

By: Representatives Hines, Anthony

To: Public Health and Human Services

HOUSE BILL NO. 175

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE AN EXCEPTION TO THE MORATORIUM ON THE ISSUANCE OF
3 CERTIFICATES OF NEED FOR HOME HEALTH AGENCIES TO AUTHORIZE THE
4 STATE DEPARTMENT OF HEALTH TO ISSUE UP TO FIVE CERTIFICATES OF
5 NEED TO THE RECIPIENTS OF THE FIVE NEW HOSPICE LICENSES ISSUED
6 UNDER SECTION 41-85-7(3); AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-7-191, Mississippi Code of 1972, is
9 amended as follows:

10 41-7-191. (1) No person shall engage in any of the
11 following activities without obtaining the required certificate of
12 need:

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

17 (b) The relocation of a health care facility or portion
18 thereof, or major medical equipment, unless such relocation of a
19 health care facility or portion thereof, or major medical
20 equipment, which does not involve a capital expenditure by or on



21 behalf of a health care facility, is within five thousand two
22 hundred eighty (5,280) feet from the main entrance of the health
23 care facility;

24 (c) Any change in the existing bed complement of any
25 health care facility through the addition or conversion of any
26 beds or the alteration, modernizing or refurbishing of any unit or
27 department in which the beds may be located; however, if a health
28 care facility has voluntarily delicensed some of its existing bed
29 complement, it may later relicense some or all of its delicensed
30 beds without the necessity of having to acquire a certificate of
31 need. The State Department of Health shall maintain a record of
32 the delicensing health care facility and its voluntarily
33 delicensed beds and continue counting those beds as part of the
34 state's total bed count for health care planning purposes. If a
35 health care facility that has voluntarily delicensed some of its
36 beds later desires to relicense some or all of its voluntarily
37 delicensed beds, it shall notify the State Department of Health of
38 its intent to increase the number of its licensed beds. The State
39 Department of Health shall survey the health care facility within
40 thirty (30) days of that notice and, if appropriate, issue the
41 health care facility a new license reflecting the new contingent
42 of beds. However, in no event may a health care facility that has
43 voluntarily delicensed some of its beds be reissued a license to
44 operate beds in excess of its bed count before the voluntary



45 delicensure of some of its beds without seeking certificate of
46 need approval;

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

- 51 (i) Open-heart surgery services;
- 52 (ii) Cardiac catheterization services;
- 53 (iii) Comprehensive inpatient rehabilitation
54 services;
- 55 (iv) Licensed psychiatric services;
- 56 (v) Licensed chemical dependency services;
- 57 (vi) Radiation therapy services;
- 58 (vii) Diagnostic imaging services of an invasive
59 nature, i.e. invasive digital angiography;
- 60 (viii) Nursing home care as defined in
61 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 62 (ix) Home health services;
- 63 (x) Swing-bed services;
- 64 (xi) Ambulatory surgical services;
- 65 (xii) Magnetic resonance imaging services;
- 66 (xiii) [Deleted]
- 67 (xiv) Long-term care hospital services;
- 68 (xv) Positron emission tomography (PET) services;



69 (e) The relocation of one or more health services from
70 one physical facility or site to another physical facility or
71 site, unless such relocation, which does not involve a capital
72 expenditure by or on behalf of a health care facility, (i) is to a
73 physical facility or site within five thousand two hundred eighty
74 (5,280) feet from the main entrance of the health care facility
75 where the health care service is located, or (ii) is the result of
76 an order of a court of appropriate jurisdiction or a result of
77 pending litigation in such court, or by order of the State
78 Department of Health, or by order of any other agency or legal
79 entity of the state, the federal government, or any political
80 subdivision of either, whose order is also approved by the State
81 Department of Health;

82 (f) The acquisition or otherwise control of any major
83 medical equipment for the provision of medical services; however,
84 (i) the acquisition of any major medical equipment used only for
85 research purposes, and (ii) the acquisition of major medical
86 equipment to replace medical equipment for which a facility is
87 already providing medical services and for which the State
88 Department of Health has been notified before the date of such
89 acquisition shall be exempt from this paragraph; an acquisition
90 for less than fair market value must be reviewed, if the
91 acquisition at fair market value would be subject to review;

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



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

100 (h) The change of ownership of any health care facility
101 defined in subparagraphs (iv), (vi) and (viii) of Section
102 41-7-173(h), in which a notice of intent as described in paragraph
103 (g) has not been filed and if the Executive Director, Division of
104 Medicaid, Office of the Governor, has not certified in writing
105 that there will be no increase in allowable costs to Medicaid from
106 revaluation of the assets or from increased interest and
107 depreciation as a result of the proposed change of ownership;

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

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

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



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

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

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

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

137 (a) The department may issue a certificate of need to
138 any person proposing the new construction of any health care
139 facility defined in subparagraphs (iv) and (vi) of Section
140 41-7-173(h) as part of a life care retirement facility, in any
141 county bordering on the Gulf of Mexico in which is located a
142 National Aeronautics and Space Administration facility, not to
143 exceed forty (40) beds. From and after July 1, 1999, there shall



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

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

154 (c) The department may issue a certificate of need for
155 the addition to or expansion of any skilled nursing facility that
156 is part of an existing continuing care retirement community
157 located in Madison County, provided that the recipient of the
158 certificate of need agrees in writing that the skilled nursing
159 facility will not at any time participate in the Medicaid program
160 (Section 43-13-101 et seq.) or admit or keep any patients in the
161 skilled nursing facility who are participating in the Medicaid
162 program. This written agreement by the recipient of the
163 certificate of need shall be fully binding on any subsequent owner
164 of the skilled nursing facility, if the ownership of the facility
165 is transferred at any time after the issuance of the certificate
166 of need. Agreement that the skilled nursing facility will not
167 participate in the Medicaid program shall be a condition of the
168 issuance of a certificate of need to any person under this



169 paragraph (c), and if such skilled nursing facility at any time
170 after the issuance of the certificate of need, regardless of the
171 ownership of the facility, participates in the Medicaid program or
172 admits or keeps any patients in the facility who are participating
173 in the Medicaid program, the State Department of Health shall
174 revoke the certificate of need, if it is still outstanding, and
175 shall deny or revoke the license of the skilled nursing facility,
176 at the time that the department determines, after a hearing
177 complying with due process, that the facility has failed to comply
178 with any of the conditions upon which the certificate of need was
179 issued, as provided in this paragraph and in the written agreement
180 by the recipient of the certificate of need. The total number of
181 beds that may be authorized under the authority of this paragraph
182 (c) shall not exceed sixty (60) beds.

