

By: Senator(s) Wiggins

To: Medicaid

SENATE BILL NO. 2448

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

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

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

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

22 (a) "Institutions for the aged or infirm" means a place  
23 either governmental or private that provides group living  
24 arrangements for four (4) or more persons who are unrelated to the  
25 operator and who are being provided food, shelter and personal



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

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

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



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

- 65 1. An inability to learn which cannot be explained  
66 by intellectual, sensory or health factors;
- 67 2. An inability to build or maintain satisfactory  
68 relationships with peers and teachers;
- 69 3. Inappropriate types of behavior or feelings  
70 under normal circumstances;
- 71 4. A general pervasive mood of unhappiness or  
72 depression; or
- 73 5. A tendency to develop physical symptoms or  
74 fears associated with personal or school problems. An



75 establishment furnishing primarily domiciliary care is not within  
76 this definition.

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

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

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

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



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

110 (i) "Special Care Facility for Paroled Inmates" means a  
111 long-term care and skilled nursing facility licensed as a special  
112 care facility for medically frail paroled inmates, formed to ease  
113 the burden of prison overcrowding and provide compassionate  
114 release and medical parole initiatives while impacting economic  
115 outcomes for the Mississippi Prison System. The facility shall  
116 meet all Mississippi Department of Health and the federal Center  
117 for Medicaid Services (CMS) requirements and shall be regulated by  
118 both agencies. The facility will offer physical, occupational and  
119 speech therapy, nursing services, wound care, a dedicated COVID  
120 services unit, individualized patient centered plans of care,  
121 social services, spiritual services, physical activities,  
122 transportation, medication, durable medical equipment,  
123 personalized meal plans by a licensed dietician and security



124 services. The facility shall have not less than sixty (60) beds  
125 nor more than one hundred (100) beds.

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

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



149 agency, from time to time, as necessary to promote the health,  
150 safety and welfare of persons living in those institutions.

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

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

170 (4) (a) Notwithstanding any determination by the licensing  
171 agency that skilled nursing services would be appropriate for a  
172 resident of a personal care home, that resident, the resident's  
173 guardian or the legally recognized responsible party for the



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

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





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

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

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



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

224 ( \* \* \*6):

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

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

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

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

244 2. The student has signed an affidavit that  
245 is on file at the student's school stating that he or she has not  
246 been convicted of or pleaded guilty or nolo contendere to a felony  
247 listed in paragraph (d) of this subsection ( \* \* \*6), or that any



248 such conviction or plea was reversed on appeal or a pardon was  
249 granted for the conviction or plea. Before any student may sign  
250 such an affidavit, the student's school shall provide information  
251 to the student explaining what a felony is and the nature of the  
252 felonies listed in paragraph (d) of this subsection ( \* \* \*6).

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

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



273           Except as otherwise provided in paragraph (c) of this  
274 subsection ( \* \* \*6), no such employee hired on or after July 1,  
275 2003, shall be permitted to provide direct patient care until the  
276 results of the criminal history record check have revealed no  
277 disqualifying record or the employee has been granted a waiver.  
278 In order to determine the employee applicant's suitability for  
279 employment, the applicant shall be fingerprinted. Fingerprints  
280 shall be submitted to the licensing agency from scanning, with the  
281 results processed through the Department of Public Safety's  
282 Criminal Information Center. The fingerprints shall then be  
283 forwarded by the Department of Public Safety to the Federal Bureau  
284 of Investigation for a national criminal history record check.  
285 The licensing agency shall notify the covered entity of the  
286 results of an employee applicant's criminal history record check.  
287 If the criminal history record check discloses a felony  
288 conviction, guilty plea or plea of nolo contendere to a felony of  
289 possession or sale of drugs, murder, manslaughter, armed robbery,  
290 rape, sexual battery, sex offense listed in Section 45-33-23(h),  
291 child abuse, arson, grand larceny, burglary, gratification of lust  
292 or aggravated assault, or felonious abuse and/or battery of a  
293 vulnerable adult that has not been reversed on appeal or for which  
294 a pardon has not been granted, the employee applicant shall not be  
295 eligible to be employed by the covered entity.

