

By: Senator(s) Butler (36th), Polk, DeBar,
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To: Public Health and
Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2820

1 AN ACT TO ESTABLISH THE COVID-19 HOSPITAL EXPANDED CAPACITY
2 PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI DEPARTMENT OF HEALTH
3 TO PROVIDE FUNDS TO HOSPITALS TO INCREASE TREATMENT CAPACITY
4 RELATED TO THE COVID-19 PANDEMIC; TO AUTHORIZE THE MISSISSIPPI
5 DEPARTMENT OF HEALTH TO PROMULGATE RULES AND REGULATIONS TO GOVERN
6 THE ADMINISTRATION OF THE PROGRAM; TO ESTABLISH CERTAIN CONDITIONS
7 ON THE USE OF FUNDS UNDER THE PROGRAM; TO CREATE A SPECIAL FUND IN
8 THE STATE TREASURY FOR PROGRAM FUNDS; TO SET CERTAIN REQUIREMENTS
9 ON THE USE AND ACCEPTANCE OF FUNDS UNDER THE PROGRAM; TO REQUIRE
10 THE DEPARTMENT OF HEALTH TO REPORT ON THE STATUS OF THE PROGRAM;
11 TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO EXEMPT THE
12 CONSTRUCTION OR ADDITION OF INTENSIVE CARE UNITS OR NEGATIVE
13 PRESSURE ROOMS FUNDED BY THIS PROGRAM FROM THE PROVISIONS OF THE
14 HEALTHCARE CERTIFICATE OF NEED LAW; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** (1) The Mississippi Department of Health shall
17 establish and administer the Covid-19 Hospital Expanded Capacity
18 Program for the purpose of providing funds to hospitals that
19 increased treatment capacity related to the COVID-19 pandemic.
20 The program shall make grants to hospitals as a reimbursement for
21 expenses incurred on March 3, 2021, through the effective date of
22 this act in the following manner:

23 (a) Funds shall first be expended for the reimbursement
24 to hospitals for the creation of ICU beds at a maximum amount of



25 Two Hundred Thousand Dollars (\$200,000.00) per bed. If the
26 reimbursement for allowable expenditures submitted by all
27 hospitals exceeds the amount of funds appropriated to this
28 program, then the Department of Health shall allocate the
29 reimbursement to each hospital per ICU bed created.

30 (b) After such reimbursement is made in paragraph (a)
31 of this subsection, any remaining funds shall be used to reimburse
32 hospitals for the creation of negative pressure beds at a maximum
33 amount of Fifty Thousand dollars (\$50,000.00) per bed. If the
34 reimbursement for allowable expenditures submitted by all
35 hospitals exceeds the amount of funds appropriated to this
36 program, then the Department of Health shall allocate the
37 reimbursement to each hospital per negative pressure bed created.

38 (2) The Department of Health shall:

39 (a) Promulgate rules and regulations necessary to
40 implement the purposes of this act.

41 (b) Require recipients of funds under this program to
42 certify that the reimbursement for the creation of the intensive
43 care units or negative pressure room is for allowable expenditures
44 under the American Rescue Plan Act (ARPA) of 2021, Public Law
45 117-2, which amends Title VI of the Social Security Act; and its
46 implementing guidelines, guidance, rules, regulations and/or other
47 criteria, as may be amended or supplemented from time to time, by
48 the United States Department of the Treasury.



(c) Certify to the Department of Finance and Administration that each expenditure of the funds appropriated to the office under this act is in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus State Fiscal Recovery Fund in Section 9901 of ARPA.

(3) The department shall not:

(a) Reimburse hospitals for funds expended by the "Mississippi ICU Infrastructure Act," Senate Bill No. 3055, 2020 Regular Session.

(b) Reimburse hospitals for professional fees expended in the creation of the beds.

(4) The Department of Health may retain up to One Hundred Fifty Thousand Dollars (\$150,000.00) of the funds appropriated to the program established in this act to pay reasonable expenses incurred in the administration of the program.

(5) There is created a special fund in the State Treasury, to be known as the "Covid-19 Hospital Expanded Capacity Program Fund," from which the awards authorized under the Covid-19 Hospital Expanded Capacity Program shall be disbursed by the Department of Health.

(6) (a) All monies disbursed from the fund created in subsection (5) of this section shall be in compliance with the guidelines, guidance, rules, regulations or other criteria, as may



74 be amended from time to time, of the United States Department of
75 the Treasury regarding the use of monies received by or on behalf
76 of the State of Mississippi through the Coronavirus State Fiscal
77 Recovery Fund established by the American Rescue Plan Act of 2021
78 (Public Law No. 117-2). Unexpended amounts remaining in the funds
79 at the end of a fiscal year shall not lapse into the Coronavirus
80 State Fiscal Recovery Fund or the State General Fund, and any
81 investment earnings or interest earned on amounts in the program
82 fund shall be deposited to the credit of Covid-19 Hospital
83 Expanded Capacity Program Fund; and

84 (b) If there are unobligated Coronavirus State Fiscal
85 Recovery Fund monies remaining in the fund created in this act, on
86 the later of December 17, 2024, or fourteen (14) days prior to the
87 fund obligation deadline provided by the federal government, the
88 Department of Finance and Administration shall transfer these
89 unobligated balances to the Coronavirus State Fiscal Recovery
90 Fund. The Department of Finance and Administration shall then
91 transfer the unobligated balance of Coronavirus State Fiscal
92 Recovery Funds from the Coronavirus State Fiscal Recovery Fund to
93 the State and School Employees' Life and Health Insurance Fund for
94 an amount not to exceed the lesser of Sixty Million Dollars
95 (\$60,000,000.00) or the amount of allowable ARPA expenditures, by
96 no later than December 31, 2024, or on the date of the fund
97 obligation deadline provided by the federal government. The
98 Department of Finance and Administration shall then transfer all



99 remaining unobligated balances of Coronavirus State Fiscal
100 Recovery Funds from the Coronavirus State Fiscal Recovery Fund to
101 the Unemployment Compensation Fund up to the ARPA allowable
102 amount, by no later than December 31, 2024, or on the date of the
103 fund obligation deadline provided by the federal government.