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

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



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

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

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

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



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

224 (i) The department may issue a certificate of need for
225 the new construction of a skilled nursing facility in Leake
226 County, provided that the recipient of the certificate of need
227 agrees in writing that the skilled nursing facility will not at
228 any time participate in the Medicaid program (Section 43-13-101 et
229 seq.) or admit or keep any patients in the skilled nursing
230 facility who are participating in the Medicaid program. This
231 written agreement by the recipient of the certificate of need
232 shall be fully binding on any subsequent owner of the skilled
233 nursing facility, if the ownership of the facility is transferred
234 at any time after the issuance of the certificate of need.
235 Agreement that the skilled nursing facility will not participate
236 in the Medicaid program shall be a condition of the issuance of a
237 certificate of need to any person under this paragraph (i), and if
238 such skilled nursing facility at any time after the issuance of
239 the certificate of need, regardless of the ownership of the
240 facility, participates in the Medicaid program or admits or keeps
241 any patients in the facility who are participating in the Medicaid
242 program, the State Department of Health shall revoke the
243 certificate of need, if it is still outstanding, and shall deny or



244 revoke the license of the skilled nursing facility, at the time
245 that the department determines, after a hearing complying with due
246 process, that the facility has failed to comply with any of the
247 conditions upon which the certificate of need was issued, as
248 provided in this paragraph and in the written agreement by the
249 recipient of the certificate of need. The provision of Section
250 41-7-193(1) regarding substantial compliance of the projection of
251 need as reported in the current State Health Plan is waived for
252 the purposes of this paragraph. The total number of nursing
253 facility beds that may be authorized by any certificate of need
254 issued under this paragraph (i) shall not exceed sixty (60) beds.
255 If the skilled nursing facility authorized by the certificate of
256 need issued under this paragraph is not constructed and fully
257 operational within eighteen (18) months after July 1, 1994, the
258 State Department of Health, after a hearing complying with due
259 process, shall revoke the certificate of need, if it is still
260 outstanding, and shall not issue a license for the skilled nursing
261 facility at any time after the expiration of the eighteen-month
262 period.

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



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

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



294 2001. After this written agreement is executed, the Division of
295 Medicaid and the State Department of Health shall not certify more
296 than thirty (30) of the beds in the facility for participation in
297 the Medicaid program. If the facility violates the terms of the
298 written agreement by admitting or keeping in the facility on a
299 regular or continuing basis more than thirty (30) patients who are
300 participating in the Medicaid program, the State Department of
301 Health shall revoke the license of the facility, at the time that
302 the department determines, after a hearing complying with due
303 process, that the facility has violated the written agreement.

304 (1) Provided that funds are specifically appropriated
305 therefor by the Legislature, the department may issue a
306 certificate of need to a rehabilitation hospital in Hinds County
307 for the construction of a sixty-bed long-term care nursing
308 facility dedicated to the care and treatment of persons with
309 severe disabilities including persons with spinal cord and
310 closed-head injuries and ventilator dependent patients. The
311 provisions of Section 41-7-193(1) regarding substantial compliance
312 with projection of need as reported in the current State Health
313 Plan are waived for the purpose of this paragraph.

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



319 writing that none of the beds at the nursing facility will be
320 certified for participation in the Medicaid program (Section
321 43-13-101 et seq.), and that no claim will be submitted for
322 Medicaid reimbursement in the nursing facility in any day or for
323 any patient in the nursing facility. This written agreement by
324 the recipient of the certificate of need shall be a condition of
325 the issuance of the certificate of need under this paragraph, and
326 the agreement shall be fully binding on any subsequent owner of
327 the nursing facility if the ownership of the nursing facility is
328 transferred at any time after the issuance of the certificate of
329 need. After this written agreement is executed, the Division of
330 Medicaid and the State Department of Health shall not certify any
331 of the beds in the nursing facility for participation in the
332 Medicaid program. If the nursing facility violates the terms of
333 the written agreement by admitting or keeping in the nursing
334 facility on a regular or continuing basis any patients who are
335 participating in the Medicaid program, the State Department of
336 Health shall revoke the license of the nursing facility, at the
337 time that the department determines, after a hearing complying
338 with due process, that the nursing facility has violated the
339 condition upon which the certificate of need was issued, as
340 provided in this paragraph and in the written agreement. If the
341 certificate of need authorized under this paragraph is not issued
342 within twelve (12) months after July 1, 2001, the department shall
343 deny the application for the certificate of need and shall not



344 issue the certificate of need at any time after the twelve-month
345 period, unless the issuance is contested. If the certificate of
346 need is issued and substantial construction of the nursing
347 facility beds has not commenced within eighteen (18) months after
348 July 1, 2001, the State Department of Health, after a hearing
349 complying with due process, shall revoke the certificate of need
350 if it is still outstanding, and the department shall not issue a
351 license for the nursing facility at any time after the
352 eighteen-month period. However, if the issuance of the
353 certificate of need is contested, the department shall require
354 substantial construction of the nursing facility beds within six
355 (6) months after final adjudication on the issuance of the
356 certificate of need.

357 (n) The department may issue a certificate of need for
358 the new construction, addition or conversion of skilled nursing
359 facility beds in Madison County, provided that the recipient of
360 the certificate of need agrees in writing that the skilled nursing
361 facility will not at any time participate in the Medicaid program
362 (Section 43-13-101 et seq.) or admit or keep any patients in the
363 skilled nursing facility who are participating in the Medicaid
364 program. This written agreement by the recipient of the
365 certificate of need shall be fully binding on any subsequent owner
366 of the skilled nursing facility, if the ownership of the facility
367 is transferred at any time after the issuance of the certificate
368 of need. Agreement that the skilled nursing facility will not



369 participate in the Medicaid program shall be a condition of the
370 issuance of a certificate of need to any person under this
371 paragraph (n), and if such skilled nursing facility at any time
372 after the issuance of the certificate of need, regardless of the
373 ownership of the facility, participates in the Medicaid program or
374 admits or keeps any patients in the facility who are participating
375 in the Medicaid program, the State Department of Health shall
376 revoke the certificate of need, if it is still outstanding, and
377 shall deny or revoke the license of the skilled nursing facility,
378 at the time that the department determines, after a hearing
379 complying with due process, that the facility has failed to comply
380 with any of the conditions upon which the certificate of need was
381 issued, as provided in this paragraph and in the written agreement
382 by the recipient of the certificate of need. The total number of
383 nursing facility beds that may be authorized by any certificate of
384 need issued under this paragraph (n) shall not exceed sixty (60)
385 beds. If the certificate of need authorized under this paragraph
386 is not issued within twelve (12) months after July 1, 1998, the
387 department shall deny the application for the certificate of need
388 and shall not issue the certificate of need at any time after the
389 twelve-month period, unless the issuance is contested. If the
390 certificate of need is issued and substantial construction of the
391 nursing facility beds has not commenced within eighteen (18)
392 months after July 1, 1998, the State Department of Health, after a
393 hearing complying with due process, shall revoke the certificate



394 of need if it is still outstanding, and the department shall not
395 issue a license for the nursing facility at any time after the
396 eighteen-month period. However, if the issuance of the
397 certificate of need is contested, the department shall require
398 substantial construction of the nursing facility beds within six
399 (6) months after final adjudication on the issuance of the
400 certificate of need.