296           (c) Any such new employee applicant may, however, be  
297 employed on a temporary basis pending the results of the criminal



298 history record check, but any employment contract with the new  
299 employee shall be voidable if the new employee receives a  
300 disqualifying criminal history record check and no waiver is  
301 granted as provided in this subsection ( \* \* \*6).

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



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

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



348 (vi) other evidence demonstrating the ability of the individual to  
349 perform the employment responsibilities competently and that the  
350 individual does not pose a threat to the health or safety of the  
351 patients of the covered entity.

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

361 (g) If the results of an employee applicant's criminal  
362 history record check reveals no disqualifying event, then the  
363 covered entity shall, within two (2) weeks of the notification of  
364 no disqualifying event, provide the employee applicant with a  
365 notarized letter signed by the chief executive officer of the  
366 covered entity, or his or her authorized designee, confirming the  
367 employee applicant's suitability for employment based on his or  
368 her criminal history record check. An employee applicant may use  
369 that letter for a period of two (2) years from the date of the  
370 letter to seek employment with any covered entity without the  
371 necessity of an additional criminal history record check. Any  
372 covered entity presented with the letter may rely on the letter



373 with respect to an employee applicant's criminal background and is  
374 not required for a period of two (2) years from the date of the  
375 letter to conduct or have conducted a criminal history record  
376 check as required in this subsection ( \* \* \*6).

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

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

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

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

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





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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

520 (iii) A physical disability.

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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





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

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

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

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



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

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

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



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



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

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

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

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



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

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

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

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

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

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



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

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

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

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



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

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



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

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

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

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





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

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

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



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



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

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

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



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

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



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

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



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

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



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



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

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





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



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

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



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



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

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

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



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

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



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

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

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



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

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

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

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



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

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

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





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

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

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

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



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



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

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



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

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



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

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



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

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



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



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

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

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





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

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



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

1423 (4) (a) From and after March 25, 2021, the department may  
1424 issue a certificate of need to any person for the new construction  
1425 of any hospital, psychiatric hospital or chemical dependency  
1426 hospital that will contain any child/adolescent psychiatric or  
1427 child/adolescent chemical dependency beds, or for the conversion  
1428 of any other health care facility to a hospital, psychiatric  
1429 hospital or chemical dependency hospital that will contain any  
1430 child/adolescent psychiatric or child/adolescent chemical  
1431 dependency beds. There shall be no prohibition or restrictions on  
1432 participation in the Medicaid program (Section 43-13-101 et seq.)  
1433 for the person(s) receiving the certificate(s) of need authorized  
1434 under this paragraph (a) or for the beds converted pursuant to the  
1435 authority of that certificate of need. In issuing any new  
1436 certificate of need for any child/adolescent psychiatric or  
1437 child/adolescent chemical dependency beds, either by new  
1438 construction or conversion of beds of another category, the  
1439 department shall give preference to beds which will be located in  
1440 an area of the state which does not have such beds located in it,  
1441 and to a location more than sixty-five (65) miles from existing  
1442 beds. Upon receiving 2020 census data, the department may amend  
1443 the State Health Plan regarding child/adolescent psychiatric and



1444 child/adolescent chemical dependency beds to reflect the need  
1445 based on new census data.

1446 (i) [Deleted]

1447 (ii) The department may issue a certificate of  
1448 need for the conversion of existing beds in a county hospital in  
1449 Choctaw County from acute care beds to child/adolescent chemical  
1450 dependency beds. For purposes of this subparagraph (ii), the  
1451 provisions of Section 41-7-193(1) requiring substantial compliance  
1452 with the projection of need as reported in the current State  
1453 Health Plan are waived. The total number of beds that may be  
1454 authorized under authority of this subparagraph shall not exceed  
1455 twenty (20) beds. There shall be no prohibition or restrictions  
1456 on participation in the Medicaid program (Section 43-13-101 et  
1457 seq.) for the hospital receiving the certificate of need  
1458 authorized under this subparagraph or for the beds converted  
1459 pursuant to the authority of that certificate of need.