104 (7) The use of funds allocated under this program shall be
105 subject to audit by the United States Department of the Treasury's
106 Office of Inspector General and the Mississippi Office of the
107 State Auditor. Each person receiving funds under these programs
108 found to be fully or partially noncompliant with the requirements
109 in this act shall return to the state all or a portion of the
110 funds received.

111 (8) The Department of Health shall submit to the Joint
112 Legislative Budget Committee before October 1 of each year an
113 annual report containing, at a minimum, the number of submitted
114 applications, the amount of grant funds awarded to each hospital
115 for both ICU beds and negative pressure beds, and the number of
116 ICU beds and negative pressure beds that were provided a
117 reimbursement.

118 (9) This act shall stand repealed on July 1, 2026.

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

121 41-7-191. (1) No person shall engage in any of the
122 following activities without obtaining the required certificate of
123 need:



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

128 (b) The relocation of a health care facility or portion
129 thereof, or major medical equipment, unless such relocation of a
130 health care facility or portion thereof, or major medical
131 equipment, which does not involve a capital expenditure by or on
132 behalf of a health care facility, is within five thousand two
133 hundred eighty (5,280) feet from the main entrance of the health
134 care facility;

135 (c) Any change in the existing bed complement of any
136 health care facility through the addition or conversion of any
137 beds or the alteration, modernizing or refurbishing of any unit or
138 department in which the beds may be located; however, if a health
139 care facility has voluntarily delicensed some of its existing bed
140 complement, it may later relicense some or all of its delicensed
141 beds without the necessity of having to acquire a certificate of
142 need. The State Department of Health shall maintain a record of
143 the delicensing health care facility and its voluntarily
144 delicensed beds and continue counting those beds as part of the
145 state's total bed count for health care planning purposes. If a
146 health care facility that has voluntarily delicensed some of its
147 beds later desires to relicense some or all of its voluntarily
148 delicensed beds, it shall notify the State Department of Health of



its intent to increase the number of its licensed beds. The State Department of Health shall survey the health care facility within thirty (30) days of that notice and, if appropriate, issue the health care facility a new license reflecting the new contingent of beds. However, in no event may a health care facility that has voluntarily delicensed some of its beds be reissued a license to operate beds in excess of its bed count before the voluntary delicensure of some of its beds without seeking certificate of need approval;

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

- (i) Open-heart surgery services;
- (ii) Cardiac catheterization services;
- (iii) Comprehensive inpatient rehabilitation services;
- (iv) Licensed psychiatric services;
- (v) Licensed chemical dependency services;
- (vi) Radiation therapy services;
- (vii) Diagnostic imaging services of an invasive nature, i.e. invasive digital angiography;
- (viii) Nursing home care as defined in subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- (ix) Home health services;



174 (x) Swing-bed services;
175 (xi) Ambulatory surgical services;
176 (xii) Magnetic resonance imaging services;
177 (xiii) [Deleted]
178 (xiv) Long-term care hospital services;
179 (xv) Positron emission tomography (PET) services;
180 (e) The relocation of one or more health services from
181 one physical facility or site to another physical facility or
182 site, unless such relocation, which does not involve a capital
183 expenditure by or on behalf of a health care facility, (i) is to a
184 physical facility or site within five thousand two hundred eighty
185 (5,280) feet from the main entrance of the health care facility
186 where the health care service is located, or (ii) is the result of
187 an order of a court of appropriate jurisdiction or a result of
188 pending litigation in such court, or by order of the State
189 Department of Health, or by order of any other agency or legal
190 entity of the state, the federal government, or any political
191 subdivision of either, whose order is also approved by the State
192 Department of Health;
193 (f) The acquisition or otherwise control of any major
194 medical equipment for the provision of medical services; however,
195 (i) the acquisition of any major medical equipment used only for
196 research purposes, and (ii) the acquisition of major medical
197 equipment to replace medical equipment for which a facility is
198 already providing medical services and for which the State



Department of Health has been notified before the date of such acquisition shall be exempt from this paragraph; an acquisition for less than fair market value must be reviewed, if the acquisition at fair market value would be subject to review;

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

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

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



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

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

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

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

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



248 (a) The department may issue a certificate of need to
249 any person proposing the new construction of any health care
250 facility defined in subparagraphs (iv) and (vi) of Section
251 41-7-173(h) as part of a life care retirement facility, in any
252 county bordering on the Gulf of Mexico in which is located a
253 National Aeronautics and Space Administration facility, not to
254 exceed forty (40) beds. From and after July 1, 1999, there shall
255 be no prohibition or restrictions on participation in the Medicaid
256 program (Section 43-13-101 et seq.) for the beds in the health
257 care facility that were authorized under this paragraph (a).

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

265 (c) The department may issue a certificate of need for
266 the addition to or expansion of any skilled nursing facility that
267 is part of an existing continuing care retirement community
268 located in Madison County, provided that the recipient of the
269 certificate of need agrees in writing that the skilled nursing
270 facility will not at any time participate in the Medicaid program
271 (Section 43-13-101 et seq.) or admit or keep any patients in the
272 skilled nursing facility who are participating in the Medicaid



273 program. This written agreement by the recipient of the
274 certificate of need shall be fully binding on any subsequent owner
275 of the skilled nursing facility, if the ownership of the facility
276 is transferred at any time after the issuance of the certificate
277 of need. Agreement that the skilled nursing facility will not
278 participate in the Medicaid program shall be a condition of the
279 issuance of a certificate of need to any person under this
280 paragraph (c), and if such skilled nursing facility at any time
281 after the issuance of the certificate of need, regardless of the
282 ownership of the facility, participates in the Medicaid program or
283 admits or keeps any patients in the facility who are participating
284 in the Medicaid program, the State Department of Health shall
285 revoke the certificate of need, if it is still outstanding, and
286 shall deny or revoke the license of the skilled nursing facility,
287 at the time that the department determines, after a hearing
288 complying with due process, that the facility has failed to comply
289 with any of the conditions upon which the certificate of need was
290 issued, as provided in this paragraph and in the written agreement
291 by the recipient of the certificate of need. The total number of
292 beds that may be authorized under the authority of this paragraph
293 (c) shall not exceed sixty (60) beds.