401 (o) The department may issue a certificate of need for
402 the new construction, addition or conversion of skilled nursing
403 facility beds in Leake County, provided that the recipient of the
404 certificate of need agrees in writing that the skilled nursing
405 facility will not at any time participate in the Medicaid program
406 (Section 43-13-101 et seq.) or admit or keep any patients in the
407 skilled nursing facility who are participating in the Medicaid
408 program. This written agreement by the recipient of the
409 certificate of need shall be fully binding on any subsequent owner
410 of the skilled nursing facility, if the ownership of the facility
411 is transferred at any time after the issuance of the certificate
412 of need. Agreement that the skilled nursing facility will not
413 participate in the Medicaid program shall be a condition of the
414 issuance of a certificate of need to any person under this
415 paragraph (o), and if such skilled nursing facility at any time
416 after the issuance of the certificate of need, regardless of the
417 ownership of the facility, participates in the Medicaid program or
418 admits or keeps any patients in the facility who are participating



419 in the Medicaid program, the State Department of Health shall
420 revoke the certificate of need, if it is still outstanding, and
421 shall deny or revoke the license of the skilled nursing facility,
422 at the time that the department determines, after a hearing
423 complying with due process, that the facility has failed to comply
424 with any of the conditions upon which the certificate of need was
425 issued, as provided in this paragraph and in the written agreement
426 by the recipient of the certificate of need. The total number of
427 nursing facility beds that may be authorized by any certificate of
428 need issued under this paragraph (o) shall not exceed sixty (60)
429 beds. If the certificate of need authorized under this paragraph
430 is not issued within twelve (12) months after July 1, 2001, the
431 department shall deny the application for the certificate of need
432 and shall not issue the certificate of need at any time after the
433 twelve-month period, unless the issuance is contested. If the
434 certificate of need is issued and substantial construction of the
435 nursing facility beds has not commenced within eighteen (18)
436 months after July 1, 2001, the State Department of Health, after a
437 hearing complying with due process, shall revoke the certificate
438 of need if it is still outstanding, and the department shall not
439 issue a license for the nursing facility at any time after the
440 eighteen-month period. However, if the issuance of the
441 certificate of need is contested, the department shall require
442 substantial construction of the nursing facility beds within six



443 (6) months after final adjudication on the issuance of the
444 certificate of need.

445 (p) The department may issue a certificate of need for
446 the construction of a municipally owned nursing facility within
447 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
448 beds, provided that the recipient of the certificate of need
449 agrees in writing that the skilled nursing facility will not at
450 any time participate in the Medicaid program (Section 43-13-101 et
451 seq.) or admit or keep any patients in the skilled nursing
452 facility who are participating in the Medicaid program. This
453 written agreement by the recipient of the certificate of need
454 shall be fully binding on any subsequent owner of the skilled
455 nursing facility, if the ownership of the facility is transferred
456 at any time after the issuance of the certificate of need.

457 Agreement that the skilled nursing facility will not participate
458 in the Medicaid program shall be a condition of the issuance of a
459 certificate of need to any person under this paragraph (p), and if
460 such skilled nursing facility at any time after the issuance of
461 the certificate of need, regardless of the ownership of the
462 facility, participates in the Medicaid program or admits or keeps
463 any patients in the facility who are participating in the Medicaid
464 program, the State Department of Health shall revoke the
465 certificate of need, if it is still outstanding, and shall deny or
466 revoke the license of the skilled nursing facility, at the time
467 that the department determines, after a hearing complying with due



468 process, that the facility has failed to comply with any of the
469 conditions upon which the certificate of need was issued, as
470 provided in this paragraph and in the written agreement by the
471 recipient of the certificate of need. The provision of Section
472 41-7-193(1) regarding substantial compliance of the projection of
473 need as reported in the current State Health Plan is waived for
474 the purposes of this paragraph. If the certificate of need
475 authorized under this paragraph is not issued within twelve (12)
476 months after July 1, 1998, the department shall deny the
477 application for the certificate of need and shall not issue the
478 certificate of need at any time after the twelve-month period,
479 unless the issuance is contested. If the certificate of need is
480 issued and substantial construction of the nursing facility beds
481 has not commenced within eighteen (18) months after July 1, 1998,
482 the State Department of Health, after a hearing complying with due
483 process, shall revoke the certificate of need if it is still
484 outstanding, and the department shall not issue a license for the
485 nursing facility at any time after the eighteen-month period.
486 However, if the issuance of the certificate of need is contested,
487 the department shall require substantial construction of the
488 nursing facility beds within six (6) months after final
489 adjudication on the issuance of the certificate of need.

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



493 expansion of nursing facility beds or the conversion of other beds
494 to nursing facility beds in each county in the state having a need
495 for fifty (50) or more additional nursing facility beds, as shown
496 in the fiscal year 1999 State Health Plan, in the manner provided
497 in this paragraph (q). The total number of nursing facility beds
498 that may be authorized by any certificate of need authorized under
499 this paragraph (q) shall not exceed sixty (60) beds.

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



518 previous fiscal years. During fiscal year 2000, in addition to
519 the six (6) certificates of need authorized in this subparagraph,
520 the department also shall issue a certificate of need for new
521 nursing facility beds in Amite County and a certificate of need
522 for new nursing facility beds in Carroll County.

523 (iii) Subject to the provisions of subparagraph
524 (v), the certificate of need issued under subparagraph (ii) for
525 nursing facility beds in each Long-Term Care Planning District
526 during each fiscal year shall first be available for nursing
527 facility beds in the county in the district having the highest
528 need for those beds, as shown in the fiscal year 1999 State Health
529 Plan. If there are no applications for a certificate of need for
530 nursing facility beds in the county having the highest need for
531 those beds by the date specified by the department, then the
532 certificate of need shall be available for nursing facility beds
533 in other counties in the district in descending order of the need
534 for those beds, from the county with the second highest need to
535 the county with the lowest need, until an application is received
536 for nursing facility beds in an eligible county in the district.

