

By: Representative Yancey

To: Public Health and Human Services

HOUSE BILL NO. 1470

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI
2 CODE OF 1972, TO REMOVE CHEMICAL DEPENDENCY SERVICES AND
3 FACILITIES FROM THE REQUIREMENTS OF THE HEALTH CARE CERTIFICATE OF
4 NEED LAW; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
7 amended as follows:

8 41-7-173. For the purposes of Section 41-7-171 et seq., the
9 following words shall have the meanings ascribed herein, unless
10 the context otherwise requires:

11 (a) "Affected person" means (i) the applicant; (ii) a
12 person residing within the geographic area to be served by the
13 applicant's proposal; (iii) a person who regularly uses health
14 care facilities or HMOs located in the geographic area of the
15 proposal which provide similar service to that which is proposed;
16 (iv) health care facilities and HMOs which have, prior to receipt
17 of the application under review, formally indicated an intention
18 to provide service similar to that of the proposal being
19 considered at a future date; (v) third-party payers who reimburse



20 health care facilities located in the geographical area of the
21 proposal; or (vi) any agency that establishes rates for health
22 care services or HMOs located in the geographic area of the
23 proposal.

24 (b) "Certificate of need" means a written order of the
25 State Department of Health setting forth the affirmative finding
26 that a proposal in prescribed application form, sufficiently
27 satisfies the plans, standards and criteria prescribed for such
28 service or other project by Section 41-7-171 et seq., and by rules
29 and regulations promulgated thereunder by the State Department of
30 Health.

31 (c) (i) "Capital expenditure," when pertaining to
32 defined major medical equipment, shall mean an expenditure which,
33 under generally accepted accounting principles consistently
34 applied, is not properly chargeable as an expense of operation and
35 maintenance and which exceeds One Million Five Hundred Thousand
36 Dollars (\$1,500,000.00).

37 (ii) "Capital expenditure," when pertaining to
38 other than major medical equipment, shall mean any expenditure
39 which under generally accepted accounting principles consistently
40 applied is not properly chargeable as an expense of operation and
41 maintenance and which exceeds, for clinical health services, as
42 defined in * * * paragraph (k) below, Five Million Dollars
43 (\$5,000,000.00), adjusted for inflation as published by the State
44 Department of Health or which exceeds, for nonclinical health



45 services, as defined in * * * paragraph (k) below, Ten Million
46 Dollars (\$10,000,000.00), adjusted for inflation as published by
47 the State Department of Health.

48 (iii) A "capital expenditure" shall include the
49 acquisition, whether by lease, sufferance, gift, devise, legacy,
50 settlement of a trust or other means, of any facility or part
51 thereof, or equipment for a facility, the expenditure for which
52 would have been considered a capital expenditure if acquired by
53 purchase. Transactions which are separated in time but are
54 planned to be undertaken within twelve (12) months of each other
55 and are components of an overall plan for meeting patient care
56 objectives shall, for purposes of this definition, be viewed in
57 their entirety without regard to their timing.

58 (iv) In those instances where a health care
59 facility or other provider of health services proposes to provide
60 a service in which the capital expenditure for major medical
61 equipment or other than major medical equipment or a combination
62 of the two (2) may have been split between separate parties, the
63 total capital expenditure required to provide the proposed service
64 shall be considered in determining the necessity of certificate of
65 need review and in determining the appropriate certificate of need
66 review fee to be paid. The capital expenditure associated with
67 facilities and equipment to provide services in Mississippi shall
68 be considered regardless of where the capital expenditure was
69 made, in state or out of state, and regardless of the domicile of



70 the party making the capital expenditure, in state or out of
71 state.

72 (d) "Change of ownership" includes, but is not limited
73 to, inter vivos gifts, purchases, transfers, lease arrangements,
74 cash and/or stock transactions or other comparable arrangements
75 whenever any person or entity acquires or controls a majority
76 interest of an existing health care facility, and/or the change of
77 ownership of major medical equipment, a health service, or an
78 institutional health service. Changes of ownership from
79 partnerships, single proprietorships or corporations to another
80 form of ownership are specifically included. However, "change of
81 ownership" shall not include any inherited interest acquired as a
82 result of a testamentary instrument or under the laws of descent
83 and distribution of the State of Mississippi.

84 (e) "Commencement of construction" means that all of
85 the following have been completed with respect to a proposal or
86 project proposing construction, renovating, remodeling or
87 alteration:

88 (i) A legally binding written contract has been
89 consummated by the proponent and a lawfully licensed contractor to
90 construct and/or complete the intent of the proposal within a
91 specified period of time in accordance with final architectural
92 plans which have been approved by the licensing authority of the
93 State Department of Health;



94 (ii) Any and all permits and/or approvals deemed
95 lawfully necessary by all authorities with responsibility for such
96 have been secured; and

97 (iii) Actual bona fide undertaking of the subject
98 proposal has commenced, and a progress payment of at least one
99 percent (1%) of the total cost price of the contract has been paid
100 to the contractor by the proponent, and the requirements of this
101 paragraph (e) have been certified to in writing by the State
102 Department of Health.

103 Force account expenditures, such as deposits, securities,
104 bonds, et cetera, may, in the discretion of the State Department
105 of Health, be excluded from any or all of the provisions of
106 defined commencement of construction.

107 (f) "Consumer" means an individual who is not a
108 provider of health care as defined in paragraph (q) of this
109 section.

110 (g) "Develop," when used in connection with health
111 services, means to undertake those activities which, on their
112 completion, will result in the offering of a new institutional
113 health service or the incurring of a financial obligation as
114 defined under applicable state law in relation to the offering of
115 such services.

116 (h) "Health care facility" includes hospitals,
117 psychiatric hospitals, * * * skilled nursing facilities, end-stage
118 renal disease (ESRD) facilities, including freestanding



119 hemodialysis units, intermediate care facilities, ambulatory
120 surgical facilities, intermediate care facilities for the mentally
121 retarded, home health agencies, psychiatric residential treatment
122 facilities, pediatric skilled nursing facilities, long-term care
123 hospitals, comprehensive medical rehabilitation facilities,
124 including facilities owned or operated by the state or a political
125 subdivision or instrumentality of the state, but does not include
126 Christian Science sanatoriums operated or listed and certified by
127 the First Church of Christ, Scientist, Boston, Massachusetts.
128 This definition shall not apply to facilities for the private
129 practice, either independently or by incorporated medical groups,
130 of physicians, dentists or health care professionals except where
131 such facilities are an integral part of an institutional health
132 service. The various health care facilities listed in this
133 paragraph shall be defined as follows:

134 (i) "Hospital" means an institution which is
135 primarily engaged in providing to inpatients, by or under the
136 supervision of physicians, diagnostic services and therapeutic
137 services for medical diagnosis, treatment and care of injured,
138 disabled or sick persons, or rehabilitation services for the
139 rehabilitation of injured, disabled or sick persons. Such term
140 does not include psychiatric hospitals.

141 (ii) "Psychiatric hospital" means an institution
142 which is primarily engaged in providing to inpatients, by or under



143 the supervision of a physician, psychiatric services for the
144 diagnosis and treatment of persons with mental illness.

145 (iii) * * * [Deleted]

146 (iv) "Skilled nursing facility" means an
147 institution or a distinct part of an institution which is
148 primarily engaged in providing to inpatients skilled nursing care
149 and related services for patients who require medical or nursing
150 care or rehabilitation services for the rehabilitation of injured,
151 disabled or sick persons.

152 (v) "End-stage renal disease (ESRD) facilities"
153 means kidney disease treatment centers, which includes
154 freestanding hemodialysis units and limited care facilities. The
155 term "limited care facility" generally refers to an
156 off-hospital-premises facility, regardless of whether it is
157 provider or nonprovider operated, which is engaged primarily in
158 furnishing maintenance hemodialysis services to stabilized
159 patients.

160 (vi) "Intermediate care facility" means an
161 institution which provides, on a regular basis, health-related
162 care and services to individuals who do not require the degree of
163 care and treatment which a hospital or skilled nursing facility is
164 designed to provide, but who, because of their mental or physical
165 condition, require health-related care and services (above the
166 level of room and board).



167 (vii) "Ambulatory surgical facility" means a
168 facility primarily organized or established for the purpose of
169 performing surgery for outpatients and is a separate identifiable
170 legal entity from any other health care facility. Such term does
171 not include the offices of private physicians or dentists, whether
172 for individual or group practice, and does not include any
173 abortion facility as defined in Section 41-75-1(f).

