House Amendments to Senate Bill No. 2820

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

SECTION 1. (1) The State Department of Health shall establish a grant program for hospitals for expansions of the hospital facilities that increase the capacity of the hospital because of the need for more capacity to provide treatment and care for the greater number of patients who have COVID-19. Grants provided under the program may be used by hospitals for hospital expansions that are made on or after the effective date of this act or as reimbursement for the expenses incurred by hospitals for expansions that were made before the effective date of this act.

(2) Under the grant program, the department shall receive applications from hospitals that describe in detail how the funds will be used by the hospitals, how receipt of the funds will improve the ability of the hospitals to provide treatment and care for patients who have COVID-19, and any other information as required by the department. An application for grants under the program shall be submitted at such time, be in such form, and contain such information as the board prescribes.
(3) The department shall adopt such rules and regulations as necessary for the administration of the grant program. The department shall operate and administer the grant program from funds appropriated by the Legislature from the Coronavirus State Fiscal Recovery Fund for that purpose.

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

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

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

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

(c) Any change in the existing bed complement of any health care facility through the addition or conversion of any beds or the alteration, modernizing or refurbishing of any unit or department in which the beds may be located; however, if a health care facility has voluntarily delicensed some of its existing bed
complement, it may later relicense some or all of its delicensed beds without the necessity of having to acquire a certificate of need. The State Department of Health shall maintain a record of the delicensing health care facility and its voluntarily delicensed beds and continue counting those beds as part of the state's total bed count for health care planning purposes. If a health care facility that has voluntarily delicensed some of its beds later desires to relicense some or all of its voluntarily 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;
(x) Swing-bed services;
(xi) Ambulatory surgical services;
(xii) Magnetic resonance imaging services;
(xiii) [Deleted]
(xiv) Long-term care hospital services;
(xv) Positron emission tomography (PET) services;
(e) The relocation of one or more health services from one physical facility or site to another physical facility or site, unless such relocation, which does not involve a capital expenditure by or on behalf of a health care facility, (i) is to a physical facility or site within five thousand two hundred eighty (5,280) feet from the main entrance of the health care facility where the health care service is located, or (ii) is the result of an order of a court of appropriate jurisdiction or a result of pending litigation in such court, or by order of the State Department of Health, or by order of any other agency or legal entity of the state, the federal government, or any political
subdivision of either, whose order is also approved by the State Department of Health;

(f) The acquisition or otherwise control of any major medical equipment for the provision of medical services; however, (i) the acquisition of any major medical equipment used only for research purposes, and (ii) the acquisition of major medical equipment to replace medical equipment for which a facility is 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
declared 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:

(a) The department may issue a certificate of need to
any person proposing the new construction of any health care
facility defined in subparagraphs (iv) and (vi) of Section
41-7-173(h) as part of a life care retirement facility, in any
county bordering on the Gulf of Mexico in which is located a
National Aeronautics and Space Administration facility, not to
exceed forty (40) 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 health
care facility that were authorized under this paragraph (a).

(b) The department may issue certificates of need in
Harrison County to provide skilled nursing home care for
Alzheimer's disease patients and other patients, not to exceed one
hundred fifty (150) 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 facilities that were authorized under this paragraph (b).

(c) The department may issue a certificate of need for
the addition to or expansion of any skilled nursing facility that
is part of an existing continuing care retirement community
located in Madison 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 (c), 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
beds that may be authorized under the authority of this paragraph
(c) shall not exceed sixty (60) beds.

S. B. 2820
PAGE 8
(d) The State Department of Health may issue a certificate of need to any hospital located in DeSoto County for the new construction of a skilled nursing facility, not to exceed 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 certificate of need to any person under this paragraph (i), 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 provision of Section 41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (i) shall not exceed sixty (60) beds. If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still
outstanding, and shall not issue a license for the skilled nursing
facility at any time after the expiration of the eighteen-month
period.