1460 (iii) The department may issue a certificate or  
1461 certificates of need for the construction or expansion of  
1462 child/adolescent psychiatric beds or the conversion of other beds  
1463 to child/adolescent psychiatric beds in Warren County. For  
1464 purposes of this subparagraph (iii), the provisions of Section  
1465 41-7-193(1) requiring substantial compliance with the projection  
1466 of need as reported in the current State Health Plan are waived.  
1467 The total number of beds that may be authorized under the  
1468 authority of this subparagraph shall not exceed twenty (20) beds.



1469 There shall be no prohibition or restrictions on participation in  
1470 the Medicaid program (Section 43-13-101 et seq.) for the person  
1471 receiving the certificate of need authorized under this  
1472 subparagraph or for the beds converted pursuant to the authority  
1473 of that certificate of need.

1474 If by January 1, 2002, there has been no significant  
1475 commencement of construction of the beds authorized under this  
1476 subparagraph (iii), or no significant action taken to convert  
1477 existing beds to the beds authorized under this subparagraph, then  
1478 the certificate of need that was previously issued under this  
1479 subparagraph shall expire. If the previously issued certificate  
1480 of need expires, the department may accept applications for  
1481 issuance of another certificate of need for the beds authorized  
1482 under this subparagraph, and may issue a certificate of need to  
1483 authorize the construction, expansion or conversion of the beds  
1484 authorized under this subparagraph.

1485 (iv) The department shall issue a certificate of  
1486 need to the Region 7 Mental Health/Retardation Commission for the  
1487 construction or expansion of child/adolescent psychiatric beds or  
1488 the conversion of other beds to child/adolescent psychiatric beds  
1489 in any of the counties served by the commission. For purposes of  
1490 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1491 requiring substantial compliance with the projection of need as  
1492 reported in the current State Health Plan are waived. The total  
1493 number of beds that may be authorized under the authority of this



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

1500 (v) The department may issue a certificate of need  
1501 to any county hospital located in Leflore County for the  
1502 construction or expansion of adult psychiatric beds or the  
1503 conversion of other beds to adult psychiatric beds, not to exceed  
1504 twenty (20) beds, provided that the recipient of the certificate  
1505 of need agrees in writing that the adult psychiatric beds will not  
1506 at any time be certified for participation in the Medicaid program  
1507 and that the hospital will not admit or keep any patients who are  
1508 participating in the Medicaid program in any of such adult  
1509 psychiatric beds. This written agreement by the recipient of the  
1510 certificate of need shall be fully binding on any subsequent owner  
1511 of the hospital if the ownership of the hospital is transferred at  
1512 any time after the issuance of the certificate of need. Agreement  
1513 that the adult psychiatric beds will not be certified for  
1514 participation in the Medicaid program shall be a condition of the  
1515 issuance of a certificate of need to any person under this  
1516 subparagraph (v), and if such hospital at any time after the  
1517 issuance of the certificate of need, regardless of the ownership  
1518 of the hospital, has any of such adult psychiatric beds certified



1519 for participation in the Medicaid program or admits or keeps any  
1520 Medicaid patients in such adult psychiatric beds, the State  
1521 Department of Health shall revoke the certificate of need, if it  
1522 is still outstanding, and shall deny or revoke the license of the  
1523 hospital at the time that the department determines, after a  
1524 hearing complying with due process, that the hospital has failed  
1525 to comply with any of the conditions upon which the certificate of  
1526 need was issued, as provided in this subparagraph and in the  
1527 written agreement by the recipient of the certificate of need.