174 (viii) "Intermediate care facility for the
175 mentally retarded" means an intermediate care facility that
176 provides health or rehabilitative services in a planned program of
177 activities to persons with an intellectual disability, also
178 including, but not limited to, cerebral palsy and other conditions
179 covered by the Federal Developmentally Disabled Assistance and
180 Bill of Rights Act, Public Law 94-103.

181 (ix) "Home health agency" means a public or
182 privately owned agency or organization, or a subdivision of such
183 an agency or organization, properly authorized to conduct business
184 in Mississippi, which is primarily engaged in providing to
185 individuals at the written direction of a licensed physician, in
186 the individual's place of residence, skilled nursing services
187 provided by or under the supervision of a registered nurse
188 licensed to practice in Mississippi, and one or more of the
189 following services or items:

- 190 1. Physical, occupational or speech therapy;
191 2. Medical social services;



192 3. Part-time or intermittent services of a
193 home health aide;

194 4. Other services as approved by the
195 licensing agency for home health agencies;

196 5. Medical supplies, other than drugs and
197 biologicals, and the use of medical appliances; or

198 6. Medical services provided by an intern or
199 resident-in-training at a hospital under a teaching program of
200 such hospital.

201 Further, all skilled nursing services and those services
202 listed in items 1 through 4 of this subparagraph (ix) must be
203 provided directly by the licensed home health agency. For
204 purposes of this subparagraph, "directly" means either through an
205 agency employee or by an arrangement with another individual not
206 defined as a health care facility.

207 This subparagraph (ix) shall not apply to health care
208 facilities which had contracts for the above services with a home
209 health agency on January 1, 1990.

210 (x) "Psychiatric residential treatment facility"
211 means any nonhospital establishment with permanent licensed
212 facilities which provides a twenty-four-hour program of care by
213 qualified therapists, including, but not limited to, duly licensed
214 mental health professionals, psychiatrists, psychologists,
215 psychotherapists and licensed certified social workers, for
216 emotionally disturbed children and adolescents referred to such



217 facility by a court, local school district or by the Department of
218 Human Services, who are not in an acute phase of illness requiring
219 the services of a psychiatric hospital, and are in need of such
220 restorative treatment services. For purposes of this
221 subparagraph, the term "emotionally disturbed" means a condition
222 exhibiting one or more of the following characteristics over a
223 long period of time and to a marked degree, which adversely
224 affects educational performance:

- 225 1. An inability to learn which cannot be
226 explained by intellectual, sensory or health factors;
- 227 2. An inability to build or maintain
228 satisfactory relationships with peers and teachers;
- 229 3. Inappropriate types of behavior or
230 feelings under normal circumstances;
- 231 4. A general pervasive mood of unhappiness or
232 depression; or
- 233 5. A tendency to develop physical symptoms or
234 fears associated with personal or school problems. An
235 establishment furnishing primarily domiciliary care is not within
236 this definition.

237 (xi) "Pediatric skilled nursing facility" means an
238 institution or a distinct part of an institution that is primarily
239 engaged in providing to inpatients skilled nursing care and
240 related services for persons under twenty-one (21) years of age



241 who require medical or nursing care or rehabilitation services for
242 the rehabilitation of injured, disabled or sick persons.

243 (xii) "Long-term care hospital" means a
244 freestanding, Medicare-certified hospital that has an average
245 length of inpatient stay greater than twenty-five (25) days, which
246 is primarily engaged in providing chronic or long-term medical
247 care to patients who do not require more than three (3) hours of
248 rehabilitation or comprehensive rehabilitation per day, and has a
249 transfer agreement with an acute care medical center and a
250 comprehensive medical rehabilitation facility. Long-term care
251 hospitals shall not use rehabilitation, comprehensive medical
252 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
253 nursing home, skilled nursing facility or sub-acute care facility
254 in association with its name.

255 (xiii) "Comprehensive medical rehabilitation
256 facility" means a hospital or hospital unit that is licensed
257 and/or certified as a comprehensive medical rehabilitation
258 facility which provides specialized programs that are accredited
259 by the Commission on Accreditation of Rehabilitation Facilities
260 and supervised by a physician board certified or board eligible in
261 physiatry or other doctor of medicine or osteopathy with at least
262 two (2) years of training in the medical direction of a
263 comprehensive rehabilitation program that:

264 1. Includes evaluation and treatment of
265 individuals with physical disabilities;



- 266 2. Emphasizes education and training of
267 individuals with disabilities;
- 268 3. Incorporates at least the following core
269 disciplines:
- 270 * * *a. Physical Therapy;
 - 271 * * *b. Occupational Therapy;
 - 272 * * *c. Speech and Language Therapy;
 - 273 * * *d. Rehabilitation Nursing; and
- 274 4. Incorporates at least three (3) of the
275 following disciplines:
- 276 * * *a. Psychology;
 - 277 * * *b. Audiology;
 - 278 * * *c. Respiratory Therapy;
 - 279 * * *d. Therapeutic Recreation;
 - 280 * * *e. Orthotics;
 - 281 * * *f. Prosthetics;
 - 282 * * *g. Special Education;
 - 283 * * *h. Vocational Rehabilitation;
 - 284 * * *i. Psychotherapy;
 - 285 * * *j. Social Work;
 - 286 * * *k. Rehabilitation Engineering.

287 These specialized programs include, but are not limited to:
288 spinal cord injury programs, head injury programs and infant and
289 early childhood development programs.



290 (i) "Health maintenance organization" or "HMO" means a
291 public or private organization organized under the laws of this
292 state or the federal government which:

293 (i) Provides or otherwise makes available to
294 enrolled participants health care services, including
295 substantially the following basic health care services: usual
296 physician services, hospitalization, laboratory, x-ray, emergency
297 and preventive services, and out-of-area coverage;

298 (ii) Is compensated (except for copayments) for
299 the provision of the basic health care services listed in
300 subparagraph (i) of this paragraph to enrolled participants on a
301 predetermined basis; and

302 (iii) Provides physician services primarily:

303 1. Directly through physicians who are either
304 employees or partners of such organization; or

305 2. Through arrangements with individual
306 physicians or one or more groups of physicians (organized on a
307 group practice or individual practice basis).

308 (j) "Health service area" means a geographic area of
309 the state designated in the State Health Plan as the area to be
310 used in planning for specified health facilities and services and
311 to be used when considering certificate of need applications to
312 provide health facilities and services.

313 (k) "Health services" means clinically related (i.e.,
314 diagnostic, treatment or rehabilitative) services and includes



315 * * * mental health and home health care services. "Clinical
316 health services" shall only include those activities which
317 contemplate any change in the existing bed complement of any
318 health care facility through the addition or conversion of any
319 beds, under Section 41-7-191(1)(c) or propose to offer any health
320 services if those services have not been provided on a regular
321 basis by the proposed provider of such services within the period
322 of twelve (12) months prior to the time such services would be
323 offered, under Section 41-7-191(1)(d). "Nonclinical health
324 services" shall be all other services which do not involve any
325 change in the existing bed complement or offering health services
326 as described above. "Health services" does not include medical
327 and related services for the diagnosis and treatment of chemical
328 dependency such as alcohol and drug abuse.

329 (l) "Institutional health services" shall mean health
330 services provided in or through health care facilities and shall
331 include the entities in or through which such services are
332 provided.

333 (m) "Major medical equipment" means medical equipment
334 designed for providing medical or any health-related service which
335 costs in excess of One Million Five Hundred Thousand Dollars
336 (\$1,500,000.00). However, this definition shall not be applicable
337 to clinical laboratories if they are determined by the State
338 Department of Health to be independent of any physician's office,
339 hospital or other health care facility or otherwise not so defined



340 by federal or state law, or rules and regulations promulgated
341 thereunder.

342 (n) "State Department of Health" or "department" shall
343 mean the state agency created under Section 41-3-15, which shall
344 be considered to be the State Health Planning and Development
345 Agency, as defined in paragraph (u) of this section.

346 (o) "Offer," when used in connection with health
347 services, means that it has been determined by the State
348 Department of Health that the health care facility is capable of
349 providing specified health services.

350 (p) "Person" means an individual, a trust or estate,
351 partnership, corporation (including associations, joint-stock
352 companies and insurance companies), the state or a political
353 subdivision or instrumentality of the state.

354 (q) "Provider" shall mean any person who is a provider
355 or representative of a provider of health care services requiring
356 a certificate of need under Section 41-7-171 et seq., or who has
357 any financial or indirect interest in any provider of services.