294 (d) The State Department of Health may issue a
295 certificate of need to any hospital located in DeSoto County for
296 the new construction of a skilled nursing facility, not to exceed
297 one hundred twenty (120) beds, in DeSoto County. From and after



July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the nursing facility that were authorized under this paragraph (d).

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

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

(g) The State Department of Health may issue a certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hinds, Madison or Rankin County, not to exceed



sixty (60) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the nursing facility that were authorized under this paragraph (g).

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

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



348 certificate of need to any person under this paragraph (i), and if
349 such skilled nursing facility at any time after the issuance of
350 the certificate of need, regardless of the ownership of the
351 facility, participates in the Medicaid program or admits or keeps
352 any patients in the facility who are participating in the Medicaid
353 program, the State Department of Health shall revoke the
354 certificate of need, if it is still outstanding, and shall deny or
355 revoke the license of the skilled nursing facility, at the time
356 that the department determines, after a hearing complying with due
357 process, that the facility has failed to comply with any of the
358 conditions upon which the certificate of need was issued, as
359 provided in this paragraph and in the written agreement by the
360 recipient of the certificate of need. The provision of Section
361 41-7-193(1) regarding substantial compliance of the projection of
362 need as reported in the current State Health Plan is waived for
363 the purposes of this paragraph. The total number of nursing
364 facility beds that may be authorized by any certificate of need
365 issued under this paragraph (i) shall not exceed sixty (60) beds.
366 If the skilled nursing facility authorized by the certificate of
367 need issued under this paragraph is not constructed and fully
368 operational within eighteen (18) months after July 1, 1994, the
369 State Department of Health, after a hearing complying with due
370 process, shall revoke the certificate of need, if it is still
371 outstanding, and shall not issue a license for the skilled nursing



372 facility at any time after the expiration of the eighteen-month
373 period.

374 (j) The department may issue certificates of need to
375 allow any existing freestanding long-term care facility in
376 Tishomingo County and Hancock County that on July 1, 1995, is
377 licensed with fewer than sixty (60) beds. For the purposes of
378 this paragraph (j), the provisions of Section 41-7-193(1)
379 requiring substantial compliance with the projection of need as
380 reported in the current State Health Plan are waived. From and
381 after July 1, 1999, there shall be no prohibition or restrictions
382 on participation in the Medicaid program (Section 43-13-101 et
383 seq.) for the beds in the long-term care facilities that were
384 authorized under this paragraph (j).

385 (k) The department may issue a certificate of need for
386 the construction of a nursing facility at a continuing care
387 retirement community in Lowndes County. The total number of beds
388 that may be authorized under the authority of this paragraph (k)
389 shall not exceed sixty (60) beds. From and after July 1, 2001,
390 the prohibition on the facility participating in the Medicaid
391 program (Section 43-13-101 et seq.) that was a condition of
392 issuance of the certificate of need under this paragraph (k) shall
393 be revised as follows: The nursing facility may participate in
394 the Medicaid program from and after July 1, 2001, if the owner of
395 the facility on July 1, 2001, agrees in writing that no more than
396 thirty (30) of the beds at the facility will be certified for



397 participation in the Medicaid program, and that no claim will be
398 submitted for Medicaid reimbursement for more than thirty (30)
399 patients in the facility in any month or for any patient in the
400 facility who is in a bed that is not Medicaid-certified. This
401 written agreement by the owner of the facility shall be a
402 condition of licensure of the facility, and the agreement shall be
403 fully binding on any subsequent owner of the facility if the
404 ownership of the facility is transferred at any time after July 1,
405 2001. After this written agreement is executed, the Division of
406 Medicaid and the State Department of Health shall not certify more
407 than thirty (30) of the beds in the facility for participation in
408 the Medicaid program. If the facility violates the terms of the
409 written agreement by admitting or keeping in the facility on a
410 regular or continuing basis more than thirty (30) patients who are
411 participating in the Medicaid program, the State Department of
412 Health shall revoke the license of the facility, at the time that
413 the department determines, after a hearing complying with due
414 process, that the facility has violated the written agreement.

415 (1) Provided that funds are specifically appropriated
416 therefor by the Legislature, the department may issue a
417 certificate of need to a rehabilitation hospital in Hinds County
418 for the construction of a sixty-bed long-term care nursing
419 facility dedicated to the care and treatment of persons with
420 severe disabilities including persons with spinal cord and
421 closed-head injuries and ventilator dependent patients. The



provisions of Section 41-7-193(1) regarding substantial compliance with projection of need as reported in the current State Health Plan are waived for the purpose of this paragraph.

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



447 Health shall revoke the license of the nursing facility, at the
448 time that the department determines, after a hearing complying
449 with due process, that the nursing facility has violated the
450 condition upon which the certificate of need was issued, as
451 provided in this paragraph and in the written agreement. If the
452 certificate of need authorized under this paragraph is not issued
453 within twelve (12) months after July 1, 2001, the department shall
454 deny the application for the certificate of need and shall not
455 issue the certificate of need at any time after the twelve-month
456 period, unless the issuance is contested. If the certificate of
457 need is issued and substantial construction of the nursing
458 facility beds has not commenced within eighteen (18) months after
459 July 1, 2001, the State Department of Health, after a hearing
460 complying with due process, shall revoke the certificate of need
461 if it is still outstanding, and the department shall not issue a
462 license for the nursing facility at any time after the
463 eighteen-month period. However, if the issuance of the
464 certificate of need is contested, the department shall require
465 substantial construction of the nursing facility beds within six
466 (6) months after final adjudication on the issuance of the
467 certificate of need.