(j) The department may issue certificates of need to
allow any existing freestanding long-term care facility in
Tishomingo County and Hancock County that on July 1, 1995, is
licensed with fewer than sixty (60) beds. For the purposes of
this paragraph (j), 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. 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 long-term care facilities that were
authorized under this paragraph (j).

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

(1) Provided that funds are specifically appropriated therefor by the Legislature, the department may issue a certificate of need to a rehabilitation hospital in Hinds County for the construction of a sixty-bed long-term care nursing facility dedicated to the care and treatment of persons with severe disabilities including persons with spinal cord and 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 Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying
with due process, that the nursing facility has violated the
condition upon which the certificate of need was issued, as
provided in this paragraph and in the written agreement. 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.

(n) The department may issue a certificate of need for
the new construction, addition or conversion of skilled nursing
facility beds in Madison 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 (n), 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 (n) 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, 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 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 provision of Section
41-7-193(1) regarding substantial compliance of the projection of
need as reported in the current State Health Plan is waived for
the purposes of this paragraph. 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.

(q) (i) Beginning on July 1, 1999, the State
Department of Health shall issue certificates of need during each
of the next four (4) fiscal years for the construction or
expansion of nursing facility beds or the conversion of other beds

S. B. 2820
PAGE 20
to nursing facility beds in each county in the state having a need for fifty (50) or more additional nursing facility beds, as shown in the fiscal year 1999 State Health Plan, in the manner provided in this paragraph (q). The total number of nursing facility beds that may be authorized by any certificate of need authorized under this paragraph (q) shall not exceed sixty (60) beds.

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

(iii) Subject to the provisions of subparagraph
(v), the certificate of need issued under subparagraph (ii) for
nursing facility beds in each Long-Term Care Planning District
during each fiscal year shall first be available for nursing
facility beds in the county in the district having the highest
need for those beds, as shown in the fiscal year 1999 State Health
Plan. If there are no applications for a certificate of need for
nursing facility beds in the county having the highest need for
those beds by the date specified by the department, then the
certificate of need shall be available for nursing facility beds
in other counties in the district in descending order of the need
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 paragraph (q) for additional nursing facility beds in that county on the basis of the need in the state at large, and that county shall be excluded in determining which counties have the highest need for nursing facility beds in the state at large for that fiscal year. After a certificate of need has been issued under this paragraph (q) for nursing facility beds in a county during any fiscal year of the four-year period, a certificate of need shall not be available again under this paragraph (q) for additional nursing facility beds in that county during the four-year period, and that county shall be excluded in determining which counties have the highest need for nursing facility beds in succeeding fiscal years.
(vi) If more than one (1) application is made for a certificate of need for nursing home facility beds available under this paragraph (q), in Yalobusha, Newton or Tallahatchie County, and one (1) of the applicants is a county-owned hospital located in the county where the nursing facility beds are available, the department shall give priority to the county-owned hospital in granting the certificate of need if the following conditions are met:

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

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

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

(ii) Not more than twenty (20) beds may be authorized by any certificate of need issued under this paragraph.
and not more than a total of sixty (60) beds may be authorized in any Long-Term Care Planning District by all certificates of need issued under this paragraph (r). However, the total number of beds that may be authorized by all certificates of need issued under this paragraph (r) during any fiscal year shall not exceed one hundred twenty (120) beds, and the total number of beds that may be authorized in any Long-Term Care Planning District during any fiscal year shall not exceed forty (40) beds. Of the certificates of need that are issued for each Long-Term Care Planning District during the next two (2) fiscal years, at least one (1) shall be issued for beds in the 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.
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
facility if the ownership of either facility is transferred at any
time after the certificates of need are issued. After this
written agreement is executed, the Division of Medicaid and the
State Department of Health shall not certify more than fifty (50)
of the beds at the Hancock County facility or more than forty-nine
(49) of the beds at the Harrison County facility for participation
in the Medicaid program. If the Hancock County facility violates
the terms of the written agreement by admitting or keeping in the
facility on a regular or continuing basis more than fifty (50)
patients who are participating in the Medicaid program, or if the
Harrison County facility violates the terms of the written
agreement by admitting or keeping in the facility on a regular or
continuing basis more than forty-nine (49) patients who are
participating in the Medicaid program, the State Department of
Health shall revoke the license of the facility that is in
violation of the agreement, at the time that the department
determines, after a hearing complying with due process, that the facility has violated the agreement.