358 (r) "Radiation therapy services" means the treatment of
359 cancer and other diseases using ionizing radiation of either high
360 energy photons (x-rays or gamma rays) or charged particles
361 (electrons, protons or heavy nuclei). However, for purposes of a
362 certificate of need, radiation therapy services shall not include
363 low energy, superficial, external beam x-ray treatment of
364 superficial skin lesions.



365 (s) "Secretary" means the Secretary of Health and Human
366 Services, and any officer or employee of the Department of Health
367 and Human Services to whom the authority involved has been
368 delegated.

369 (t) "State Health Plan" means the sole and official
370 statewide health plan for Mississippi which identifies priority
371 state health needs and establishes standards and criteria for
372 health-related activities which require certificate of need review
373 in compliance with Section 41-7-191.

374 (u) "State Health Planning and Development Agency"
375 means the agency of state government designated to perform health
376 planning and resource development programs for the State of
377 Mississippi.

378 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is
379 amended as follows:

380 41-7-191. (1) No person shall engage in any of the
381 following activities without obtaining the required certificate of
382 need:

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

387 (b) The relocation of a health care facility or portion
388 thereof, or major medical equipment, unless such relocation of a
389 health care facility or portion thereof, or major medical



390 equipment, which does not involve a capital expenditure by or on
391 behalf of a health care facility, is within five thousand two
392 hundred eighty (5,280) feet from the main entrance of the health
393 care facility;

394 (c) Any change in the existing bed complement of any
395 health care facility through the addition or conversion of any
396 beds or the alteration, modernizing or refurbishing of any unit or
397 department in which the beds may be located; however, if a health
398 care facility has voluntarily delicensed some of its existing bed
399 complement, it may later relicense some or all of its delicensed
400 beds without the necessity of having to acquire a certificate of
401 need. The State Department of Health shall maintain a record of
402 the delicensing health care facility and its voluntarily
403 delicensed beds and continue counting those beds as part of the
404 state's total bed count for health care planning purposes. If a
405 health care facility that has voluntarily delicensed some of its
406 beds later desires to relicense some or all of its voluntarily
407 delicensed beds, it shall notify the State Department of Health of
408 its intent to increase the number of its licensed beds. The State
409 Department of Health shall survey the health care facility within
410 thirty (30) days of that notice and, if appropriate, issue the
411 health care facility a new license reflecting the new contingent
412 of beds. However, in no event may a health care facility that has
413 voluntarily delicensed some of its beds be reissued a license to
414 operate beds in excess of its bed count before the voluntary



415 delicensure of some of its beds without seeking certificate of
416 need approval;

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

421 (i) Open-heart surgery services;

422 (ii) Cardiac catheterization services;

423 (iii) Comprehensive inpatient rehabilitation
424 services;

425 (iv) Licensed psychiatric services;

426 (v) * * * [Deleted]

427 (vi) Radiation therapy services;

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

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

432 (ix) Home health services;

433 (x) Swing-bed services;

434 (xi) Ambulatory surgical services;

435 (xii) Magnetic resonance imaging services;

436 (xiii) [Deleted]

437 (xiv) Long-term care hospital services;

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



439 (e) The relocation of one or more health services from
440 one physical facility or site to another physical facility or
441 site, unless such relocation, which does not involve a capital
442 expenditure by or on behalf of a health care facility, (i) is to a
443 physical facility or site within five thousand two hundred eighty
444 (5,280) feet from the main entrance of the health care facility
445 where the health care service is located, or (ii) is the result of
446 an order of a court of appropriate jurisdiction or a result of
447 pending litigation in such court, or by order of the State
448 Department of Health, or by order of any other agency or legal
449 entity of the state, the federal government, or any political
450 subdivision of either, whose order is also approved by the State
451 Department of Health;

452 (f) The acquisition or otherwise control of any major
453 medical equipment for the provision of medical services; however,
454 (i) the acquisition of any major medical equipment used only for
455 research purposes, and (ii) the acquisition of major medical
456 equipment to replace medical equipment for which a facility is
457 already providing medical services and for which the State
458 Department of Health has been notified before the date of such
459 acquisition shall be exempt from this paragraph; an acquisition
460 for less than fair market value must be reviewed, if the
461 acquisition at fair market value would be subject to review;

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



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

470 (h) The change of ownership of any health care facility
471 defined in subparagraphs (iv), (vi) and (viii) of Section
472 41-7-173(h), in which a notice of intent as described in paragraph
473 (g) has not been filed and if the Executive Director, Division of
474 Medicaid, Office of the Governor, has not certified in writing
475 that there will be no increase in allowable costs to Medicaid from
476 revaluation of the assets or from increased interest and
477 depreciation as a result of the proposed change of ownership;

478 (i) Any activity described in paragraphs (a) through
479 (h) if undertaken by any person if that same activity would
480 require certificate of need approval if undertaken by a health
481 care facility;

482 (j) Any capital expenditure or deferred capital
483 expenditure by or on behalf of a health care facility not covered
484 by paragraphs (a) through (h);

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



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

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

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

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

507 (a) The department may issue a certificate of need to
508 any person proposing the new construction of any health care
509 facility defined in subparagraphs (iv) and (vi) of Section
510 41-7-173(h) as part of a life care retirement facility, in any
511 county bordering on the Gulf of Mexico in which is located a
512 National Aeronautics and Space Administration facility, not to
513 exceed forty (40) beds. From and after July 1, 1999, there shall



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

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

524 (c) The department may issue a certificate of need for
525 the addition to or expansion of any skilled nursing facility that
526 is part of an existing continuing care retirement community
527 located in Madison County, provided that the recipient of the
528 certificate of need agrees in writing that the skilled nursing
529 facility will not at any time participate in the Medicaid program
530 (Section 43-13-101 et seq.) or admit or keep any patients in the
531 skilled nursing facility who are participating in the Medicaid
532 program. This written agreement by the recipient of the
533 certificate of need shall be fully binding on any subsequent owner
534 of the skilled nursing facility, if the ownership of the facility
535 is transferred at any time after the issuance of the certificate
536 of need. Agreement that the skilled nursing facility will not
537 participate in the Medicaid program shall be a condition of the
538 issuance of a certificate of need to any person under this



539 paragraph (c), and if such skilled nursing facility at any time
540 after the issuance of the certificate of need, regardless of the
541 ownership of the facility, participates in the Medicaid program or
542 admits or keeps any patients in the facility who are participating
543 in the Medicaid program, the State Department of Health shall
544 revoke the certificate of need, if it is still outstanding, and
545 shall deny or revoke the license of the skilled nursing facility,
546 at the time that the department determines, after a hearing
547 complying with due process, that the facility has failed to comply
548 with any of the conditions upon which the certificate of need was
549 issued, as provided in this paragraph and in the written agreement
550 by the recipient of the certificate of need. The total number of
551 beds that may be authorized under the authority of this paragraph
552 (c) shall not exceed sixty (60) beds.

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

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



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

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

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

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



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

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



614 revoke the license of the skilled nursing facility, at the time
615 that the department determines, after a hearing complying with due
616 process, that the facility has failed to comply with any of the
617 conditions upon which the certificate of need was issued, as
618 provided in this paragraph and in the written agreement by the
619 recipient of the certificate of need. The provision of Section
620 41-7-193(1) regarding substantial compliance of the projection of
621 need as reported in the current State Health Plan is waived for
622 the purposes of this paragraph. The total number of nursing
623 facility beds that may be authorized by any certificate of need
624 issued under this paragraph (i) shall not exceed sixty (60) beds.
625 If the skilled nursing facility authorized by the certificate of
626 need issued under this paragraph is not constructed and fully
627 operational within eighteen (18) months after July 1, 1994, the
628 State Department of Health, after a hearing complying with due
629 process, shall revoke the certificate of need, if it is still
630 outstanding, and shall not issue a license for the skilled nursing
631 facility at any time after the expiration of the eighteen-month
632 period.

