippi
1831 State University for research purposes two-thirds (2/3) of the
1832 time that the linear accelerator and magnetic resonance imaging
1833 unit are operational; and (d) available to the public or private
1834 health care provider selected by Mississippi State University and
1835 approved by the Board of Trustees of State Institutions of Higher
1836 Learning one-third (1/3) of the time for clinical, diagnostic and
1837 treatment purposes. For purposes of this subsection, the
1838 provisions of Section 41-7-193(1) requiring substantial compliance
1839 with the projection of need as reported in the current State
1840 Health Plan are waived.

1841 (17) The State Department of Health shall issue a
1842 certificate of need for the construction of an acute care hospital
1843 in Kemper County, not to exceed twenty-five (25) beds, which shall
1844 be named the "John C. Stennis Memorial Hospital." In issuing the
1845 certificate of need under this subsection, the department shall



1846 give priority to a hospital located in Lauderdale County that has
1847 two hundred fifteen (215) beds. For purposes of this subsection,
1848 the provisions of Section 41-7-193(1) requiring substantial
1849 compliance with the projection of need as reported in the current
1850 State Health Plan and the provisions of Section 41-7-197 requiring
1851 a formal certificate of need hearing process are waived. There
1852 shall be no prohibition or restrictions on participation in the
1853 Medicaid program (Section 43-13-101 et seq.) for the person or
1854 entity receiving the certificate of need authorized under this
1855 subsection or for the beds constructed under the authority of that
1856 certificate of need.

1857 (18) The planning, design, construction, renovation,
1858 addition, furnishing and equipping of a clinical research unit at
1859 any health care facility defined in Section 41-7-173(h) that is
1860 under the direction and control of the University of Mississippi
1861 Medical Center and located in Jackson, Mississippi, and the
1862 addition of new beds or the conversion of beds from one (1)
1863 category to another in any such clinical research unit, shall not
1864 require the issuance of a certificate of need under Section
1865 41-7-171 et seq., notwithstanding any provision in Section
1866 41-7-171 et seq. to the contrary.

1867 (19) [Repealed]

1868 (20) Nothing in this section or in any other provision of
1869 Section 41-7-171 et seq. shall prevent any nursing facility from
1870 designating an appropriate number of existing beds in the facility



1871 as beds for providing care exclusively to patients with
1872 Alzheimer's disease.

1873 (21) Nothing in this section or any other provision of
1874 Section 41-7-171 et seq. shall prevent any health care facility
1875 from the new construction, renovation, conversion or expansion of
1876 new beds in the facility designated as intensive care units,
1877 negative pressure rooms, or isolation rooms pursuant to the
1878 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1879 this subsection, the provisions of Section 41-7-193(1) requiring
1880 substantial compliance with the projection of need as reported in
1881 the current State Health Plan and the provisions of Section
1882 41-7-197 requiring a formal certificate of need hearing process
1883 are waived.

1884 (22) The Department of Health may issue a certificate of
1885 need for the construction or conversion and operation of a Special
1886 Care Facility for Paroled Inmates which is licensed by the State
1887 Department of Health and is under contract with the Mississippi
1888 Department of Corrections and the State Parole Board to provide
1889 services for medically frail inmates which are placed in such
1890 facility pursuant to the specific authority and conditions of this
1891 act.

1892 **SECTION 9.** This act shall take effect and be in force from
1893 and after July 1, 2021, and shall stand repealed on June 30, 2021.

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



1 AN ACT TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO PROVIDE
2 FOR HOSPICE CARE SERVICES FOR INMATES WHO ARE CONFINED IN
3 FACILITIES UNDER THE JURISDICTION OF THE DEPARTMENT AND WHO ARE
4 TERMINALLY ILL; TO AUTHORIZE THE DEPARTMENT TO HAVE THOSE HOSPICE
5 CARE SERVICES PROVIDED BY PROPERLY QUALIFIED EMPLOYEES OF THE
6 DEPARTMENT OR TO CONTRACT FOR THE PROVIDING OF THE HOSPICE CARE
7 SERVICES; TO PROVIDE THAT IF THE DEPARTMENT PROVIDES THE HOSPICE
8 CARE SERVICES WITH DEPARTMENT EMPLOYEES, THE DEPARTMENT IS NOT
9 REQUIRED TO HAVE A LICENSE UNDER THE MISSISSIPPI HOSPICE LAW; TO
10 AMEND SECTION 41-85-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
11 PRECEDING PROVISIONS; TO AMEND SECTIONS 43-11-1 AND 43-11-13,
12 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "SPECIAL CARE
13 FACILITY FOR PAROLED INMATES" AND PRESCRIBE CONDITIONS FOR
14 LICENSURE BY THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTIONS
15 47-5-28 AND 47-7-4, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
16 MISSISSIPPI DEPARTMENT OF CORRECTIONS TO ESTABLISH A PROGRAM TO
17 GRANT MEDICAL PAROLE TO SUCH SPECIAL CARE FACILITY FOR MEDICALLY
18 FRAIL INMATES AND TO ESTABLISH ELIGIBILITY REQUIREMENTS FOR SUCH
19 PAROLE; TO CODIFY SECTION 43-13-117.6, MISSISSIPPI CODE OF 1972,
20 TO AUTHORIZE AND DIRECT THE DIVISION OF MEDICAID TO APPLY FOR
21 NECESSARY WAIVERS FOR MEDICAID REIMBURSEMENT FOR SERVICES
22 PROVIDED AT SUCH SPECIAL CARE FACILITY FOR PAROLED INMATES; TO
23 AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
24 STATE DEPARTMENT OF HEALTH TO ISSUE A HEALTH CARE CERTIFICATE OF
25 NEED FOR THE CONSTRUCTION, CONVERSION AND OPERATION OF A SPECIAL
26 CARE FACILITY FOR PAROLED INMATES; AND FOR RELATED PURPOSES.