(u) The State Department of Health shall issue a certificate of need to a nonprofit venture for the establishment, construction and operation of a skilled nursing facility of not more than sixty (60) beds to provide skilled nursing care for ventilator dependent or otherwise medically dependent pediatric patients who require medical and nursing care or rehabilitation 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.
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.

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

(b) 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 residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation.
in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the 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.

(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15) of the beds at the psychiatric residential treatment 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 for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any patient in the 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 fifteen (15) of the beds in the
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.
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 subparagraph or for the beds converted pursuant to the authority of that certificate of need.

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

(iv) The department shall issue a certificate of need to the Region 7 Mental Health/Retardation Commission for the construction or expansion of child/adolescent psychiatric beds or the conversion of other beds to child/adolescent psychiatric beds in any of the counties served by the commission. For purposes of this subparagraph (iv), 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. 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 subparagraph or for the beds converted pursuant to the authority of that certificate of need.

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership 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 authorized to add any child/adolescent psychiatric or child/adolescent chemical dependency beds or convert any beds of another category to child/adolescent psychiatric or
child/adolescent chemical dependency beds without a certificate of need under the authority of subsection (1)(c) and subsection (4)(a) of this section.

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

(6) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital 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 long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (6), and if such long-term care hospital 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 patients who are participating in the Medicaid program, the certificate of need shall be automatically revoked.
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 long-term care hospital, 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 subsection and in the written agreement by the
recipient of the certificate of need. For purposes of this
subsection, 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.

(7) The State Department of Health may issue a certificate
of need to any hospital in the state to utilize a portion of its
beds for the "swing-bed" concept. Any such hospital must be in
conformance with the federal regulations regarding such swing-bed
concept at the time it submits its application for a certificate
of need to the State Department of Health, except that such
hospital may have more licensed beds or a higher average daily
census (ADC) than the maximum number specified in federal
regulations for participation in the swing-bed program. Any
hospital meeting all federal requirements for participation in the
swing-bed program which receives such certificate of need shall
render services provided under the swing-bed concept to any
patient eligible for Medicare (Title XVIII of the Social Security
Act) who is certified by a physician to be in need of such
services, and no such hospital shall permit any patient who is eligible for both Medicaid and Medicare or eligible only for Medicaid to stay in the swing beds of the hospital for more than thirty (30) days per admission unless the hospital receives prior approval for such patient from the Division of Medicaid, Office of the Governor. Any hospital having more licensed beds or a higher average daily census (ADC) than the maximum number specified in federal regulations for participation in the swing-bed program which receives such certificate of need shall develop a procedure to ensure that before a patient is allowed to stay in the swing beds of the hospital, there are no vacant nursing home beds available for that patient located within a fifty-mile radius of the hospital. When any such hospital has a patient staying in the swing beds of the hospital and the hospital receives notice from a nursing home located within such radius that there is a vacant bed available for that patient, the hospital shall transfer the patient to the nursing home within a reasonable time after receipt of the notice. Any hospital which is subject to the requirements of the two (2) preceding sentences of this subsection may be suspended from participation in the swing-bed program for a reasonable period of time by the State Department of Health if the department, after a hearing complying with due process, determines that the hospital has failed to comply with any of those requirements.

(8) The 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 a health care
facility as defined in subparagraph (viii) of Section 41-7-173(h),
except as hereinafter provided: The department may issue a
certificate of need to a nonprofit corporation located in Madison
County, Mississippi, for the construction, expansion or conversion
of not more than twenty (20) beds in a community living program
for developmentally disabled adults in a facility as defined in
subparagraph (viii) of Section 41-7-173(h). For purposes of this
subsection (8), 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 subsection (8).