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



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

644 (k) The department may issue a certificate of need for
645 the construction of a nursing facility at a continuing care
646 retirement community in Lowndes County. The total number of beds
647 that may be authorized under the authority of this paragraph (k)
648 shall not exceed sixty (60) beds. From and after July 1, 2001,
649 the prohibition on the facility participating in the Medicaid
650 program (Section 43-13-101 et seq.) that was a condition of
651 issuance of the certificate of need under this paragraph (k) shall
652 be revised as follows: The nursing facility may participate in
653 the Medicaid program from and after July 1, 2001, if the owner of
654 the facility on July 1, 2001, agrees in writing that no more than
655 thirty (30) of the beds at the facility will be certified for
656 participation in the Medicaid program, and that no claim will be
657 submitted for Medicaid reimbursement for more than thirty (30)
658 patients in the facility in any month or for any patient in the
659 facility who is in a bed that is not Medicaid-certified. This
660 written agreement by the owner of the facility shall be a
661 condition of licensure of the facility, and the agreement shall be
662 fully binding on any subsequent owner of the facility if the
663 ownership of the facility is transferred at any time after July 1,



664 2001. After this written agreement is executed, the Division of
665 Medicaid and the State Department of Health shall not certify more
666 than thirty (30) of the beds in the facility for participation in
667 the Medicaid program. If the facility violates the terms of the
668 written agreement by admitting or keeping in the facility on a
669 regular or continuing basis more than thirty (30) patients who are
670 participating in the Medicaid program, the State Department of
671 Health shall revoke the license of the facility, at the time that
672 the department determines, after a hearing complying with due
673 process, that the facility has violated the written agreement.

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

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



689 writing that none of the beds at the nursing facility will be
690 certified for participation in the Medicaid program (Section
691 43-13-101 et seq.), and that no claim will be submitted for
692 Medicaid reimbursement in the nursing facility in any day or for
693 any patient in the nursing facility. This written agreement by
694 the recipient of the certificate of need shall be a condition of
695 the issuance of the certificate of need under this paragraph, and
696 the agreement shall be fully binding on any subsequent owner of
697 the nursing facility if the ownership of the nursing facility is
698 transferred at any time after the issuance of the certificate of
699 need. After this written agreement is executed, the Division of
700 Medicaid and the State Department of Health shall not certify any
701 of the beds in the nursing facility for participation in the
702 Medicaid program. If the nursing facility violates the terms of
703 the written agreement by admitting or keeping in the nursing
704 facility on a regular or continuing basis any patients who are
705 participating in the Medicaid program, the State Department of
706 Health shall revoke the license of the nursing facility, at the
707 time that the department determines, after a hearing complying
708 with due process, that the nursing facility has violated the
709 condition upon which the certificate of need was issued, as
710 provided in this paragraph and in the written agreement. If the
711 certificate of need authorized under this paragraph is not issued
712 within twelve (12) months after July 1, 2001, the department shall
713 deny the application for the certificate of need and shall not



714 issue the certificate of need at any time after the twelve-month
715 period, unless the issuance is contested. If the certificate of
716 need is issued and substantial construction of the nursing
717 facility beds has not commenced within eighteen (18) months after
718 July 1, 2001, the State Department of Health, after a hearing
719 complying with due process, shall revoke the certificate of need
720 if it is still outstanding, and the department shall not issue a
721 license for the nursing facility at any time after the
722 eighteen-month period. However, if the issuance of the
723 certificate of need is contested, the department shall require
724 substantial construction of the nursing facility beds within six
725 (6) months after final adjudication on the issuance of the
726 certificate of need.

727 (n) The department may issue a certificate of need for
728 the new construction, addition or conversion of skilled nursing
729 facility beds in Madison County, provided that the recipient of
730 the certificate of need agrees in writing that the skilled nursing
731 facility will not at any time participate in the Medicaid program
732 (Section 43-13-101 et seq.) or admit or keep any patients in the
733 skilled nursing facility who are participating in the Medicaid
734 program. This written agreement by the recipient of the
735 certificate of need shall be fully binding on any subsequent owner
736 of the skilled nursing facility, if the ownership of the facility
737 is transferred at any time after the issuance of the certificate
738 of need. Agreement that the skilled nursing facility will not



739 participate in the Medicaid program shall be a condition of the
740 issuance of a certificate of need to any person under this
741 paragraph (n), and if such skilled nursing facility at any time
742 after the issuance of the certificate of need, regardless of the
743 ownership of the facility, participates in the Medicaid program or
744 admits or keeps any patients in the facility who are participating
745 in the Medicaid program, the State Department of Health shall
746 revoke the certificate of need, if it is still outstanding, and
747 shall deny or revoke the license of the skilled nursing facility,
748 at the time that the department determines, after a hearing
749 complying with due process, that the facility has failed to comply
750 with any of the conditions upon which the certificate of need was
751 issued, as provided in this paragraph and in the written agreement
752 by the recipient of the certificate of need. The total number of
753 nursing facility beds that may be authorized by any certificate of
754 need issued under this paragraph (n) shall not exceed sixty (60)
755 beds. If the certificate of need authorized under this paragraph
756 is not issued within twelve (12) months after July 1, 1998, the
757 department shall deny the application for the certificate of need
758 and shall not issue the certificate of need at any time after the
759 twelve-month period, unless the issuance is contested. If the
760 certificate of need is issued and substantial construction of the
761 nursing facility beds has not commenced within eighteen (18)
762 months after July 1, 1998, the State Department of Health, after a
763 hearing complying with due process, shall revoke the certificate



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

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



789 in the Medicaid program, the State Department of Health shall
790 revoke the certificate of need, if it is still outstanding, and
791 shall deny or revoke the license of the skilled nursing facility,
792 at the time that the department determines, after a hearing
793 complying with due process, that the facility has failed to comply
794 with any of the conditions upon which the certificate of need was
795 issued, as provided in this paragraph and in the written agreement
796 by the recipient of the certificate of need. The total number of
797 nursing facility beds that may be authorized by any certificate of
798 need issued under this paragraph (o) shall not exceed sixty (60)
799 beds. If the certificate of need authorized under this paragraph
800 is not issued within twelve (12) months after July 1, 2001, the
801 department shall deny the application for the certificate of need
802 and shall not issue the certificate of need at any time after the
803 twelve-month period, unless the issuance is contested. If the
804 certificate of need is issued and substantial construction of the
805 nursing facility beds has not commenced within eighteen (18)
806 months after July 1, 2001, the State Department of Health, after a
807 hearing complying with due process, shall revoke the certificate
808 of need if it is still outstanding, and the department shall not
809 issue a license for the nursing facility at any time after the
810 eighteen-month period. However, if the issuance of the
811 certificate of need is contested, the department shall require
812 substantial construction of the nursing facility beds within six



813 (6) months after final adjudication on the issuance of the
814 certificate of need.

815 (p) The department may issue a certificate of need for
816 the construction of a municipally owned nursing facility within
817 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
818 beds, provided that the recipient of the certificate of need
819 agrees in writing that the skilled nursing facility will not at
820 any time participate in the Medicaid program (Section 43-13-101 et
821 seq.) or admit or keep any patients in the skilled nursing
822 facility who are participating in the Medicaid program. This
823 written agreement by the recipient of the certificate of need
824 shall be fully binding on any subsequent owner of the skilled
825 nursing facility, if the ownership of the facility is transferred
826 at any time after the issuance of the certificate of need.
827 Agreement that the skilled nursing facility will not participate
828 in the Medicaid program shall be a condition of the issuance of a
829 certificate of need to any person under this paragraph (p), and if
830 such skilled nursing facility at any time after the issuance of
831 the certificate of need, regardless of the ownership of the
832 facility, participates in the Medicaid program or admits or keeps
833 any patients in the facility who are participating in the Medicaid
834 program, the State Department of Health shall revoke the
835 certificate of need, if it is still outstanding, and shall deny or
836 revoke the license of the skilled nursing facility, at the time
837 that the department determines, after a hearing complying with due



838 process, that the facility has failed to comply with any of the
839 conditions upon which the certificate of need was issued, as
840 provided in this paragraph and in the written agreement by the
841 recipient of the certificate of need. The provision of Section
842 41-7-193(1) regarding substantial compliance of the projection of
843 need as reported in the current State Health Plan is waived for
844 the purposes of this paragraph. If the certificate of need
845 authorized under this paragraph is not issued within twelve (12)
846 months after July 1, 1998, the department shall deny the
847 application for the certificate of need and shall not issue the
848 certificate of need at any time after the twelve-month period,
849 unless the issuance is contested. If the certificate of need is
850 issued and substantial construction of the nursing facility beds
851 has not commenced within eighteen (18) months after July 1, 1998,
852 the State Department of Health, after a hearing complying with due
853 process, shall revoke the certificate of need if it is still
854 outstanding, and the department shall not issue a license for the
855 nursing facility at any time after the eighteen-month period.
856 However, if the issuance of the certificate of need is contested,
857 the department shall require substantial construction of the
858 nursing facility beds within six (6) months after final
859 adjudication on the issuance of the certificate of need.

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



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

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



888 previous fiscal years. During fiscal year 2000, in addition to
889 the six (6) certificates of need authorized in this subparagraph,
890 the department also shall issue a certificate of need for new
891 nursing facility beds in Amite County and a certificate of need
892 for new nursing facility beds in Carroll County.