468 (n) The department may issue a certificate of need for
469 the new construction, addition or conversion of skilled nursing
470 facility beds in Madison County, provided that the recipient of
471 the certificate of need agrees in writing that the skilled nursing



472 facility will not at any time participate in the Medicaid program
473 (Section 43-13-101 et seq.) or admit or keep any patients in the
474 skilled nursing facility who are participating in the Medicaid
475 program. This written agreement by the recipient of the
476 certificate of need shall be fully binding on any subsequent owner
477 of the skilled nursing facility, if the ownership of the facility
478 is transferred at any time after the issuance of the certificate
479 of need. Agreement that the skilled nursing facility will not
480 participate in the Medicaid program shall be a condition of the
481 issuance of a certificate of need to any person under this
482 paragraph (n), and if such skilled nursing facility at any time
483 after the issuance of the certificate of need, regardless of the
484 ownership of the facility, participates in the Medicaid program or
485 admits or keeps any patients in the facility who are participating
486 in the Medicaid program, the State Department of Health shall
487 revoke the certificate of need, if it is still outstanding, and
488 shall deny or revoke the license of the skilled nursing facility,
489 at the time that the department determines, after a hearing
490 complying with due process, that the facility has failed to comply
491 with any of the conditions upon which the certificate of need was
492 issued, as provided in this paragraph and in the written agreement
493 by the recipient of the certificate of need. The total number of
494 nursing facility beds that may be authorized by any certificate of
495 need issued under this paragraph (n) shall not exceed sixty (60)
496 beds. If the certificate of need authorized under this paragraph



is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

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



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



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

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



572 the certificate of need, regardless of the ownership of the
573 facility, participates in the Medicaid program or admits or keeps
574 any patients in the facility who are participating in the Medicaid
575 program, the State Department of Health shall revoke the
576 certificate of need, if it is still outstanding, and shall deny or
577 revoke the license of the skilled nursing facility, at the time
578 that the department determines, after a hearing complying with due
579 process, that the facility has failed to comply with any of the
580 conditions upon which the certificate of need was issued, as
581 provided in this paragraph and in the written agreement by the
582 recipient of the certificate of need. The provision of Section
583 41-7-193(1) regarding substantial compliance of the projection of
584 need as reported in the current State Health Plan is waived for
585 the purposes of this paragraph. If the certificate of need
586 authorized under this paragraph is not issued within twelve (12)
587 months after July 1, 1998, the department shall deny the
588 application for the certificate of need and shall not issue the
589 certificate of need at any time after the twelve-month period,
590 unless the issuance is contested. If the certificate of need is
591 issued and substantial construction of the nursing facility beds
592 has not commenced within eighteen (18) months after July 1, 1998,
593 the State Department of Health, after a hearing complying with due
594 process, shall revoke the certificate of need if it is still
595 outstanding, and the department shall not issue a license for the
596 nursing facility at any time after the eighteen-month period.



597 However, if the issuance of the certificate of need is contested,
598 the department shall require substantial construction of the
599 nursing facility beds within six (6) months after final
600 adjudication on the issuance of the certificate of need.

601 (q) (i) Beginning on July 1, 1999, the State
602 Department of Health shall issue certificates of need during each
603 of the next four (4) fiscal years for the construction or
604 expansion of nursing facility beds or the conversion of other beds
605 to nursing facility beds in each county in the state having a need
606 for fifty (50) or more additional nursing facility beds, as shown
607 in the fiscal year 1999 State Health Plan, in the manner provided
608 in this paragraph (q). The total number of nursing facility beds
609 that may be authorized by any certificate of need authorized under
610 this paragraph (q) shall not exceed sixty (60) beds.

611 (ii) Subject to the provisions of subparagraph
612 (v), during each of the next four (4) fiscal years, the department
613 shall issue six (6) certificates of need for new nursing facility
614 beds, as follows: During fiscal years 2000, 2001 and 2002, one
615 (1) certificate of need shall be issued for new nursing facility
616 beds in the county in each of the four (4) Long-Term Care Planning
617 Districts designated in the fiscal year 1999 State Health Plan
618 that has the highest need in the district for those beds; and two
619 (2) certificates of need shall be issued for new nursing facility
620 beds in the two (2) counties from the state at large that have the
621 highest need in the state for those beds, when considering the



622 need on a statewide basis and without regard to the Long-Term Care
623 Planning Districts in which the counties are located. During
624 fiscal year 2003, one (1) certificate of need shall be issued for
625 new nursing facility beds in any county having a need for fifty
626 (50) or more additional nursing facility beds, as shown in the
627 fiscal year 1999 State Health Plan, that has not received a
628 certificate of need under this paragraph (q) during the three (3)
629 previous fiscal years. During fiscal year 2000, in addition to
630 the six (6) certificates of need authorized in this subparagraph,
631 the department also shall issue a certificate of need for new
632 nursing facility beds in Amite County and a certificate of need
633 for new nursing facility beds in Carroll County.

634 (iii) Subject to the provisions of subparagraph
635 (v), the certificate of need issued under subparagraph (ii) for
636 nursing facility beds in each Long-Term Care Planning District
637 during each fiscal year shall first be available for nursing
638 facility beds in the county in the district having the highest
639 need for those beds, as shown in the fiscal year 1999 State Health
640 Plan. If there are no applications for a certificate of need for
641 nursing facility beds in the county having the highest need for
642 those beds by the date specified by the department, then the
643 certificate of need shall be available for nursing facility beds
644 in other counties in the district in descending order of the need
645 for those beds, from the county with the second highest need to



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

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

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



671 paragraph (q) for additional nursing facility beds in that county
672 on the basis of the need in the state at large, and that county
673 shall be excluded in determining which counties have the highest
674 need for nursing facility beds in the state at large for that
675 fiscal year. After a certificate of need has been issued under
676 this paragraph (q) for nursing facility beds in a county during
677 any fiscal year of the four-year period, a certificate of need
678 shall not be available again under this paragraph (q) for
679 additional nursing facility beds in that county during the
680 four-year period, and that county shall be excluded in determining
681 which counties have the highest need for nursing facility beds in
682 succeeding fiscal years.