537 (iv) Subject to the provisions of subparagraph
538 (v), the certificate of need issued under subparagraph (ii) for
539 nursing facility beds in the two (2) counties from the state at
540 large during each fiscal year shall first be available for nursing
541 facility beds in the two (2) counties that have the highest need
542 in the state for those beds, as shown in the fiscal year 1999



543 State Health Plan, when considering the need on a statewide basis
544 and without regard to the Long-Term Care Planning Districts in
545 which the counties are located. If there are no applications for
546 a certificate of need for nursing facility beds in either of the
547 two (2) counties having the highest need for those beds on a
548 statewide basis by the date specified by the department, then the
549 certificate of need shall be available for nursing facility beds
550 in other counties from the state at large in descending order of
551 the need for those beds on a statewide basis, from the county with
552 the second highest need to the county with the lowest need, until
553 an application is received for nursing facility beds in an
554 eligible county from the state at large.

555 (v) If a certificate of need is authorized to be
556 issued under this paragraph (q) for nursing facility beds in a
557 county on the basis of the need in the Long-Term Care Planning
558 District during any fiscal year of the four-year period, a
559 certificate of need shall not also be available under this
560 paragraph (q) for additional nursing facility beds in that county
561 on the basis of the need in the state at large, and that county
562 shall be excluded in determining which counties have the highest
563 need for nursing facility beds in the state at large for that
564 fiscal year. After a certificate of need has been issued under
565 this paragraph (q) for nursing facility beds in a county during
566 any fiscal year of the four-year period, a certificate of need
567 shall not be available again under this paragraph (q) for



568 additional nursing facility beds in that county during the
569 four-year period, and that county shall be excluded in determining
570 which counties have the highest need for nursing facility beds in
571 succeeding fiscal years.

572 (vi) If more than one (1) application is made for
573 a certificate of need for nursing home facility beds available
574 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
575 County, and one (1) of the applicants is a county-owned hospital
576 located in the county where the nursing facility beds are
577 available, the department shall give priority to the county-owned
578 hospital in granting the certificate of need if the following
579 conditions are met:

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

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

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



593 Planning Districts designated in the fiscal year 1999 State Health
594 Plan, to provide care exclusively to patients with Alzheimer's
595 disease.

596 (ii) Not more than twenty (20) beds may be
597 authorized by any certificate of need issued under this paragraph
598 (r), and not more than a total of sixty (60) beds may be
599 authorized in any Long-Term Care Planning District by all
600 certificates of need issued under this paragraph (r). However,
601 the total number of beds that may be authorized by all
602 certificates of need issued under this paragraph (r) during any
603 fiscal year shall not exceed one hundred twenty (120) beds, and
604 the total number of beds that may be authorized in any Long-Term
605 Care Planning District during any fiscal year shall not exceed
606 forty (40) beds. Of the certificates of need that are issued for
607 each Long-Term Care Planning District during the next two (2)
608 fiscal years, at least one (1) shall be issued for beds in the
609 northern part of the district, at least one (1) shall be issued
610 for beds in the central part of the district, and at least one (1)
611 shall be issued for beds in the southern part of the district.

612 (iii) The State Department of Health, in
613 consultation with the Department of Mental Health and the Division
614 of Medicaid, shall develop and prescribe the staffing levels,
615 space requirements and other standards and requirements that must
616 be met with regard to the nursing facility beds authorized under



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

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

632 (t) The State Department of Health shall issue
633 certificates of need to the owner of a nursing facility in
634 operation at the time of Hurricane Katrina in Hancock County that
635 was not operational on December 31, 2005, because of damage
636 sustained from Hurricane Katrina to authorize the following: (i)
637 the construction of a new nursing facility in Harrison County;
638 (ii) the relocation of forty-nine (49) nursing facility beds from
639 the Hancock County facility to the new Harrison County facility;
640 (iii) the establishment of not more than twenty (20) non-Medicaid
641 nursing facility beds at the Hancock County facility; and (iv) the



642 establishment of not more than twenty (20) non-Medicaid beds at
643 the new Harrison County facility. The certificates of need that
644 authorize the non-Medicaid nursing facility beds under
645 subparagraphs (iii) and (iv) of this paragraph (t) shall be
646 subject to the following conditions: The owner of the Hancock
647 County facility and the new Harrison County facility must agree in
648 writing that no more than fifty (50) of the beds at the Hancock
649 County facility and no more than forty-nine (49) of the beds at
650 the Harrison County facility will be certified for participation
651 in the Medicaid program, and that no claim will be submitted for
652 Medicaid reimbursement for more than fifty (50) patients in the
653 Hancock County facility in any month, or for more than forty-nine
654 (49) patients in the Harrison County facility in any month, or for
655 any patient in either facility who is in a bed that is not
656 Medicaid-certified. This written agreement by the owner of the
657 nursing facilities shall be a condition of the issuance of the
658 certificates of need under this paragraph (t), and the agreement
659 shall be fully binding on any later owner or owners of either
660 facility if the ownership of either facility is transferred at any
661 time after the certificates of need are issued. After this
662 written agreement is executed, the Division of Medicaid and the
663 State Department of Health shall not certify more than fifty (50)
664 of the beds at the Hancock County facility or more than forty-nine
665 (49) of the beds at the Harrison County facility for participation
666 in the Medicaid program. If the Hancock County facility violates



667 the terms of the written agreement by admitting or keeping in the
668 facility on a regular or continuing basis more than fifty (50)
669 patients who are participating in the Medicaid program, or if the
670 Harrison County facility violates the terms of the written
671 agreement by admitting or keeping in the facility on a regular or
672 continuing basis more than forty-nine (49) patients who are
673 participating in the Medicaid program, the State Department of
674 Health shall revoke the license of the facility that is in
675 violation of the agreement, at the time that the department
676 determines, after a hearing complying with due process, that the
677 facility has violated the agreement.

678 (u) The State Department of Health shall issue a
679 certificate of need to a nonprofit venture for the establishment,
680 construction and operation of a skilled nursing facility of not
681 more than sixty (60) beds to provide skilled nursing care for
682 ventilator dependent or otherwise medically dependent pediatric
683 patients who require medical and nursing care or rehabilitation
684 services to be located in a county in which an academic medical
685 center and a children's hospital are located, and for any
686 construction and for the acquisition of equipment related to those
687 beds. The facility shall be authorized to keep such ventilator
688 dependent or otherwise medically dependent pediatric patients
689 beyond age twenty-one (21) in accordance with regulations of the
690 State Board of Health. For purposes of this paragraph (u), the
691 provisions of Section 41-7-193(1) requiring substantial compliance



692 with the projection of need as reported in the current State
693 Health Plan are waived, and the provisions of Section 41-7-197
694 requiring a formal certificate of need hearing process are waived.
695 The beds authorized by this paragraph shall be counted as
696 pediatric skilled nursing facility beds for health planning
697 purposes under Section 41-7-171 et seq. There shall be no
698 prohibition of or restrictions on participation in the Medicaid
699 program for the person receiving the certificate of need
700 authorized by this paragraph.