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

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

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

(12) The new construction, renovation or expansion of or addition to any veterans homes or domiciliaries for eligible veterans of the State of Mississippi as authorized under Section

S. B. 2820
PAGE 43
35-1-19 shall not require the issuance of a certificate of need, notwithstanding any provision in Section 41-7-171 et seq. to the contrary.

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

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

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

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

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

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

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

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

(16) The State Department of Health shall issue any certificates of need necessary for Mississippi State University and a public or private health care provider to jointly acquire and operate a linear accelerator and a magnetic resonance imaging unit. Those certificates of need shall cover all capital expenditures related to the project between Mississippi State University and the health care provider, including, but not limited to, the acquisition of the linear accelerator, the magnetic resonance imaging unit and other radiological modalities; the offering of linear accelerator and magnetic resonance imaging services; and the cost of construction of facilities in which to locate these services. The linear accelerator and the magnetic resonance imaging unit shall be (a) located in the City of Starkville, Oktibbeha County, Mississippi; (b) operated jointly by Mississippi State University and the public or private health care provider selected by Mississippi State University through a
request for proposals (RFP) process in which Mississippi State University selects, and the Board of Trustees of State Institutions of Higher Learning approves, the health care provider that makes the best overall proposal; (c) available to Mississippi State University for research purposes two-thirds (2/3) of the time that the linear accelerator and magnetic resonance imaging unit are operational; and (d) available to the public or private health care provider selected by Mississippi State University and approved by the Board of Trustees of State Institutions of Higher Learning one-third (1/3) of the time for clinical, diagnostic and treatment purposes. For purposes of this subsection, 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.

(17) The State Department of Health shall issue a certificate of need for the construction of an acute care hospital in Kemper County, not to exceed twenty-five (25) beds, which shall be named the "John C. Stennis Memorial Hospital." In issuing the certificate of need under this subsection, the department shall give priority to a hospital located in Lauderdale County that has two hundred fifteen (215) beds. For purposes of this subsection, 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 (Section 43-13-101 et seq.) for the person or entity receiving the certificate of need authorized under this subsection or for the beds constructed under the authority of that certificate of need.

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

(19) [Repealed]

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

(21) Nothing in this section or any other provision of Section 41-7-171 et seq. shall prevent any health care facility from the new construction, renovation, conversion or expansion of new beds in the facility designated as intensive care units, negative pressure rooms, or isolation rooms pursuant to the provisions of Sections 41-14-1 through 41-14-11, or from
expansions of hospital facilities that are funded or reimbursed by
the grant program established under Section 1 of this act. For
purposes of this subsection, 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.

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

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

AN ACT TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ESTABLISH
A GRANT PROGRAM FOR HOSPITALS FOR EXPANSIONS OF THE HOSPITAL
FACILITIES THAT INCREASE THE CAPACITY OF THE HOSPITAL BECAUSE OF
THE NEED FOR MORE CAPACITY TO PROVIDE TREATMENT AND CARE FOR THE
GREATER NUMBER OF PATIENTS WHO HAVE COVID-19; TO PROVIDE THAT
GRANTS UNDER THE PROGRAM MAY BE USED BY HOSPITALS FOR HOSPITAL
EXPANSIONS THAT ARE MADE ON OR AFTER THE EFFECTIVE DATE OF THIS
ACT OR AS REIMBURSEMENT FOR THE EXPENSES INCURRED BY HOSPITALS FOR
EXPANSIONS THAT WERE MADE BEFORE THE EFFECTIVE DATE OF THIS ACT;
TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO EXEMPT
EXPANSIONS OF HOSPITALS THAT ARE FUNDED OR REIMBURSED BY THE GRANT
PROGRAM FROM THE PROVISIONS OF THE HEALTH CARE CERTIFICATE OF NEED
LAW; AND FOR RELATED PURPOSES.