683 (vi) If more than one (1) application is made for
684 a certificate of need for nursing home facility beds available
685 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
686 County, and one (1) of the applicants is a county-owned hospital
687 located in the county where the nursing facility beds are
688 available, the department shall give priority to the county-owned
689 hospital in granting the certificate of need if the following
690 conditions are met:

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

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



696 determined by the department, are at least equal to the
697 qualifications of the other applicants for the certificate of
698 need.

699 (r) (i) Beginning on July 1, 1999, the State
700 Department of Health shall issue certificates of need during each
701 of the next two (2) fiscal years for the construction or expansion
702 of nursing facility beds or the conversion of other beds to
703 nursing facility beds in each of the four (4) Long-Term Care
704 Planning Districts designated in the fiscal year 1999 State Health
705 Plan, to provide care exclusively to patients with Alzheimer's
706 disease.

707 (ii) Not more than twenty (20) beds may be
708 authorized by any certificate of need issued under this paragraph
709 (r), and not more than a total of sixty (60) beds may be
710 authorized in any Long-Term Care Planning District by all
711 certificates of need issued under this paragraph (r). However,
712 the total number of beds that may be authorized by all
713 certificates of need issued under this paragraph (r) during any
714 fiscal year shall not exceed one hundred twenty (120) beds, and
715 the total number of beds that may be authorized in any Long-Term
716 Care Planning District during any fiscal year shall not exceed
717 forty (40) beds. Of the certificates of need that are issued for
718 each Long-Term Care Planning District during the next two (2)
719 fiscal years, at least one (1) shall be issued for beds in the
720 northern part of the district, at least one (1) shall be issued



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

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

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

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



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



771 facility if the ownership of either facility is transferred at any
772 time after the certificates of need are issued. After this
773 written agreement is executed, the Division of Medicaid and the
774 State Department of Health shall not certify more than fifty (50)
775 of the beds at the Hancock County facility or more than forty-nine
776 (49) of the beds at the Harrison County facility for participation
777 in the Medicaid program. If the Hancock County facility violates
778 the terms of the written agreement by admitting or keeping in the
779 facility on a regular or continuing basis more than fifty (50)
780 patients who are participating in the Medicaid program, or if the
781 Harrison County facility violates the terms of the written
782 agreement by admitting or keeping in the facility on a regular or
783 continuing basis more than forty-nine (49) patients who are
784 participating in the Medicaid program, the State Department of
785 Health shall revoke the license of the facility that is in
786 violation of the agreement, at the time that the department
787 determines, after a hearing complying with due process, that the
788 facility has violated the agreement.

789 (u) The State Department of Health shall issue a
790 certificate of need to a nonprofit venture for the establishment,
791 construction and operation of a skilled nursing facility of not
792 more than sixty (60) beds to provide skilled nursing care for
793 ventilator dependent or otherwise medically dependent pediatric
794 patients who require medical and nursing care or rehabilitation
795 services to be located in a county in which an academic medical



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

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



820 (a) Of the total number of beds authorized under this
821 subsection, the department shall issue a certificate of need to a
822 privately owned psychiatric residential treatment facility in
823 Simpson County for the conversion of sixteen (16) intermediate
824 care facility for the mentally retarded (ICF-MR) beds to
825 psychiatric residential treatment facility beds, provided that
826 facility agrees in writing that the facility shall give priority
827 for the use of those sixteen (16) beds to Mississippi residents
828 who are presently being treated in out-of-state facilities.

829 (b) Of the total number of beds authorized under this
830 subsection, the department may issue a certificate or certificates
831 of need for the construction or expansion of psychiatric
832 residential treatment facility beds or the conversion of other
833 beds to psychiatric residential treatment facility beds in Warren
834 County, not to exceed sixty (60) psychiatric residential treatment
835 facility beds, provided that the facility agrees in writing that
836 no more than thirty (30) of the beds at the psychiatric
837 residential treatment facility will be certified for participation
838 in the Medicaid program (Section 43-13-101 et seq.) for the use of
839 any patients other than those who are participating only in the
840 Medicaid program of another state, and that no claim will be
841 submitted to the Division of Medicaid for Medicaid reimbursement
842 for more than thirty (30) patients in the psychiatric residential
843 treatment facility in any day or for any patient in the
844 psychiatric residential treatment facility who is in a bed that is



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

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



870 (c) Of the total number of beds authorized under this
871 subsection, the department shall issue a certificate of need to a
872 hospital currently operating Medicaid-certified acute psychiatric
873 beds for adolescents in DeSoto County, for the establishment of a
874 forty-bed psychiatric residential treatment facility in DeSoto
875 County, provided that the hospital agrees in writing (i) that the
876 hospital shall give priority for the use of those forty (40) beds
877 to Mississippi residents who are presently being treated in
878 out-of-state facilities, and (ii) that no more than fifteen (15)
879 of the beds at the psychiatric residential treatment facility will
880 be certified for participation in the Medicaid program (Section
881 43-13-101 et seq.), and that no claim will be submitted for
882 Medicaid reimbursement for more than fifteen (15) patients in the
883 psychiatric residential treatment facility in any day or for any
884 patient in the psychiatric residential treatment facility who is
885 in a bed that is not Medicaid-certified. This written agreement
886 by the recipient of the certificate of need shall be a condition
887 of the issuance of the certificate of need under this paragraph,
888 and the agreement shall be fully binding on any subsequent owner
889 of the psychiatric residential treatment facility if the ownership
890 of the facility is transferred at any time after the issuance of
891 the certificate of need. After this written agreement is
892 executed, the Division of Medicaid and the State Department of
893 Health shall not certify more than fifteen (15) of the beds in the
894 psychiatric residential treatment facility for participation in



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

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

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



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

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



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

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



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

(i) [Deleted]

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

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



994 There shall be no prohibition or restrictions on participation in
995 the Medicaid program (Section 43-13-101 et seq.) for the person
996 receiving the certificate of need authorized under this
997 subparagraph or for the beds converted pursuant to the authority
998 of that certificate of need.