701 (3) The State Department of Health may grant approval for
702 and issue certificates of need to any person proposing the new
703 construction of, addition to, conversion of beds of or expansion
704 of any health care facility defined in subparagraph (x)
705 (psychiatric residential treatment facility) of Section
706 41-7-173(h). The total number of beds which may be authorized by
707 such certificates of need shall not exceed three hundred
708 thirty-four (334) beds for the entire state.

709 (a) Of the total number of beds authorized under this
710 subsection, the department shall issue a certificate of need to a
711 privately owned psychiatric residential treatment facility in
712 Simpson County for the conversion of sixteen (16) intermediate
713 care facility for the mentally retarded (ICF-MR) beds to
714 psychiatric residential treatment facility beds, provided that
715 facility agrees in writing that the facility shall give priority



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

718 (b) Of the total number of beds authorized under this
719 subsection, the department may issue a certificate or certificates
720 of need for the construction or expansion of psychiatric
721 residential treatment facility beds or the conversion of other
722 beds to psychiatric residential treatment facility beds in Warren
723 County, not to exceed sixty (60) psychiatric residential treatment
724 facility beds, provided that the facility agrees in writing that
725 no more than thirty (30) of the beds at the psychiatric
726 residential treatment facility will be certified for participation
727 in the Medicaid program (Section 43-13-101 et seq.) for the use of
728 any patients other than those who are participating only in the
729 Medicaid program of another state, and that no claim will be
730 submitted to the Division of Medicaid for Medicaid reimbursement
731 for more than thirty (30) patients in the psychiatric residential
732 treatment facility in any day or for any patient in the
733 psychiatric residential treatment facility who is in a bed that is
734 not Medicaid-certified. This written agreement by the recipient
735 of the certificate of need shall be a condition of the issuance of
736 the certificate of need under this paragraph, and the agreement
737 shall be fully binding on any subsequent owner of the psychiatric
738 residential treatment facility if the ownership of the facility is
739 transferred at any time after the issuance of the certificate of
740 need. After this written agreement is executed, the Division of



741 Medicaid and the State Department of Health shall not certify more
742 than thirty (30) of the beds in the psychiatric residential
743 treatment facility for participation in the Medicaid program for
744 the use of any patients other than those who are participating
745 only in the Medicaid program of another state. If the psychiatric
746 residential treatment facility violates the terms of the written
747 agreement by admitting or keeping in the facility on a regular or
748 continuing basis more than thirty (30) patients who are
749 participating in the Mississippi Medicaid program, the State
750 Department of Health shall revoke the license of the facility, at
751 the time that the department determines, after a hearing complying
752 with due process, that the facility has violated the condition
753 upon which the certificate of need was issued, as provided in this
754 paragraph and in the written agreement.

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

759 (c) Of the total number of beds authorized under this
760 subsection, the department shall issue a certificate of need to a
761 hospital currently operating Medicaid-certified acute psychiatric
762 beds for adolescents in DeSoto County, for the establishment of a
763 forty-bed psychiatric residential treatment facility in DeSoto
764 County, provided that the hospital agrees in writing (i) that the
765 hospital shall give priority for the use of those forty (40) beds



766 to Mississippi residents who are presently being treated in
767 out-of-state facilities, and (ii) that no more than fifteen (15)
768 of the beds at the psychiatric residential treatment facility will
769 be certified for participation in the Medicaid program (Section
770 43-13-101 et seq.), and that no claim will be submitted for
771 Medicaid reimbursement for more than fifteen (15) patients in the
772 psychiatric residential treatment facility in any day or for any
773 patient in the psychiatric residential treatment facility who is
774 in a bed that is not Medicaid-certified. This written agreement
775 by the recipient of the certificate of need shall be a condition
776 of the issuance of the certificate of need under this paragraph,
777 and the agreement shall be fully binding on any subsequent owner
778 of the psychiatric residential treatment facility if the ownership
779 of the facility is transferred at any time after the issuance of
780 the certificate of need. After this written agreement is
781 executed, the Division of Medicaid and the State Department of
782 Health shall not certify more than fifteen (15) of the beds in the
783 psychiatric residential treatment facility for participation in
784 the Medicaid program. If the psychiatric residential treatment
785 facility violates the terms of the written agreement by admitting
786 or keeping in the facility on a regular or continuing basis more
787 than fifteen (15) patients who are participating in the Medicaid
788 program, the State Department of Health shall revoke the license
789 of the facility, at the time that the department determines, after
790 a hearing complying with due process, that the facility has



791 violated the condition upon which the certificate of need was
792 issued, as provided in this paragraph and in the written
793 agreement.

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

802 (e) Of the total number of beds authorized under this
803 subsection (3) the department shall issue a certificate of need to
804 a privately owned, nonprofit psychiatric residential treatment
805 facility in Hinds County for an eight-bed expansion of the
806 facility, provided that the facility agrees in writing that the
807 facility shall give priority for the use of those eight (8) beds
808 to Mississippi residents who are presently being treated in
809 out-of-state facilities.

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



816 in Lauderdale County. As a condition of issuance of the
817 certificate of need under this paragraph, the facility shall give
818 priority in admissions to the child/adolescent psychiatric
819 residential treatment facility beds authorized under this
820 paragraph to patients who otherwise would require out-of-state
821 placement. The Division of Medicaid, in conjunction with the
822 Department of Human Services, shall furnish the facility a list of
823 all out-of-state patients on a quarterly basis. Furthermore,
824 notice shall also be provided to the parent, custodial parent or
825 guardian of each out-of-state patient notifying them of the
826 priority status granted by this paragraph. For purposes of this
827 paragraph, the provisions of Section 41-7-193(1) requiring
828 substantial compliance with the projection of need as reported in
829 the current State Health Plan are waived. The total number of
830 child/adolescent psychiatric residential treatment facility beds
831 that may be authorized under the authority of this paragraph shall
832 be sixty (60) beds. There shall be no prohibition or restrictions
833 on participation in the Medicaid program (Section 43-13-101 et
834 seq.) for the person receiving the certificate of need authorized
835 under this paragraph or for the beds converted pursuant to the
836 authority of that certificate of need.