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

907 (iv) Subject to the provisions of subparagraph
908 (v), the certificate of need issued under subparagraph (ii) for
909 nursing facility beds in the two (2) counties from the state at
910 large during each fiscal year shall first be available for nursing
911 facility beds in the two (2) counties that have the highest need
912 in the state for those beds, as shown in the fiscal year 1999



913 State Health Plan, when considering the need on a statewide basis
914 and without regard to the Long-Term Care Planning Districts in
915 which the counties are located. If there are no applications for
916 a certificate of need for nursing facility beds in either of the
917 two (2) counties having the highest need for those beds on a
918 statewide basis by the date specified by the department, then the
919 certificate of need shall be available for nursing facility beds
920 in other counties from the state at large in descending order of
921 the need for those beds on a statewide basis, from the county with
922 the second highest need to the county with the lowest need, until
923 an application is received for nursing facility beds in an
924 eligible county from the state at large.

925 (v) If a certificate of need is authorized to be
926 issued under this paragraph (q) for nursing facility beds in a
927 county on the basis of the need in the Long-Term Care Planning
928 District during any fiscal year of the four-year period, a
929 certificate of need shall not also be available under this
930 paragraph (q) for additional nursing facility beds in that county
931 on the basis of the need in the state at large, and that county
932 shall be excluded in determining which counties have the highest
933 need for nursing facility beds in the state at large for that
934 fiscal year. After a certificate of need has been issued under
935 this paragraph (q) for nursing facility beds in a county during
936 any fiscal year of the four-year period, a certificate of need
937 shall not be available again under this paragraph (q) for



938 additional nursing facility beds in that county during the
939 four-year period, and that county shall be excluded in determining
940 which counties have the highest need for nursing facility beds in
941 succeeding fiscal years.

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

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

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

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



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

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

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



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

989 (s) The State Department of Health may issue a
990 certificate of need to a nonprofit skilled nursing facility using
991 the Green House model of skilled nursing care and located in Yazoo
992 City, Yazoo County, Mississippi, for the construction, expansion
993 or conversion of not more than nineteen (19) nursing facility
994 beds. For purposes of this paragraph (s), the provisions of
995 Section 41-7-193(1) requiring substantial compliance with the
996 projection of need as reported in the current State Health Plan
997 and the provisions of Section 41-7-197 requiring a formal
998 certificate of need hearing process are waived. There shall be no
999 prohibition or restrictions on participation in the Medicaid
1000 program for the person receiving the certificate of need
1001 authorized under this paragraph (s).

1002 (t) The State Department of Health shall issue
1003 certificates of need to the owner of a nursing facility in
1004 operation at the time of Hurricane Katrina in Hancock County that
1005 was not operational on December 31, 2005, because of damage
1006 sustained from Hurricane Katrina to authorize the following: (i)
1007 the construction of a new nursing facility in Harrison County;
1008 (ii) the relocation of forty-nine (49) nursing facility beds from
1009 the Hancock County facility to the new Harrison County facility;
1010 (iii) the establishment of not more than twenty (20) non-Medicaid
1011 nursing facility beds at the Hancock County facility; and (iv) the



1012 establishment of not more than twenty (20) non-Medicaid beds at
1013 the new Harrison County facility. The certificates of need that
1014 authorize the non-Medicaid nursing facility beds under
1015 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1016 subject to the following conditions: The owner of the Hancock
1017 County facility and the new Harrison County facility must agree in
1018 writing that no more than fifty (50) of the beds at the Hancock
1019 County facility and no more than forty-nine (49) of the beds at
1020 the Harrison County facility will be certified for participation
1021 in the Medicaid program, and that no claim will be submitted for
1022 Medicaid reimbursement for more than fifty (50) patients in the
1023 Hancock County facility in any month, or for more than forty-nine
1024 (49) patients in the Harrison County facility in any month, or for
1025 any patient in either facility who is in a bed that is not
1026 Medicaid-certified. This written agreement by the owner of the
1027 nursing facilities shall be a condition of the issuance of the
1028 certificates of need under this paragraph (t), and the agreement
1029 shall be fully binding on any later owner or owners of either
1030 facility if the ownership of either facility is transferred at any
1031 time after the certificates of need are issued. After this
1032 written agreement is executed, the Division of Medicaid and the
1033 State Department of Health shall not certify more than fifty (50)
1034 of the beds at the Hancock County facility or more than forty-nine
1035 (49) of the beds at the Harrison County facility for participation
1036 in the Medicaid program. If the Hancock County facility violates



1037 the terms of the written agreement by admitting or keeping in the
1038 facility on a regular or continuing basis more than fifty (50)
1039 patients who are participating in the Medicaid program, or if the
1040 Harrison County facility violates the terms of the written
1041 agreement by admitting or keeping in the facility on a regular or
1042 continuing basis more than forty-nine (49) patients who are
1043 participating in the Medicaid program, the State Department of
1044 Health shall revoke the license of the facility that is in
1045 violation of the agreement, at the time that the department
1046 determines, after a hearing complying with due process, that the
1047 facility has violated the agreement.

1048 (u) The State Department of Health shall issue a
1049 certificate of need to a nonprofit venture for the establishment,
1050 construction and operation of a skilled nursing facility of not
1051 more than sixty (60) beds to provide skilled nursing care for
1052 ventilator dependent or otherwise medically dependent pediatric
1053 patients who require medical and nursing care or rehabilitation
1054 services to be located in a county in which an academic medical
1055 center and a children's hospital are located, and for any
1056 construction and for the acquisition of equipment related to those
1057 beds. The facility shall be authorized to keep such ventilator
1058 dependent or otherwise medically dependent pediatric patients
1059 beyond age twenty-one (21) in accordance with regulations of the
1060 State Board of Health. For purposes of this paragraph (u), the
1061 provisions of Section 41-7-193(1) requiring substantial compliance



1062 with the projection of need as reported in the current State
1063 Health Plan are waived, and the provisions of Section 41-7-197
1064 requiring a formal certificate of need hearing process are waived.
1065 The beds authorized by this paragraph shall be counted as
1066 pediatric skilled nursing facility beds for health planning
1067 purposes under Section 41-7-171 et seq. There shall be no
1068 prohibition of or restrictions on participation in the Medicaid
1069 program for the person receiving the certificate of need
1070 authorized by this paragraph.

1071 (3) The State Department of Health may grant approval for
1072 and issue certificates of need to any person proposing the new
1073 construction of, addition to, conversion of beds of or expansion
1074 of any health care facility defined in subparagraph (x)
1075 (psychiatric residential treatment facility) of Section
1076 41-7-173(h). The total number of beds which may be authorized by
1077 such certificates of need shall not exceed three hundred
1078 thirty-four (334) beds for the entire state.

1079 (a) Of the total number of beds authorized under this
1080 subsection, the department shall issue a certificate of need to a
1081 privately owned psychiatric residential treatment facility in
1082 Simpson County for the conversion of sixteen (16) intermediate
1083 care facility for the mentally retarded (ICF-MR) beds to
1084 psychiatric residential treatment facility beds, provided that
1085 facility agrees in writing that the facility shall give priority



1086 for the use of those sixteen (16) beds to Mississippi residents
1087 who are presently being treated in out-of-state facilities.

1088 (b) Of the total number of beds authorized under this
1089 subsection, the department may issue a certificate or certificates
1090 of need for the construction or expansion of psychiatric
1091 residential treatment facility beds or the conversion of other
1092 beds to psychiatric residential treatment facility beds in Warren
1093 County, not to exceed sixty (60) psychiatric residential treatment
1094 facility beds, provided that the facility agrees in writing that
1095 no more than thirty (30) of the beds at the psychiatric
1096 residential treatment facility will be certified for participation
1097 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1098 any patients other than those who are participating only in the
1099 Medicaid program of another state, and that no claim will be
1100 submitted to the Division of Medicaid for Medicaid reimbursement
1101 for more than thirty (30) patients in the psychiatric residential
1102 treatment facility in any day or for any patient in the
1103 psychiatric residential treatment facility who is in a bed that is
1104 not Medicaid-certified. This written agreement by the recipient
1105 of the certificate of need shall be a condition of the issuance of
1106 the certificate of need under this paragraph, and the agreement
1107 shall be fully binding on any subsequent owner of the psychiatric
1108 residential treatment facility if the ownership of the facility is
1109 transferred at any time after the issuance of the certificate of
1110 need. After this written agreement is executed, the Division of



1111 Medicaid and the State Department of Health shall not certify more
1112 than thirty (30) of the beds in the psychiatric residential
1113 treatment facility for participation in the Medicaid program for
1114 the use of any patients other than those who are participating
1115 only in the Medicaid program of another state. If the psychiatric
1116 residential treatment facility violates the terms of the written
1117 agreement by admitting or keeping in the facility on a regular or
1118 continuing basis more than thirty (30) patients who are
1119 participating in the Mississippi Medicaid program, the State
1120 Department of Health shall revoke the license of the facility, at
1121 the time that the department determines, after a hearing complying
1122 with due process, that the facility has violated the condition
1123 upon which the certificate of need was issued, as provided in this
1124 paragraph and in the written agreement.