999 If by January 1, 2002, there has been no significant
1000 commencement of construction of the beds authorized under this
1001 subparagraph (iii), or no significant action taken to convert
1002 existing beds to the beds authorized under this subparagraph, then
1003 the certificate of need that was previously issued under this
1004 subparagraph shall expire. If the previously issued certificate
1005 of need expires, the department may accept applications for
1006 issuance of another certificate of need for the beds authorized
1007 under this subparagraph, and may issue a certificate of need to
1008 authorize the construction, expansion or conversion of the beds
1009 authorized under this subparagraph.

1010 (iv) The department shall issue a certificate of
1011 need to the Region 7 Mental Health/Retardation Commission for the
1012 construction or expansion of child/adolescent psychiatric beds or
1013 the conversion of other beds to child/adolescent psychiatric beds
1014 in any of the counties served by the commission. For purposes of
1015 this subparagraph (iv), the provisions of Section 41-7-193(1)
1016 requiring substantial compliance with the projection of need as
1017 reported in the current State Health Plan are waived. The total
1018 number of beds that may be authorized under the authority of this



1019 subparagraph shall not exceed twenty (20) beds. There shall be no
1020 prohibition or restrictions on participation in the Medicaid
1021 program (Section 43-13-101 et seq.) for the person receiving the
1022 certificate of need authorized under this subparagraph or for the
1023 beds converted pursuant to the authority of that certificate of
1024 need.

1025 (v) The department may issue a certificate of need
1026 to any county hospital located in Leflore County for the
1027 construction or expansion of adult psychiatric beds or the
1028 conversion of other beds to adult psychiatric beds, not to exceed
1029 twenty (20) beds, provided that the recipient of the certificate
1030 of need agrees in writing that the adult psychiatric beds will not
1031 at any time be certified for participation in the Medicaid program
1032 and that the hospital will not admit or keep any patients who are
1033 participating in the Medicaid program in any of such adult
1034 psychiatric beds. This written agreement by the recipient of the
1035 certificate of need shall be fully binding on any subsequent owner
1036 of the hospital if the ownership of the hospital is transferred at
1037 any time after the issuance of the certificate of need. Agreement
1038 that the adult psychiatric beds will not be certified for
1039 participation in the Medicaid program shall be a condition of the
1040 issuance of a certificate of need to any person under this
1041 subparagraph (v), and if such hospital at any time after the
1042 issuance of the certificate of need, regardless of the ownership
1043 of the hospital, has any of such adult psychiatric beds certified



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

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

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



1069 authorized to add any child/adolescent psychiatric or
1070 child/adolescent chemical dependency beds or convert any beds of
1071 another category to child/adolescent psychiatric or
1072 child/adolescent chemical dependency beds without a certificate of
1073 need under the authority of subsection (1)(c) and subsection
1074 (4)(a) of this section.

1075 (5) The department may issue a certificate of need to a
1076 county hospital in Winston County for the conversion of fifteen
1077 (15) acute care beds to geriatric psychiatric care beds.

1078 (6) The State Department of Health shall issue a certificate
1079 of need to a Mississippi corporation qualified to manage a
1080 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1081 Harrison County, not to exceed eighty (80) beds, including any
1082 necessary renovation or construction required for licensure and
1083 certification, provided that the recipient of the certificate of
1084 need agrees in writing that the long-term care hospital will not
1085 at any time participate in the Medicaid program (Section 43-13-101
1086 et seq.) or admit or keep any patients in the long-term care
1087 hospital who are participating in the Medicaid program. This
1088 written agreement by the recipient of the certificate of need
1089 shall be fully binding on any subsequent owner of the long-term
1090 care hospital, if the ownership of the facility is transferred at
1091 any time after the issuance of the certificate of need. Agreement
1092 that the long-term care hospital will not participate in the
1093 Medicaid program shall be a condition of the issuance of a



1094 certificate of need to any person under this subsection (6), and
1095 if such long-term care hospital at any time after the issuance of
1096 the certificate of need, regardless of the ownership of the
1097 facility, participates in the Medicaid program or admits or keeps
1098 any patients in the facility who are participating in the Medicaid
1099 program, the State Department of Health shall revoke the
1100 certificate of need, if it is still outstanding, and shall deny or
1101 revoke the license of the long-term care hospital, at the time
1102 that the department determines, after a hearing complying with due
1103 process, that the facility has failed to comply with any of the
1104 conditions upon which the certificate of need was issued, as
1105 provided in this subsection and in the written agreement by the
1106 recipient of the certificate of need. For purposes of this
1107 subsection, the provisions of Section 41-7-193(1) requiring
1108 substantial compliance with the projection of need as reported in
1109 the current State Health Plan are waived.