1528                   (vi) The department may issue a certificate or  
1529 certificates of need for the expansion of child psychiatric beds  
1530 or the conversion of other beds to child psychiatric beds at the  
1531 University of Mississippi Medical Center. For purposes of this  
1532 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1533 substantial compliance with the projection of need as reported in  
1534 the current State Health Plan are waived. The total number of  
1535 beds that may be authorized under the authority of this  
1536 subparagraph shall not exceed fifteen (15) beds. There shall be  
1537 no prohibition or restrictions on participation in the Medicaid  
1538 program (Section 43-13-101 et seq.) for the hospital receiving the  
1539 certificate of need authorized under this subparagraph or for the  
1540 beds converted pursuant to the authority of that certificate of  
1541 need.

1542                   (b) From and after July 1, 1990, no hospital,  
1543 psychiatric hospital or chemical dependency hospital shall be



1544 authorized to add any child/adolescent psychiatric or  
1545 child/adolescent chemical dependency beds or convert any beds of  
1546 another category to child/adolescent psychiatric or  
1547 child/adolescent chemical dependency beds without a certificate of  
1548 need under the authority of subsection (1)(c) and subsection  
1549 (4)(a) of this section.

1550 (5) The department may issue a certificate of need to a  
1551 county hospital in Winston County for the conversion of fifteen  
1552 (15) acute care beds to geriatric psychiatric care beds.

1553 (6) The State Department of Health shall issue a certificate  
1554 of need to a Mississippi corporation qualified to manage a  
1555 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1556 Harrison County, not to exceed eighty (80) beds, including any  
1557 necessary renovation or construction required for licensure and  
1558 certification, provided that the recipient of the certificate of  
1559 need agrees in writing that the long-term care hospital will not  
1560 at any time participate in the Medicaid program (Section 43-13-101  
1561 et seq.) or admit or keep any patients in the long-term care  
1562 hospital who are participating in the Medicaid program. This  
1563 written agreement by the recipient of the certificate of need  
1564 shall be fully binding on any subsequent owner of the long-term  
1565 care hospital, if the ownership of the facility is transferred at  
1566 any time after the issuance of the certificate of need. Agreement  
1567 that the long-term care hospital will not participate in the  
1568 Medicaid program shall be a condition of the issuance of a



1569 certificate of need to any person under this subsection (6), and  
1570 if such long-term care hospital at any time after the issuance of  
1571 the certificate of need, regardless of the ownership of the  
1572 facility, participates in the Medicaid program or admits or keeps  
1573 any patients in the facility who are participating in the Medicaid  
1574 program, the State Department of Health shall revoke the  
1575 certificate of need, if it is still outstanding, and shall deny or  
1576 revoke the license of the long-term care hospital, at the time  
1577 that the department determines, after a hearing complying with due  
1578 process, that the facility has failed to comply with any of the  
1579 conditions upon which the certificate of need was issued, as  
1580 provided in this subsection and in the written agreement by the  
1581 recipient of the certificate of need. For purposes of this  
1582 subsection, the provisions of Section 41-7-193(1) requiring  
1583 substantial compliance with the projection of need as reported in  
1584 the current State Health Plan are waived.

1585 (7) The State Department of Health may issue a certificate  
1586 of need to any hospital in the state to utilize a portion of its  
1587 beds for the "swing-bed" concept. Any such hospital must be in  
1588 conformance with the federal regulations regarding such swing-bed  
1589 concept at the time it submits its application for a certificate  
1590 of need to the State Department of Health, except that such  
1591 hospital may have more licensed beds or a higher average daily  
1592 census (ADC) than the maximum number specified in federal  
1593 regulations for participation in the swing-bed program. Any