837 (4) (a) From and after March 25, 2021, the department may
838 issue a certificate of need to any person for the new construction
839 of any hospital, psychiatric hospital or chemical dependency
840 hospital that will contain any child/adolescent psychiatric or



841 child/adolescent chemical dependency beds, or for the conversion
842 of any other health care facility to a hospital, psychiatric
843 hospital or chemical dependency hospital that will contain any
844 child/adolescent psychiatric or child/adolescent chemical
845 dependency beds. There shall be no prohibition or restrictions on
846 participation in the Medicaid program (Section 43-13-101 et seq.)
847 for the person(s) receiving the certificate(s) of need authorized
848 under this paragraph (a) or for the beds converted pursuant to the
849 authority of that certificate of need. In issuing any new
850 certificate of need for any child/adolescent psychiatric or
851 child/adolescent chemical dependency beds, either by new
852 construction or conversion of beds of another category, the
853 department shall give preference to beds which will be located in
854 an area of the state which does not have such beds located in it,
855 and to a location more than sixty-five (65) miles from existing
856 beds. Upon receiving 2020 census data, the department may amend
857 the State Health Plan regarding child/adolescent psychiatric and
858 child/adolescent chemical dependency beds to reflect the need
859 based on new census data.

860 (i) [Deleted]

861 (ii) The department may issue a certificate of
862 need for the conversion of existing beds in a county hospital in
863 Choctaw County from acute care beds to child/adolescent chemical
864 dependency beds. For purposes of this subparagraph (ii), the
865 provisions of Section 41-7-193(1) requiring substantial compliance



866 with the projection of need as reported in the current State
867 Health Plan are waived. The total number of beds that may be
868 authorized under authority of this subparagraph shall not exceed
869 twenty (20) beds. There shall be no prohibition or restrictions
870 on participation in the Medicaid program (Section 43-13-101 et
871 seq.) for the hospital receiving the certificate of need
872 authorized under this subparagraph or for the beds converted
873 pursuant to the authority of that certificate of need.

874 (iii) The department may issue a certificate or
875 certificates of need for the construction or expansion of
876 child/adolescent psychiatric beds or the conversion of other beds
877 to child/adolescent psychiatric beds in Warren County. For
878 purposes of this subparagraph (iii), the provisions of Section
879 41-7-193(1) requiring substantial compliance with the projection
880 of need as reported in the current State Health Plan are waived.
881 The total number of beds that may be authorized under the
882 authority of this subparagraph shall not exceed twenty (20) beds.
883 There shall be no prohibition or restrictions on participation in
884 the Medicaid program (Section 43-13-101 et seq.) for the person
885 receiving the certificate of need authorized under this
886 subparagraph or for the beds converted pursuant to the authority
887 of that certificate of need.

888 If by January 1, 2002, there has been no significant
889 commencement of construction of the beds authorized under this
890 subparagraph (iii), or no significant action taken to convert



891 existing beds to the beds authorized under this subparagraph, then
892 the certificate of need that was previously issued under this
893 subparagraph shall expire. If the previously issued certificate
894 of need expires, the department may accept applications for
895 issuance of another certificate of need for the beds authorized
896 under this subparagraph, and may issue a certificate of need to
897 authorize the construction, expansion or conversion of the beds
898 authorized under this subparagraph.

899 (iv) The department shall issue a certificate of
900 need to the Region 7 Mental Health/Retardation Commission for the
901 construction or expansion of child/adolescent psychiatric beds or
902 the conversion of other beds to child/adolescent psychiatric beds
903 in any of the counties served by the commission. For purposes of
904 this subparagraph (iv), the provisions of Section 41-7-193(1)
905 requiring substantial compliance with the projection of need as
906 reported in the current State Health Plan are waived. The total
907 number of beds that may be authorized under the authority of this
908 subparagraph shall not exceed twenty (20) beds. There shall be no
909 prohibition or restrictions on participation in the Medicaid
910 program (Section 43-13-101 et seq.) for the person receiving the
911 certificate of need authorized under this subparagraph or for the
912 beds converted pursuant to the authority of that certificate of
913 need.

914 (v) The department may issue a certificate of need
915 to any county hospital located in Leflore County for the



916 construction or expansion of adult psychiatric beds or the
917 conversion of other beds to adult psychiatric beds, not to exceed
918 twenty (20) beds, provided that the recipient of the certificate
919 of need agrees in writing that the adult psychiatric beds will not
920 at any time be certified for participation in the Medicaid program
921 and that the hospital will not admit or keep any patients who are
922 participating in the Medicaid program in any of such adult
923 psychiatric beds. This written agreement by the recipient of the
924 certificate of need shall be fully binding on any subsequent owner
925 of the hospital if the ownership of the hospital is transferred at
926 any time after the issuance of the certificate of need. Agreement
927 that the adult psychiatric beds will not be certified for
928 participation in the Medicaid program shall be a condition of the
929 issuance of a certificate of need to any person under this
930 subparagraph (v), and if such hospital at any time after the
931 issuance of the certificate of need, regardless of the ownership
932 of the hospital, has any of such adult psychiatric beds certified
933 for participation in the Medicaid program or admits or keeps any
934 Medicaid patients in such adult psychiatric beds, the State
935 Department of Health shall revoke the certificate of need, if it
936 is still outstanding, and shall deny or revoke the license of the
937 hospital at the time that the department determines, after a
938 hearing complying with due process, that the hospital has failed
939 to comply with any of the conditions upon which the certificate of



940 need was issued, as provided in this subparagraph and in the
941 written agreement by the recipient of the certificate of need.

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

956 (b) From and after July 1, 1990, no hospital,
957 psychiatric hospital or chemical dependency hospital shall be
958 authorized to add any child/adolescent psychiatric or
959 child/adolescent chemical dependency beds or convert any beds of
960 another category to child/adolescent psychiatric or
961 child/adolescent chemical dependency beds without a certificate of
962 need under the authority of subsection (1)(c) and subsection
963 (4)(a) of this section.



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

967 (6) The State Department of Health shall issue a certificate
968 of need to a Mississippi corporation qualified to manage a
969 long-term care hospital as defined in Section 41-7-173(h)(xii) in
970 Harrison County, not to exceed eighty (80) beds, including any
971 necessary renovation or construction required for licensure and
972 certification, provided that the recipient of the certificate of
973 need agrees in writing that the long-term care hospital will not
974 at any time participate in the Medicaid program (Section 43-13-101
975 et seq.) or admit or keep any patients in the long-term care
976 hospital who are participating in the Medicaid program. This
977 written agreement by the recipient of the certificate of need
978 shall be fully binding on any subsequent owner of the long-term
979 care hospital, if the ownership of the facility is transferred at
980 any time after the issuance of the certificate of need. Agreement
981 that the long-term care hospital will not participate in the
982 Medicaid program shall be a condition of the issuance of a
983 certificate of need to any person under this subsection (6), and
984 if such long-term care hospital at any time after the issuance of
985 the certificate of need, regardless of the ownership of the
986 facility, participates in the Medicaid program or admits or keeps
987 any patients in the facility who are participating in the Medicaid
988 program, the State Department of Health shall revoke the



989 certificate of need, if it is still outstanding, and shall deny or
990 revoke the license of the long-term care hospital, at the time
991 that the department determines, after a hearing complying with due
992 process, that the facility has failed to comply with any of the
993 conditions upon which the certificate of need was issued, as
994 provided in this subsection and in the written agreement by the
995 recipient of the certificate of need. For purposes of this
996 subsection, the provisions of Section 41-7-193(1) requiring
997 substantial compliance with the projection of need as reported in
998 the current State Health Plan are waived.