1110 (7) The State Department of Health may issue a certificate
1111 of need to any hospital in the state to utilize a portion of its
1112 beds for the "swing-bed" concept. Any such hospital must be in
1113 conformance with the federal regulations regarding such swing-bed
1114 concept at the time it submits its application for a certificate
1115 of need to the State Department of Health, except that such
1116 hospital may have more licensed beds or a higher average daily
1117 census (ADC) than the maximum number specified in federal
1118 regulations for participation in the swing-bed program. Any



1119 hospital meeting all federal requirements for participation in the
1120 swing-bed program which receives such certificate of need shall
1121 render services provided under the swing-bed concept to any
1122 patient eligible for Medicare (Title XVIII of the Social Security
1123 Act) who is certified by a physician to be in need of such
1124 services, and no such hospital shall permit any patient who is
1125 eligible for both Medicaid and Medicare or eligible only for
1126 Medicaid to stay in the swing beds of the hospital for more than
1127 thirty (30) days per admission unless the hospital receives prior
1128 approval for such patient from the Division of Medicaid, Office of
1129 the Governor. Any hospital having more licensed beds or a higher
1130 average daily census (ADC) than the maximum number specified in
1131 federal regulations for participation in the swing-bed program
1132 which receives such certificate of need shall develop a procedure
1133 to ensure that before a patient is allowed to stay in the swing
1134 beds of the hospital, there are no vacant nursing home beds
1135 available for that patient located within a fifty-mile radius of
1136 the hospital. When any such hospital has a patient staying in the
1137 swing beds of the hospital and the hospital receives notice from a
1138 nursing home located within such radius that there is a vacant bed
1139 available for that patient, the hospital shall transfer the
1140 patient to the nursing home within a reasonable time after receipt
1141 of the notice. Any hospital which is subject to the requirements
1142 of the two (2) preceding sentences of this subsection may be
1143 suspended from participation in the swing-bed program for a



1144 reasonable period of time by the State Department of Health if the
1145 department, after a hearing complying with due process, determines
1146 that the hospital has failed to comply with any of those
1147 requirements.

1148 (8) The Department of Health shall not grant approval for or
1149 issue a certificate of need to any person proposing the new
1150 construction of, addition to or expansion of a health care
1151 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1152 except as hereinafter provided: The department may issue a
1153 certificate of need to a nonprofit corporation located in Madison
1154 County, Mississippi, for the construction, expansion or conversion
1155 of not more than twenty (20) beds in a community living program
1156 for developmentally disabled adults in a facility as defined in
1157 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1158 subsection (8), the provisions of Section 41-7-193(1) requiring
1159 substantial compliance with the projection of need as reported in
1160 the current State Health Plan and the provisions of Section
1161 41-7-197 requiring a formal certificate of need hearing process
1162 are waived. There shall be no prohibition or restrictions on
1163 participation in the Medicaid program for the person receiving the
1164 certificate of need authorized under this subsection (8).

1165 (9) The Department of Health shall not grant approval for or
1166 issue a certificate of need to any person proposing the
1167 establishment of, or expansion of the currently approved territory
1168 of, or the contracting to establish a home office, subunit or



1169 branch office within the space operated as a health care facility
1170 as defined in Section 41-7-173(h)(i) through (viii) by a health
1171 care facility as defined in subparagraph (ix) of Section
1172 41-7-173(h).

1173 (10) Health care facilities owned and/or operated by the
1174 state or its agencies are exempt from the restraints in this
1175 section against issuance of a certificate of need if such addition
1176 or expansion consists of repairing or renovation necessary to
1177 comply with the state licensure law. This exception shall not
1178 apply to the new construction of any building by such state
1179 facility. This exception shall not apply to any health care
1180 facilities owned and/or operated by counties, municipalities,
1181 districts, unincorporated areas, other defined persons, or any
1182 combination thereof.

1183 (11) The new construction, renovation or expansion of or
1184 addition to any health care facility defined in subparagraph (ii)
1185 (psychiatric hospital), subparagraph (iv) (skilled nursing
1186 facility), subparagraph (vi) (intermediate care facility),
1187 subparagraph (viii) (intermediate care facility for the mentally
1188 retarded) and subparagraph (x) (psychiatric residential treatment
1189 facility) of Section 41-7-173(h) which is owned by the State of
1190 Mississippi and under the direction and control of the State
1191 Department of Mental Health, and the addition of new beds or the
1192 conversion of beds from one category to another in any such
1193 defined health care facility which is owned by the State of



1194 Mississippi and under the direction and control of the State
1195 Department of Mental Health, shall not require the issuance of a
1196 certificate of need under Section 41-7-171 et seq.,
1197 notwithstanding any provision in Section 41-7-171 et seq. to the
1198 contrary.

1199 (12) The new construction, renovation or expansion of or
1200 addition to any veterans homes or domiciliaries for eligible
1201 veterans of the State of Mississippi as authorized under Section
1202 35-1-19 shall not require the issuance of a certificate of need,
1203 notwithstanding any provision in Section 41-7-171 et seq. to the
1204 contrary.

1205 (13) The repair or the rebuilding of an existing, operating
1206 health care facility that sustained significant damage from a
1207 natural disaster that occurred after April 15, 2014, in an area
1208 that is proclaimed a disaster area or subject to a state of
1209 emergency by the Governor or by the President of the United States
1210 shall be exempt from all of the requirements of the Mississippi
1211 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1212 rules and regulations promulgated under that law, subject to the
1213 following conditions:

1214 (a) The repair or the rebuilding of any such damaged
1215 health care facility must be within one (1) mile of the
1216 pre-disaster location of the campus of the damaged health care
1217 facility, except that any temporary post-disaster health care



1218 facility operating location may be within five (5) miles of the
1219 pre-disaster location of the damaged health care facility;

1220 (b) The repair or the rebuilding of the damaged health
1221 care facility (i) does not increase or change the complement of
1222 its bed capacity that it had before the Governor's or the
1223 President's proclamation, (ii) does not increase or change its
1224 levels and types of health care services that it provided before
1225 the Governor's or the President's proclamation, and (iii) does not
1226 rebuild in a different county; however, this paragraph does not
1227 restrict or prevent a health care facility from decreasing its bed
1228 capacity that it had before the Governor's or the President's
1229 proclamation, or from decreasing the levels of or decreasing or
1230 eliminating the types of health care services that it provided
1231 before the Governor's or the President's proclamation, when the
1232 damaged health care facility is repaired or rebuilt;

1233 (c) The exemption from Certificate of Need Law provided
1234 under this subsection (13) is valid for only five (5) years from
1235 the date of the Governor's or the President's proclamation. If
1236 actual construction has not begun within that five-year period,
1237 the exemption provided under this subsection is inapplicable; and

1238 (d) The Division of Health Facilities Licensure and
1239 Certification of the State Department of Health shall provide the
1240 same oversight for the repair or the rebuilding of the damaged
1241 health care facility that it provides to all health care facility
1242 construction projects in the state.