1594 hospital meeting all federal requirements for participation in the  
1595 swing-bed program which receives such certificate of need shall  
1596 render services provided under the swing-bed concept to any  
1597 patient eligible for Medicare (Title XVIII of the Social Security  
1598 Act) who is certified by a physician to be in need of such  
1599 services, and no such hospital shall permit any patient who is  
1600 eligible for both Medicaid and Medicare or eligible only for  
1601 Medicaid to stay in the swing beds of the hospital for more than  
1602 thirty (30) days per admission unless the hospital receives prior  
1603 approval for such patient from the Division of Medicaid, Office of  
1604 the Governor. Any hospital having more licensed beds or a higher  
1605 average daily census (ADC) than the maximum number specified in  
1606 federal regulations for participation in the swing-bed program  
1607 which receives such certificate of need shall develop a procedure  
1608 to ensure that before a patient is allowed to stay in the swing  
1609 beds of the hospital, there are no vacant nursing home beds  
1610 available for that patient located within a fifty-mile radius of  
1611 the hospital. When any such hospital has a patient staying in the  
1612 swing beds of the hospital and the hospital receives notice from a  
1613 nursing home located within such radius that there is a vacant bed  
1614 available for that patient, the hospital shall transfer the  
1615 patient to the nursing home within a reasonable time after receipt  
1616 of the notice. Any hospital which is subject to the requirements  
1617 of the two (2) preceding sentences of this subsection may be  
1618 suspended from participation in the swing-bed program for a



1619 reasonable period of time by the State Department of Health if the  
1620 department, after a hearing complying with due process, determines  
1621 that the hospital has failed to comply with any of those  
1622 requirements.

1623 (8) The Department of Health shall not grant approval for or  
1624 issue a certificate of need to any person proposing the new  
1625 construction of, addition to or expansion of a health care  
1626 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1627 except as hereinafter provided: The department may issue a  
1628 certificate of need to a nonprofit corporation located in Madison  
1629 County, Mississippi, for the construction, expansion or conversion  
1630 of not more than twenty (20) beds in a community living program  
1631 for developmentally disabled adults in a facility as defined in  
1632 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1633 subsection (8), the provisions of Section 41-7-193(1) requiring  
1634 substantial compliance with the projection of need as reported in  
1635 the current State Health Plan and the provisions of Section  
1636 41-7-197 requiring a formal certificate of need hearing process  
1637 are waived. There shall be no prohibition or restrictions on  
1638 participation in the Medicaid program for the person receiving the  
1639 certificate of need authorized under this subsection (8).

1640 (9) The Department of Health shall not grant approval for or  
1641 issue a certificate of need to any person proposing the  
1642 establishment of, or expansion of the currently approved territory  
1643 of, or the contracting to establish a home office, subunit or



1644 branch office within the space operated as a health care facility  
1645 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1646 care facility as defined in subparagraph (ix) of Section  
1647 41-7-173(h).

1648 (10) Health care facilities owned and/or operated by the  
1649 state or its agencies are exempt from the restraints in this  
1650 section against issuance of a certificate of need if such addition  
1651 or expansion consists of repairing or renovation necessary to  
1652 comply with the state licensure law. This exception shall not  
1653 apply to the new construction of any building by such state  
1654 facility. This exception shall not apply to any health care  
1655 facilities owned and/or operated by counties, municipalities,  
1656 districts, unincorporated areas, other defined persons, or any  
1657 combination thereof.

1658 (11) The new construction, renovation or expansion of or  
1659 addition to any health care facility defined in subparagraph (ii)  
1660 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1661 facility), subparagraph (vi) (intermediate care facility),  
1662 subparagraph (viii) (intermediate care facility for the mentally  
1663 retarded) and subparagraph (x) (psychiatric residential treatment  
1664 facility) of Section 41-7-173(h) which is owned by the State of  
1665 Mississippi and under the direction and control of the State  
1666 Department of Mental Health, and the addition of new beds or the  
1667 conversion of beds from one category to another in any such  
1668 defined health care facility which is owned by the State of



1669 Mississippi and under the direction and control of the State  
1670 Department of Mental Health, shall not require the issuance of a  
1671 certificate of need under Section 41-7-171 et seq.,  
1672 notwithstanding any provision in Section 41-7-171 et seq. to the  
1673 contrary.