1125 The State Department of Health, on or before July 1, 2002,
1126 shall transfer the certificate of need authorized under the
1127 authority of this paragraph (b), or reissue the certificate of
1128 need if it has expired, to River Region Health System.

1129 (c) Of the total number of beds authorized under this
1130 subsection, the department shall issue a certificate of need to a
1131 hospital currently operating Medicaid-certified acute psychiatric
1132 beds for adolescents in DeSoto County, for the establishment of a
1133 forty-bed psychiatric residential treatment facility in DeSoto
1134 County, provided that the hospital agrees in writing (i) that the
1135 hospital shall give priority for the use of those forty (40) beds



1136 to Mississippi residents who are presently being treated in
1137 out-of-state facilities, and (ii) that no more than fifteen (15)
1138 of the beds at the psychiatric residential treatment facility will
1139 be certified for participation in the Medicaid program (Section
1140 43-13-101 et seq.), and that no claim will be submitted for
1141 Medicaid reimbursement for more than fifteen (15) patients in the
1142 psychiatric residential treatment facility in any day or for any
1143 patient in the psychiatric residential treatment facility who is
1144 in a bed that is not Medicaid-certified. This written agreement
1145 by the recipient of the certificate of need shall be a condition
1146 of the issuance of the certificate of need under this paragraph,
1147 and the agreement shall be fully binding on any subsequent owner
1148 of the psychiatric residential treatment facility if the ownership
1149 of the facility is transferred at any time after the issuance of
1150 the certificate of need. After this written agreement is
1151 executed, the Division of Medicaid and the State Department of
1152 Health shall not certify more than fifteen (15) of the beds in the
1153 psychiatric residential treatment facility for participation in
1154 the Medicaid program. If the psychiatric residential treatment
1155 facility violates the terms of the written agreement by admitting
1156 or keeping in the facility on a regular or continuing basis more
1157 than fifteen (15) patients who are participating in the Medicaid
1158 program, the State Department of Health shall revoke the license
1159 of the facility, at the time that the department determines, after
1160 a hearing complying with due process, that the facility has



1161 violated the condition upon which the certificate of need was
1162 issued, as provided in this paragraph and in the written
1163 agreement.

1164 (d) Of the total number of beds authorized under this
1165 subsection, the department may issue a certificate or certificates
1166 of need for the construction or expansion of psychiatric
1167 residential treatment facility beds or the conversion of other
1168 beds to psychiatric treatment facility beds, not to exceed thirty
1169 (30) psychiatric residential treatment facility beds, in either
1170 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1171 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1172 (e) Of the total number of beds authorized under this
1173 subsection (3) the department shall issue a certificate of need to
1174 a privately owned, nonprofit psychiatric residential treatment
1175 facility in Hinds County for an eight-bed expansion of the
1176 facility, provided that the facility agrees in writing that the
1177 facility shall give priority for the use of those eight (8) beds
1178 to Mississippi residents who are presently being treated in
1179 out-of-state facilities.

1180 (f) The department shall issue a certificate of need to
1181 a one-hundred-thirty-four-bed specialty hospital located on
1182 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1183 at 5900 Highway 39 North in Meridian (Lauderdale County),
1184 Mississippi, for the addition, construction or expansion of
1185 child/adolescent psychiatric residential treatment facility beds



1186 in Lauderdale County. As a condition of issuance of the
1187 certificate of need under this paragraph, the facility shall give
1188 priority in admissions to the child/adolescent psychiatric
1189 residential treatment facility beds authorized under this
1190 paragraph to patients who otherwise would require out-of-state
1191 placement. The Division of Medicaid, in conjunction with the
1192 Department of Human Services, shall furnish the facility a list of
1193 all out-of-state patients on a quarterly basis. Furthermore,
1194 notice shall also be provided to the parent, custodial parent or
1195 guardian of each out-of-state patient notifying them of the
1196 priority status granted by this paragraph. For purposes of this
1197 paragraph, the provisions of Section 41-7-193(1) requiring
1198 substantial compliance with the projection of need as reported in
1199 the current State Health Plan are waived. The total number of
1200 child/adolescent psychiatric residential treatment facility beds
1201 that may be authorized under the authority of this paragraph shall
1202 be sixty (60) beds. There shall be no prohibition or restrictions
1203 on participation in the Medicaid program (Section 43-13-101 et
1204 seq.) for the person receiving the certificate of need authorized
1205 under this paragraph or for the beds converted pursuant to the
1206 authority of that certificate of need.

1207 (4) (a) From and after March 25, 2021, the department may
1208 issue a certificate of need to any person for the new construction
1209 of any hospital * * * or psychiatric hospital * * * that will
1210 contain any child/adolescent psychiatric * * * beds, or for the



1211 conversion of any other health care facility to a hospital * * *
1212 or psychiatric hospital * * * that will contain any
1213 child/adolescent psychiatric * * * beds. There shall be no
1214 prohibition or restrictions on participation in the Medicaid
1215 program (Section 43-13-101 et seq.) for the person(s) receiving
1216 the certificate(s) of need authorized under this paragraph (a) or
1217 for the beds converted pursuant to the authority of that
1218 certificate of need. In issuing any new certificate of need for
1219 any child/adolescent psychiatric * * * beds, either by new
1220 construction or conversion of beds of another category, the
1221 department shall give preference to beds which will be located in
1222 an area of the state which does not have such beds located in it,
1223 and to a location more than sixty-five (65) miles from existing
1224 beds. Upon receiving 2020 census data, the department may amend
1225 the State Health Plan regarding child/adolescent psychiatric * * *
1226 beds to reflect the need based on new census data.

1227 (i) [Deleted]

1228 (ii) The department may issue a certificate of
1229 need for the conversion of existing beds in a county hospital in
1230 Choctaw County from acute care beds to child/adolescent chemical
1231 dependency beds. For purposes of this subparagraph (ii), the
1232 provisions of Section 41-7-193(1) requiring substantial compliance
1233 with the projection of need as reported in the current State
1234 Health Plan are waived. The total number of beds that may be
1235 authorized under authority of this subparagraph shall not exceed



1236 twenty (20) beds. There shall be no prohibition or restrictions
1237 on participation in the Medicaid program (Section 43-13-101 et
1238 seq.) for the hospital receiving the certificate of need
1239 authorized under this subparagraph or for the beds converted
1240 pursuant to the authority of that certificate of need.

1241 (iii) The department may issue a certificate or
1242 certificates of need for the construction or expansion of
1243 child/adolescent psychiatric beds or the conversion of other beds
1244 to child/adolescent psychiatric beds in Warren County. For
1245 purposes of this subparagraph (iii), the provisions of Section
1246 41-7-193(1) requiring substantial compliance with the projection
1247 of need as reported in the current State Health Plan are waived.
1248 The total number of beds that may be authorized under the
1249 authority of this subparagraph shall not exceed twenty (20) beds.
1250 There shall be no prohibition or restrictions on participation in
1251 the Medicaid program (Section 43-13-101 et seq.) for the person
1252 receiving the certificate of need authorized under this
1253 subparagraph or for the beds converted pursuant to the authority
1254 of that certificate of need.

1255 If by January 1, 2002, there has been no significant
1256 commencement of construction of the beds authorized under this
1257 subparagraph (iii), or no significant action taken to convert
1258 existing beds to the beds authorized under this subparagraph, then
1259 the certificate of need that was previously issued under this
1260 subparagraph shall expire. If the previously issued certificate



1261 of need expires, the department may accept applications for
1262 issuance of another certificate of need for the beds authorized
1263 under this subparagraph, and may issue a certificate of need to
1264 authorize the construction, expansion or conversion of the beds
1265 authorized under this subparagraph.