1243 For the purposes of this subsection (13), "significant
1244 damage" to a health care facility means damage to the health care
1245 facility requiring an expenditure of at least One Million Dollars
1246 (\$1,000,000.00).

1247 (14) The State Department of Health shall issue a
1248 certificate of need to any hospital which is currently licensed
1249 for two hundred fifty (250) or more acute care beds and is located
1250 in any general hospital service area not having a comprehensive
1251 cancer center, for the establishment and equipping of such a
1252 center which provides facilities and services for outpatient
1253 radiation oncology therapy, outpatient medical oncology therapy,
1254 and appropriate support services including the provision of
1255 radiation therapy services. The provisions of Section 41-7-193(1)
1256 regarding substantial compliance with the projection of need as
1257 reported in the current State Health Plan are waived for the
1258 purpose of this subsection.

1259 (15) The State Department of Health may authorize the
1260 transfer of hospital beds, not to exceed sixty (60) beds, from the
1261 North Panola Community Hospital to the South Panola Community
1262 Hospital. The authorization for the transfer of those beds shall
1263 be exempt from the certificate of need review process.

1264 (16) The State Department of Health shall issue any
1265 certificates of need necessary for Mississippi State University
1266 and a public or private health care provider to jointly acquire
1267 and operate a linear accelerator and a magnetic resonance imaging



1268 unit. Those certificates of need shall cover all capital
1269 expenditures related to the project between Mississippi State
1270 University and the health care provider, including, but not
1271 limited to, the acquisition of the linear accelerator, the
1272 magnetic resonance imaging unit and other radiological modalities;
1273 the offering of linear accelerator and magnetic resonance imaging
1274 services; and the cost of construction of facilities in which to
1275 locate these services. The linear accelerator and the magnetic
1276 resonance imaging unit shall be (a) located in the City of
1277 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1278 Mississippi State University and the public or private health care
1279 provider selected by Mississippi State University through a
1280 request for proposals (RFP) process in which Mississippi State
1281 University selects, and the Board of Trustees of State
1282 Institutions of Higher Learning approves, the health care provider
1283 that makes the best overall proposal; (c) available to Mississippi
1284 State University for research purposes two-thirds (2/3) of the
1285 time that the linear accelerator and magnetic resonance imaging
1286 unit are operational; and (d) available to the public or private
1287 health care provider selected by Mississippi State University and
1288 approved by the Board of Trustees of State Institutions of Higher
1289 Learning one-third (1/3) of the time for clinical, diagnostic and
1290 treatment purposes. For purposes of this subsection, the
1291 provisions of Section 41-7-193(1) requiring substantial compliance



1292 with the projection of need as reported in the current State
1293 Health Plan are waived.

1294 (17) The State Department of Health shall issue a
1295 certificate of need for the construction of an acute care hospital
1296 in Kemper County, not to exceed twenty-five (25) beds, which shall
1297 be named the "John C. Stennis Memorial Hospital." In issuing the
1298 certificate of need under this subsection, the department shall
1299 give priority to a hospital located in Lauderdale County that has
1300 two hundred fifteen (215) beds. For purposes of this subsection,
1301 the provisions of Section 41-7-193(1) requiring substantial
1302 compliance with the projection of need as reported in the current
1303 State Health Plan and the provisions of Section 41-7-197 requiring
1304 a formal certificate of need hearing process are waived. There
1305 shall be no prohibition or restrictions on participation in the
1306 Medicaid program (Section 43-13-101 et seq.) for the person or
1307 entity receiving the certificate of need authorized under this
1308 subsection or for the beds constructed under the authority of that
1309 certificate of need.

1310 (18) The planning, design, construction, renovation,
1311 addition, furnishing and equipping of a clinical research unit at
1312 any health care facility defined in Section 41-7-173(h) that is
1313 under the direction and control of the University of Mississippi
1314 Medical Center and located in Jackson, Mississippi, and the
1315 addition of new beds or the conversion of beds from one (1)
1316 category to another in any such clinical research unit, shall not



1317 require the issuance of a certificate of need under Section
1318 41-7-171 et seq., notwithstanding any provision in Section
1319 41-7-171 et seq. to the contrary.

1320 (19) [Repealed]

1321 (20) Nothing in this section or in any other provision of
1322 Section 41-7-171 et seq. shall prevent any nursing facility from
1323 designating an appropriate number of existing beds in the facility
1324 as beds for providing care exclusively to patients with
1325 Alzheimer's disease.

1326 (21) Nothing in this section or any other provision of
1327 Section 41-7-171 et seq. shall prevent any health care facility
1328 from the new construction, renovation, conversion or expansion of
1329 new beds in the facility designated as intensive care units,
1330 negative pressure rooms, or isolation rooms pursuant to the
1331 provisions of Sections 41-14-1 through 41-14-11, or Section 1 of
1332 this act. For purposes of this subsection, the provisions of
1333 Section 41-7-193(1) requiring substantial compliance with the
1334 projection of need as reported in the current State Health Plan
1335 and the provisions of Section 41-7-197 requiring a formal
1336 certificate of need hearing process are waived.

1337 **SECTION 3.** This act shall take effect and be in force from
1338 and after July 1, 2022, and shall stand repealed on June 30, 2022.