1674       (12) The new construction, renovation or expansion of or  
1675 addition to any veterans homes or domiciliaries for eligible  
1676 veterans of the State of Mississippi as authorized under Section  
1677 35-1-19 shall not require the issuance of a certificate of need,  
1678 notwithstanding any provision in Section 41-7-171 et seq. to the  
1679 contrary.

1680       (13) The repair or the rebuilding of an existing, operating  
1681 health care facility that sustained significant damage from a  
1682 natural disaster that occurred after April 15, 2014, in an area  
1683 that is proclaimed a disaster area or subject to a state of  
1684 emergency by the Governor or by the President of the United States  
1685 shall be exempt from all of the requirements of the Mississippi  
1686 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1687 rules and regulations promulgated under that law, subject to the  
1688 following conditions:

1689           (a) The repair or the rebuilding of any such damaged  
1690 health care facility must be within one (1) mile of the  
1691 pre-disaster location of the campus of the damaged health care  
1692 facility, except that any temporary post-disaster health care



1693 facility operating location may be within five (5) miles of the  
1694 pre-disaster location of the damaged health care facility;

1695 (b) The repair or the rebuilding of the damaged health  
1696 care facility (i) does not increase or change the complement of  
1697 its bed capacity that it had before the Governor's or the  
1698 President's proclamation, (ii) does not increase or change its  
1699 levels and types of health care services that it provided before  
1700 the Governor's or the President's proclamation, and (iii) does not  
1701 rebuild in a different county; however, this paragraph does not  
1702 restrict or prevent a health care facility from decreasing its bed  
1703 capacity that it had before the Governor's or the President's  
1704 proclamation, or from decreasing the levels of or decreasing or  
1705 eliminating the types of health care services that it provided  
1706 before the Governor's or the President's proclamation, when the  
1707 damaged health care facility is repaired or rebuilt;

1708 (c) The exemption from Certificate of Need Law provided  
1709 under this subsection (13) is valid for only five (5) years from  
1710 the date of the Governor's or the President's proclamation. If  
1711 actual construction has not begun within that five-year period,  
1712 the exemption provided under this subsection is inapplicable; and

1713 (d) The Division of Health Facilities Licensure and  
1714 Certification of the State Department of Health shall provide the  
1715 same oversight for the repair or the rebuilding of the damaged  
1716 health care facility that it provides to all health care facility  
1717 construction projects in the state.



1718           For the purposes of this subsection (13), "significant  
1719 damage" to a health care facility means damage to the health care  
1720 facility requiring an expenditure of at least One Million Dollars  
1721 (\$1,000,000.00).

1722           (14) The State Department of Health shall issue a  
1723 certificate of need to any hospital which is currently licensed  
1724 for two hundred fifty (250) or more acute care beds and is located  
1725 in any general hospital service area not having a comprehensive  
1726 cancer center, for the establishment and equipping of such a  
1727 center which provides facilities and services for outpatient  
1728 radiation oncology therapy, outpatient medical oncology therapy,  
1729 and appropriate support services including the provision of  
1730 radiation therapy services. The provisions of Section 41-7-193(1)  
1731 regarding substantial compliance with the projection of need as  
1732 reported in the current State Health Plan are waived for the  
1733 purpose of this subsection.

1734           (15) The State Department of Health may authorize the  
1735 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1736 North Panola Community Hospital to the South Panola Community  
1737 Hospital. The authorization for the transfer of those beds shall  
1738 be exempt from the certificate of need review process.

1739           (16) The State Department of Health shall issue any  
1740 certificates of need necessary for Mississippi State University  
1741 and a public or private health care provider to jointly acquire  
1742 and operate a linear accelerator and a magnetic resonance imaging