1266 (iv) The department shall issue a certificate of
1267 need to the Region 7 Mental Health/Retardation Commission for the
1268 construction or expansion of child/adolescent psychiatric beds or
1269 the conversion of other beds to child/adolescent psychiatric beds
1270 in any of the counties served by the commission. For purposes of
1271 this subparagraph (iv), the provisions of Section 41-7-193(1)
1272 requiring substantial compliance with the projection of need as
1273 reported in the current State Health Plan are waived. The total
1274 number of beds that may be authorized under the authority of this
1275 subparagraph shall not exceed twenty (20) beds. There shall be no
1276 prohibition or restrictions on participation in the Medicaid
1277 program (Section 43-13-101 et seq.) for the person receiving the
1278 certificate of need authorized under this subparagraph or for the
1279 beds converted pursuant to the authority of that certificate of
1280 need.

1281 (v) The department may issue a certificate of need
1282 to any county hospital located in Leflore County for the
1283 construction or expansion of adult psychiatric beds or the
1284 conversion of other beds to adult psychiatric beds, not to exceed
1285 twenty (20) beds, provided that the recipient of the certificate



1286 of need agrees in writing that the adult psychiatric beds will not
1287 at any time be certified for participation in the Medicaid program
1288 and that the hospital will not admit or keep any patients who are
1289 participating in the Medicaid program in any of such adult
1290 psychiatric beds. This written agreement by the recipient of the
1291 certificate of need shall be fully binding on any subsequent owner
1292 of the hospital if the ownership of the hospital is transferred at
1293 any time after the issuance of the certificate of need. Agreement
1294 that the adult psychiatric beds will not be certified for
1295 participation in the Medicaid program shall be a condition of the
1296 issuance of a certificate of need to any person under this
1297 subparagraph (v), and if such hospital at any time after the
1298 issuance of the certificate of need, regardless of the ownership
1299 of the hospital, has any of such adult psychiatric beds certified
1300 for participation in the Medicaid program or admits or keeps any
1301 Medicaid patients in such adult psychiatric beds, the State
1302 Department of Health shall revoke the certificate of need, if it
1303 is still outstanding, and shall deny or revoke the license of the
1304 hospital at the time that the department determines, after a
1305 hearing complying with due process, that the hospital has failed
1306 to comply with any of the conditions upon which the certificate of
1307 need was issued, as provided in this subparagraph and in the
1308 written agreement by the recipient of the certificate of need.

1309 (vi) The department may issue a certificate or
1310 certificates of need for the expansion of child psychiatric beds



1311 or the conversion of other beds to child psychiatric beds at the
1312 University of Mississippi Medical Center. For purposes of this
1313 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1314 substantial compliance with the projection of need as reported in
1315 the current State Health Plan are waived. The total number of
1316 beds that may be authorized under the authority of this
1317 subparagraph shall not exceed fifteen (15) beds. There shall be
1318 no prohibition or restrictions on participation in the Medicaid
1319 program (Section 43-13-101 et seq.) for the hospital receiving the
1320 certificate of need authorized under this subparagraph or for the
1321 beds converted pursuant to the authority of that certificate of
1322 need.

1323 (b) From and after July 1, 1990, no hospital,
1324 psychiatric hospital * * * shall be authorized to add any
1325 child/adolescent psychiatric * * * beds or convert any beds of
1326 another category to child/adolescent psychiatric * * * beds
1327 without a certificate of need under the authority of subsection
1328 (1) (c) and subsection (4) (a) of this section.

1329 (5) The department may issue a certificate of need to a
1330 county hospital in Winston County for the conversion of fifteen
1331 (15) acute care beds to geriatric psychiatric care beds.

1332 (6) The State Department of Health shall issue a certificate
1333 of need to a Mississippi corporation qualified to manage a
1334 long-term care hospital as defined in Section 41-7-173(h) (xii) in
1335 Harrison County, not to exceed eighty (80) beds, including any



1336 necessary renovation or construction required for licensure and
1337 certification, provided that the recipient of the certificate of
1338 need agrees in writing that the long-term care hospital will not
1339 at any time participate in the Medicaid program (Section 43-13-101
1340 et seq.) or admit or keep any patients in the long-term care
1341 hospital who are participating in the Medicaid program. This
1342 written agreement by the recipient of the certificate of need
1343 shall be fully binding on any subsequent owner of the long-term
1344 care hospital, if the ownership of the facility is transferred at
1345 any time after the issuance of the certificate of need. Agreement
1346 that the long-term care hospital will not participate in the
1347 Medicaid program shall be a condition of the issuance of a
1348 certificate of need to any person under this subsection (6), and
1349 if such long-term care hospital at any time after the issuance of
1350 the certificate of need, regardless of the ownership of the
1351 facility, participates in the Medicaid program or admits or keeps
1352 any patients in the facility who are participating in the Medicaid
1353 program, the State Department of Health shall revoke the
1354 certificate of need, if it is still outstanding, and shall deny or
1355 revoke the license of the long-term care hospital, at the time
1356 that the department determines, after a hearing complying with due
1357 process, that the facility has failed to comply with any of the
1358 conditions upon which the certificate of need was issued, as
1359 provided in this subsection and in the written agreement by the
1360 recipient of the certificate of need. For purposes of this



1361 subsection, the provisions of Section 41-7-193(1) requiring
1362 substantial compliance with the projection of need as reported in
1363 the current State Health Plan are waived.

1364 (7) The State Department of Health may issue a certificate
1365 of need to any hospital in the state to utilize a portion of its
1366 beds for the "swing-bed" concept. Any such hospital must be in
1367 conformance with the federal regulations regarding such swing-bed
1368 concept at the time it submits its application for a certificate
1369 of need to the State Department of Health, except that such
1370 hospital may have more licensed beds or a higher average daily
1371 census (ADC) than the maximum number specified in federal
1372 regulations for participation in the swing-bed program. Any
1373 hospital meeting all federal requirements for participation in the
1374 swing-bed program which receives such certificate of need shall
1375 render services provided under the swing-bed concept to any
1376 patient eligible for Medicare (Title XVIII of the Social Security
1377 Act) who is certified by a physician to be in need of such
1378 services, and no such hospital shall permit any patient who is
1379 eligible for both Medicaid and Medicare or eligible only for
1380 Medicaid to stay in the swing beds of the hospital for more than
1381 thirty (30) days per admission unless the hospital receives prior
1382 approval for such patient from the Division of Medicaid, Office of
1383 the Governor. Any hospital having more licensed beds or a higher
1384 average daily census (ADC) than the maximum number specified in
1385 federal regulations for participation in the swing-bed program



1386 which receives such certificate of need shall develop a procedure
1387 to ensure that before a patient is allowed to stay in the swing
1388 beds of the hospital, there are no vacant nursing home beds
1389 available for that patient located within a fifty-mile radius of
1390 the hospital. When any such hospital has a patient staying in the
1391 swing beds of the hospital and the hospital receives notice from a
1392 nursing home located within such radius that there is a vacant bed
1393 available for that patient, the hospital shall transfer the
1394 patient to the nursing home within a reasonable time after receipt
1395 of the notice. Any hospital which is subject to the requirements
1396 of the two (2) preceding sentences of this subsection may be
1397 suspended from participation in the swing-bed program for a
1398 reasonable period of time by the State Department of Health if the
1399 department, after a hearing complying with due process, determines
1400 that the hospital has failed to comply with any of those
1401 requirements.

1402 (8) The Department of Health shall not grant approval for or
1403 issue a certificate of need to any person proposing the new
1404 construction of, addition to or expansion of a health care
1405 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1406 except as hereinafter provided: The department may issue a
1407 certificate of need to a nonprofit corporation located in Madison
1408 County, Mississippi, for the construction, expansion or conversion
1409 of not more than twenty (20) beds in a community living program
1410 for developmentally disabled adults in a facility as defined in



1411 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1412 subsection (8), the provisions of Section 41-7-193(1) requiring
1413 substantial compliance with the projection of need as reported in
1414 the current State Health Plan and the provisions of Section
1415 41-7-197 requiring a formal certificate of need hearing process
1416 are waived. There shall be no prohibition or restrictions on
1417 participation in the Medicaid program for the person receiving the
1418 certificate of need authorized under this subsection (8).

1419 (9) The Department of Health shall not grant approval for or
1420 issue a certificate of need to any person proposing the
1421 establishment of, or expansion of the currently approved territory
1422 of, or the contracting to establish a home office, subunit or
1423 branch office within the space operated as a health care facility
1424 as defined in Section 41-7-173(h) (i) through (viii) by a health
1425 care facility as defined in subparagraph (ix) of Section
1426 41-7-173(h).