999 (7) The State Department of Health may issue a certificate
1000 of need to any hospital in the state to utilize a portion of its
1001 beds for the "swing-bed" concept. Any such hospital must be in
1002 conformance with the federal regulations regarding such swing-bed
1003 concept at the time it submits its application for a certificate
1004 of need to the State Department of Health, except that such
1005 hospital may have more licensed beds or a higher average daily
1006 census (ADC) than the maximum number specified in federal
1007 regulations for participation in the swing-bed program. Any
1008 hospital meeting all federal requirements for participation in the
1009 swing-bed program which receives such certificate of need shall
1010 render services provided under the swing-bed concept to any
1011 patient eligible for Medicare (Title XVIII of the Social Security
1012 Act) who is certified by a physician to be in need of such
1013 services, and no such hospital shall permit any patient who is



1014 eligible for both Medicaid and Medicare or eligible only for
1015 Medicaid to stay in the swing beds of the hospital for more than
1016 thirty (30) days per admission unless the hospital receives prior
1017 approval for such patient from the Division of Medicaid, Office of
1018 the Governor. Any hospital having more licensed beds or a higher
1019 average daily census (ADC) than the maximum number specified in
1020 federal regulations for participation in the swing-bed program
1021 which receives such certificate of need shall develop a procedure
1022 to ensure that before a patient is allowed to stay in the swing
1023 beds of the hospital, there are no vacant nursing home beds
1024 available for that patient located within a fifty-mile radius of
1025 the hospital. When any such hospital has a patient staying in the
1026 swing beds of the hospital and the hospital receives notice from a
1027 nursing home located within such radius that there is a vacant bed
1028 available for that patient, the hospital shall transfer the
1029 patient to the nursing home within a reasonable time after receipt
1030 of the notice. Any hospital which is subject to the requirements
1031 of the two (2) preceding sentences of this subsection may be
1032 suspended from participation in the swing-bed program for a
1033 reasonable period of time by the State Department of Health if the
1034 department, after a hearing complying with due process, determines
1035 that the hospital has failed to comply with any of those
1036 requirements.

1037 (8) The Department of Health shall not grant approval for or
1038 issue a certificate of need to any person proposing the new



1039 construction of, addition to or expansion of a health care
1040 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1041 except as hereinafter provided: The department may issue a
1042 certificate of need to a nonprofit corporation located in Madison
1043 County, Mississippi, for the construction, expansion or conversion
1044 of not more than twenty (20) beds in a community living program
1045 for developmentally disabled adults in a facility as defined in
1046 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1047 subsection (8), the provisions of Section 41-7-193(1) requiring
1048 substantial compliance with the projection of need as reported in
1049 the current State Health Plan and the provisions of Section
1050 41-7-197 requiring a formal certificate of need hearing process
1051 are waived. There shall be no prohibition or restrictions on
1052 participation in the Medicaid program for the person receiving the
1053 certificate of need authorized under this subsection (8).

1054 (9) The Department of Health shall not grant approval for or
1055 issue a certificate of need to any person proposing the
1056 establishment of, or expansion of the currently approved territory
1057 of, or the contracting to establish a home office, subunit or
1058 branch office within the space operated as a health care facility
1059 as defined in Section 41-7-173(h) (i) through (viii) by a health
1060 care facility as defined in subparagraph (ix) of Section
1061 41-7-173(h), except as hereinafter provided: The department may
1062 issue up to five (5) certificates of need to the recipients of the
1063 five (5) new hospice licenses issued under Section 41-85-7(3), for



1064 those hospice licensees to provide home health services to (a)
1065 persons of any age who are eligible for home health services, but
1066 with a focus on providing services to pediatric patients, (b)
1067 persons who were initially eligible for hospice services but later
1068 become ineligible and would have to be discharged to a home health
1069 agency, and (c) persons who are referred to a home health agency
1070 for palliative care but are not eligible for hospice services.

1071 (10) Health care facilities owned and/or operated by the
1072 state or its agencies are exempt from the restraints in this
1073 section against issuance of a certificate of need if such addition
1074 or expansion consists of repairing or renovation necessary to
1075 comply with the state licensure law. This exception shall not
1076 apply to the new construction of any building by such state
1077 facility. This exception shall not apply to any health care
1078 facilities owned and/or operated by counties, municipalities,
1079 districts, unincorporated areas, other defined persons, or any
1080 combination thereof.

1081 (11) The new construction, renovation or expansion of or
1082 addition to any health care facility defined in subparagraph (ii)
1083 (psychiatric hospital), subparagraph (iv) (skilled nursing
1084 facility), subparagraph (vi) (intermediate care facility),
1085 subparagraph (viii) (intermediate care facility for the mentally
1086 retarded) and subparagraph (x) (psychiatric residential treatment
1087 facility) of Section 41-7-173(h) which is owned by the State of
1088 Mississippi and under the direction and control of the State



1089 Department of Mental Health, and the addition of new beds or the
1090 conversion of beds from one category to another in any such
1091 defined health care facility which is owned by the State of
1092 Mississippi and under the direction and control of the State
1093 Department of Mental Health, shall not require the issuance of a
1094 certificate of need under Section 41-7-171 et seq.,
1095 notwithstanding any provision in Section 41-7-171 et seq. to the
1096 contrary.

1097 (12) The new construction, renovation or expansion of or
1098 addition to any veterans homes or domiciliaries for eligible
1099 veterans of the State of Mississippi as authorized under Section
1100 35-1-19 shall not require the issuance of a certificate of need,
1101 notwithstanding any provision in Section 41-7-171 et seq. to the
1102 contrary.