1743 unit. Those certificates of need shall cover all capital  
1744 expenditures related to the project between Mississippi State  
1745 University and the health care provider, including, but not  
1746 limited to, the acquisition of the linear accelerator, the  
1747 magnetic resonance imaging unit and other radiological modalities;  
1748 the offering of linear accelerator and magnetic resonance imaging  
1749 services; and the cost of construction of facilities in which to  
1750 locate these services. The linear accelerator and the magnetic  
1751 resonance imaging unit shall be (a) located in the City of  
1752 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1753 Mississippi State University and the public or private health care  
1754 provider selected by Mississippi State University through a  
1755 request for proposals (RFP) process in which Mississippi State  
1756 University selects, and the Board of Trustees of State  
1757 Institutions of Higher Learning approves, the health care provider  
1758 that makes the best overall proposal; (c) available to Mississippi  
1759 State University for research purposes two-thirds (2/3) of the  
1760 time that the linear accelerator and magnetic resonance imaging  
1761 unit are operational; and (d) available to the public or private  
1762 health care provider selected by Mississippi State University and  
1763 approved by the Board of Trustees of State Institutions of Higher  
1764 Learning one-third (1/3) of the time for clinical, diagnostic and  
1765 treatment purposes. For purposes of this subsection, the  
1766 provisions of Section 41-7-193(1) requiring substantial compliance



1767 with the projection of need as reported in the current State  
1768 Health Plan are waived.

1769 (17) The State Department of Health shall issue a  
1770 certificate of need for the construction of an acute care hospital  
1771 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1772 be named the "John C. Stennis Memorial Hospital." In issuing the  
1773 certificate of need under this subsection, the department shall  
1774 give priority to a hospital located in Lauderdale County that has  
1775 two hundred fifteen (215) beds. For purposes of this subsection,  
1776 the provisions of Section 41-7-193(1) requiring substantial  
1777 compliance with the projection of need as reported in the current  
1778 State Health Plan and the provisions of Section 41-7-197 requiring  
1779 a formal certificate of need hearing process are waived. There  
1780 shall be no prohibition or restrictions on participation in the  
1781 Medicaid program (Section 43-13-101 et seq.) for the person or  
1782 entity receiving the certificate of need authorized under this  
1783 subsection or for the beds constructed under the authority of that  
1784 certificate of need.

1785 (18) The planning, design, construction, renovation,  
1786 addition, furnishing and equipping of a clinical research unit at  
1787 any health care facility defined in Section 41-7-173(h) that is  
1788 under the direction and control of the University of Mississippi  
1789 Medical Center and located in Jackson, Mississippi, and the  
1790 addition of new beds or the conversion of beds from one (1)  
1791 category to another in any such clinical research unit, shall not





1792 require the issuance of a certificate of need under Section  
1793 41-7-171 et seq., notwithstanding any provision in Section  
1794 41-7-171 et seq. to the contrary.

1795 (19) [Repealed]

1796 (20) Nothing in this section or in any other provision of  
1797 Section 41-7-171 et seq. shall prevent any nursing facility from  
1798 designating an appropriate number of existing beds in the facility  
1799 as beds for providing care exclusively to patients with  
1800 Alzheimer's disease.

1801 (21) Nothing in this section or any other provision of  
1802 Section 41-7-171 et seq. shall prevent any health care facility  
1803 from the new construction, renovation, conversion or expansion of  
1804 new beds in the facility designated as intensive care units,  
1805 negative pressure rooms, or isolation rooms pursuant to the  
1806 provisions of Sections 41-14-1 through 41-14-11. For purposes of  
1807 this subsection, the provisions of Section 41-7-193(1) requiring  
1808 substantial compliance with the projection of need as reported in  
1809 the current State Health Plan and the provisions of Section  
1810 41-7-197 requiring a formal certificate of need hearing process  
1811 are waived.

1812 (22) The Department of Health may issue a certificate of  
1813 need for the construction or conversion and operation of a Special  
1814 Care Facility for Paroled Inmates which is licensed by the State  
1815 Department of Health and is under contract with the Mississippi  
1816 Department of Corrections and the State Parole Board to provide



1817 services for medically frail inmates which are placed in such  
1818 facility pursuant to the specific authority and conditions of this  
1819 act.

1820           **SECTION 7.** This act shall take effect and be in force from  
1821 and after July 1, 2022.