1427 (10) Health care facilities owned and/or operated by the
1428 state or its agencies are exempt from the restraints in this
1429 section against issuance of a certificate of need if such addition
1430 or expansion consists of repairing or renovation necessary to
1431 comply with the state licensure law. This exception shall not
1432 apply to the new construction of any building by such state
1433 facility. This exception shall not apply to any health care
1434 facilities owned and/or operated by counties, municipalities,



1435 districts, unincorporated areas, other defined persons, or any
1436 combination thereof.

1437 (11) The new construction, renovation or expansion of or
1438 addition to any health care facility defined in subparagraph (ii)
1439 (psychiatric hospital), subparagraph (iv) (skilled nursing
1440 facility), subparagraph (vi) (intermediate care facility),
1441 subparagraph (viii) (intermediate care facility for the mentally
1442 retarded) and subparagraph (x) (psychiatric residential treatment
1443 facility) of Section 41-7-173(h) which is owned by the State of
1444 Mississippi and under the direction and control of the State
1445 Department of Mental Health, and the addition of new beds or the
1446 conversion of beds from one category to another in any such
1447 defined health care facility which is owned by the State of
1448 Mississippi and under the direction and control of the State
1449 Department of Mental Health, shall not require the issuance of a
1450 certificate of need under Section 41-7-171 et seq.,
1451 notwithstanding any provision in Section 41-7-171 et seq. to the
1452 contrary.

1453 (12) The new construction, renovation or expansion of or
1454 addition to any veterans homes or domiciliaries for eligible
1455 veterans of the State of Mississippi as authorized under Section
1456 35-1-19 shall not require the issuance of a certificate of need,
1457 notwithstanding any provision in Section 41-7-171 et seq. to the
1458 contrary.



1459 (13) The repair or the rebuilding of an existing, operating
1460 health care facility that sustained significant damage from a
1461 natural disaster that occurred after April 15, 2014, in an area
1462 that is proclaimed a disaster area or subject to a state of
1463 emergency by the Governor or by the President of the United States
1464 shall be exempt from all of the requirements of the Mississippi
1465 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1466 rules and regulations promulgated under that law, subject to the
1467 following conditions:

1468 (a) The repair or the rebuilding of any such damaged
1469 health care facility must be within one (1) mile of the
1470 pre-disaster location of the campus of the damaged health care
1471 facility, except that any temporary post-disaster health care
1472 facility operating location may be within five (5) miles of the
1473 pre-disaster location of the damaged health care facility;

1474 (b) The repair or the rebuilding of the damaged health
1475 care facility (i) does not increase or change the complement of
1476 its bed capacity that it had before the Governor's or the
1477 President's proclamation, (ii) does not increase or change its
1478 levels and types of health care services that it provided before
1479 the Governor's or the President's proclamation, and (iii) does not
1480 rebuild in a different county; however, this paragraph does not
1481 restrict or prevent a health care facility from decreasing its bed
1482 capacity that it had before the Governor's or the President's
1483 proclamation, or from decreasing the levels of or decreasing or



1484 eliminating the types of health care services that it provided
1485 before the Governor's or the President's proclamation, when the
1486 damaged health care facility is repaired or rebuilt;

1487 (c) The exemption from Certificate of Need Law provided
1488 under this subsection (13) is valid for only five (5) years from
1489 the date of the Governor's or the President's proclamation. If
1490 actual construction has not begun within that five-year period,
1491 the exemption provided under this subsection is inapplicable; and

1492 (d) The Division of Health Facilities Licensure and
1493 Certification of the State Department of Health shall provide the
1494 same oversight for the repair or the rebuilding of the damaged
1495 health care facility that it provides to all health care facility
1496 construction projects in the state.

1497 For the purposes of this subsection (13), "significant
1498 damage" to a health care facility means damage to the health care
1499 facility requiring an expenditure of at least One Million Dollars
1500 (\$1,000,000.00).

1501 (14) The State Department of Health shall issue a
1502 certificate of need to any hospital which is currently licensed
1503 for two hundred fifty (250) or more acute care beds and is located
1504 in any general hospital service area not having a comprehensive
1505 cancer center, for the establishment and equipping of such a
1506 center which provides facilities and services for outpatient
1507 radiation oncology therapy, outpatient medical oncology therapy,
1508 and appropriate support services including the provision of



1509 radiation therapy services. The provisions of Section 41-7-193(1)
1510 regarding substantial compliance with the projection of need as
1511 reported in the current State Health Plan are waived for the
1512 purpose of this subsection.

1513 (15) The State Department of Health may authorize the
1514 transfer of hospital beds, not to exceed sixty (60) beds, from the
1515 North Panola Community Hospital to the South Panola Community
1516 Hospital. The authorization for the transfer of those beds shall
1517 be exempt from the certificate of need review process.

1518 (16) The State Department of Health shall issue any
1519 certificates of need necessary for Mississippi State University
1520 and a public or private health care provider to jointly acquire
1521 and operate a linear accelerator and a magnetic resonance imaging
1522 unit. Those certificates of need shall cover all capital
1523 expenditures related to the project between Mississippi State
1524 University and the health care provider, including, but not
1525 limited to, the acquisition of the linear accelerator, the
1526 magnetic resonance imaging unit and other radiological modalities;
1527 the offering of linear accelerator and magnetic resonance imaging
1528 services; and the cost of construction of facilities in which to
1529 locate these services. The linear accelerator and the magnetic
1530 resonance imaging unit shall be (a) located in the City of
1531 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1532 Mississippi State University and the public or private health care
1533 provider selected by Mississippi State University through a



1534 request for proposals (RFP) process in which Mississippi State
1535 University selects, and the Board of Trustees of State
1536 Institutions of Higher Learning approves, the health care provider
1537 that makes the best overall proposal; (c) available to Mississippi
1538 State University for research purposes two-thirds (2/3) of the
1539 time that the linear accelerator and magnetic resonance imaging
1540 unit are operational; and (d) available to the public or private
1541 health care provider selected by Mississippi State University and
1542 approved by the Board of Trustees of State Institutions of Higher
1543 Learning one-third (1/3) of the time for clinical, diagnostic and
1544 treatment purposes. For purposes of this subsection, the
1545 provisions of Section 41-7-193(1) requiring substantial compliance
1546 with the projection of need as reported in the current State
1547 Health Plan are waived.

1548 (17) The State Department of Health shall issue a
1549 certificate of need for the construction of an acute care hospital
1550 in Kemper County, not to exceed twenty-five (25) beds, which shall
1551 be named the "John C. Stennis Memorial Hospital." In issuing the
1552 certificate of need under this subsection, the department shall
1553 give priority to a hospital located in Lauderdale County that has
1554 two hundred fifteen (215) beds. For purposes of this subsection,
1555 the provisions of Section 41-7-193(1) requiring substantial
1556 compliance with the projection of need as reported in the current
1557 State Health Plan and the provisions of Section 41-7-197 requiring
1558 a formal certificate of need hearing process are waived. There



1559 shall be no prohibition or restrictions on participation in the
1560 Medicaid program (Section 43-13-101 et seq.) for the person or
1561 entity receiving the certificate of need authorized under this
1562 subsection or for the beds constructed under the authority of that
1563 certificate of need.

1564 (18) The planning, design, construction, renovation,
1565 addition, furnishing and equipping of a clinical research unit at
1566 any health care facility defined in Section 41-7-173(h) that is
1567 under the direction and control of the University of Mississippi
1568 Medical Center and located in Jackson, Mississippi, and the
1569 addition of new beds or the conversion of beds from one (1)
1570 category to another in any such clinical research unit, shall not
1571 require the issuance of a certificate of need under Section
1572 41-7-171 et seq., notwithstanding any provision in Section
1573 41-7-171 et seq. to the contrary.

1574 (19) [Repealed]

1575 (20) Nothing in this section or in any other provision of
1576 Section 41-7-171 et seq. shall prevent any nursing facility from
1577 designating an appropriate number of existing beds in the facility
1578 as beds for providing care exclusively to patients with
1579 Alzheimer's disease.

1580 (21) Nothing in this section or any other provision of
1581 Section 41-7-171 et seq. shall prevent any health care facility
1582 from the new construction, renovation, conversion or expansion of
1583 new beds in the facility designated as intensive care units,



1584 negative pressure rooms, or isolation rooms pursuant to the
1585 provisions of Sections 41-14-1 through 41-14-11. For purposes of
1586 this subsection, the provisions of Section 41-7-193(1) requiring
1587 substantial compliance with the projection of need as reported in
1588 the current State Health Plan and the provisions of Section
1589 41-7-197 requiring a formal certificate of need hearing process
1590 are waived.

1591 **SECTION 3.** This act shall take effect and be in force from
1592 and after July 1, 2022.