1103 (13) The repair or the rebuilding of an existing, operating
1104 health care facility that sustained significant damage from a
1105 natural disaster that occurred after April 15, 2014, in an area
1106 that is proclaimed a disaster area or subject to a state of
1107 emergency by the Governor or by the President of the United States
1108 shall be exempt from all of the requirements of the Mississippi
1109 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1110 rules and regulations promulgated under that law, subject to the
1111 following conditions:

1112 (a) The repair or the rebuilding of any such damaged
1113 health care facility must be within one (1) mile of the



1114 pre-disaster location of the campus of the damaged health care
1115 facility, except that any temporary post-disaster health care
1116 facility operating location may be within five (5) miles of the
1117 pre-disaster location of the damaged health care facility;

1118 (b) The repair or the rebuilding of the damaged health
1119 care facility (i) does not increase or change the complement of
1120 its bed capacity that it had before the Governor's or the
1121 President's proclamation, (ii) does not increase or change its
1122 levels and types of health care services that it provided before
1123 the Governor's or the President's proclamation, and (iii) does not
1124 rebuild in a different county; however, this paragraph does not
1125 restrict or prevent a health care facility from decreasing its bed
1126 capacity that it had before the Governor's or the President's
1127 proclamation, or from decreasing the levels of or decreasing or
1128 eliminating the types of health care services that it provided
1129 before the Governor's or the President's proclamation, when the
1130 damaged health care facility is repaired or rebuilt;

1131 (c) The exemption from Certificate of Need Law provided
1132 under this subsection (13) is valid for only five (5) years from
1133 the date of the Governor's or the President's proclamation. If
1134 actual construction has not begun within that five-year period,
1135 the exemption provided under this subsection is inapplicable; and

1136 (d) The Division of Health Facilities Licensure and
1137 Certification of the State Department of Health shall provide the
1138 same oversight for the repair or the rebuilding of the damaged



1139 health care facility that it provides to all health care facility
1140 construction projects in the state.

1141 For the purposes of this subsection (13), "significant
1142 damage" to a health care facility means damage to the health care
1143 facility requiring an expenditure of at least One Million Dollars
1144 (\$1,000,000.00).

1145 (14) The State Department of Health shall issue a
1146 certificate of need to any hospital which is currently licensed
1147 for two hundred fifty (250) or more acute care beds and is located
1148 in any general hospital service area not having a comprehensive
1149 cancer center, for the establishment and equipping of such a
1150 center which provides facilities and services for outpatient
1151 radiation oncology therapy, outpatient medical oncology therapy,
1152 and appropriate support services including the provision of
1153 radiation therapy services. The provisions of Section 41-7-193(1)
1154 regarding substantial compliance with the projection of need as
1155 reported in the current State Health Plan are waived for the
1156 purpose of this subsection.

1157 (15) The State Department of Health may authorize the
1158 transfer of hospital beds, not to exceed sixty (60) beds, from the
1159 North Panola Community Hospital to the South Panola Community
1160 Hospital. The authorization for the transfer of those beds shall
1161 be exempt from the certificate of need review process.

1162 (16) The State Department of Health shall issue any
1163 certificates of need necessary for Mississippi State University



1164 and a public or private health care provider to jointly acquire
1165 and operate a linear accelerator and a magnetic resonance imaging
1166 unit. Those certificates of need shall cover all capital
1167 expenditures related to the project between Mississippi State
1168 University and the health care provider, including, but not
1169 limited to, the acquisition of the linear accelerator, the
1170 magnetic resonance imaging unit and other radiological modalities;
1171 the offering of linear accelerator and magnetic resonance imaging
1172 services; and the cost of construction of facilities in which to
1173 locate these services. The linear accelerator and the magnetic
1174 resonance imaging unit shall be (a) located in the City of
1175 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1176 Mississippi State University and the public or private health care
1177 provider selected by Mississippi State University through a
1178 request for proposals (RFP) process in which Mississippi State
1179 University selects, and the Board of Trustees of State
1180 Institutions of Higher Learning approves, the health care provider
1181 that makes the best overall proposal; (c) available to Mississippi
1182 State University for research purposes two-thirds (2/3) of the
1183 time that the linear accelerator and magnetic resonance imaging
1184 unit are operational; and (d) available to the public or private
1185 health care provider selected by Mississippi State University and
1186 approved by the Board of Trustees of State Institutions of Higher
1187 Learning one-third (1/3) of the time for clinical, diagnostic and
1188 treatment purposes. For purposes of this subsection, the



1189 provisions of Section 41-7-193(1) requiring substantial compliance
1190 with the projection of need as reported in the current State
1191 Health Plan are waived.

1192 (17) The State Department of Health shall issue a
1193 certificate of need for the construction of an acute care hospital
1194 in Kemper County, not to exceed twenty-five (25) beds, which shall
1195 be named the "John C. Stennis Memorial Hospital." In issuing the
1196 certificate of need under this subsection, the department shall
1197 give priority to a hospital located in Lauderdale County that has
1198 two hundred fifteen (215) beds. For purposes of this subsection,
1199 the provisions of Section 41-7-193(1) requiring substantial
1200 compliance with the projection of need as reported in the current
1201 State Health Plan and the provisions of Section 41-7-197 requiring
1202 a formal certificate of need hearing process are waived. There
1203 shall be no prohibition or restrictions on participation in the
1204 Medicaid program (Section 43-13-101 et seq.) for the person or
1205 entity receiving the certificate of need authorized under this
1206 subsection or for the beds constructed under the authority of that
1207 certificate of need.

1208 (18) The planning, design, construction, renovation,
1209 addition, furnishing and equipping of a clinical research unit at
1210 any health care facility defined in Section 41-7-173(h) that is
1211 under the direction and control of the University of Mississippi
1212 Medical Center and located in Jackson, Mississippi, and the
1213 addition of new beds or the conversion of beds from one (1)



1214 category to another in any such clinical research unit, shall not
1215 require the issuance of a certificate of need under Section
1216 41-7-171 et seq., notwithstanding any provision in Section
1217 41-7-171 et seq. to the contrary.

1218 (19) [Repealed]

1219 (20) Nothing in this section or in any other provision of
1220 Section 41-7-171 et seq. shall prevent any nursing facility from
1221 designating an appropriate number of existing beds in the facility
1222 as beds for providing care exclusively to patients with
1223 Alzheimer's disease.

1224 (21) Nothing in this section or any other provision of
1225 Section 41-7-171 et seq. shall prevent any health care facility
1226 from the new construction, renovation, conversion or expansion of
1227 new beds in the facility designated as intensive care units,
1228 negative pressure rooms, or isolation rooms pursuant to the
1229 provisions of Sections 41-14-1 through 41-14-11, or Section
1230 41-14-31. For purposes of this subsection, the provisions of
1231 Section 41-7-193(1) requiring substantial compliance with the
1232 projection of need as reported in the current State Health Plan
1233 and the provisions of Section 41-7-197 requiring a formal
1234 certificate of need hearing process are waived.

1235 **SECTION 2.** This act shall take effect and be in force from
1236 and after July 1, 2023.

