

By: Representative Kinkade

To: Medicaid

HOUSE BILL NO. 969

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE PROHIBITION ON PARTICIPATING IN MEDICAID FOR A  
3 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY IN DESOTO COUNTY THAT  
4 WAS ESTABLISHED BY A HOSPITAL IN THE COUNTY UNDER THE AUTHORITY OF  
5 A CERTIFICATE OF NEED; AND FOR RELATED PURPOSES.

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

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

9 41-7-191. (1) No person shall engage in any of the  
10 following activities without obtaining the required certificate of  
11 need:

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

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



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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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





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

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

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

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



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

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



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

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



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

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



293 2001. After this written agreement is executed, the Division of  
294 Medicaid and the State Department of Health shall not certify more  
295 than thirty (30) of the beds in the facility for participation in  
296 the Medicaid program. If the facility violates the terms of the  
297 written agreement by admitting or keeping in the facility on a  
298 regular or continuing basis more than thirty (30) patients who are  
299 participating in the Medicaid program, the State Department of  
300 Health shall revoke the license of the facility, at the time that  
301 the department determines, after a hearing complying with due  
302 process, that the facility has violated the written agreement.

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

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



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



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

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



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





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

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



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



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

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

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



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

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



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

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



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

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

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



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

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



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

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

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

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

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





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

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

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



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

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

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



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



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

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



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

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

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



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

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



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

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

758         (c) Of the total number of beds authorized under this  
759 subsection, the department shall issue a certificate of need to a  
760 hospital currently operating Medicaid-certified acute psychiatric  
761 beds for adolescents in DeSoto County, for the establishment of a  
762 forty-bed psychiatric residential treatment facility in DeSoto  
763 County \* \* \*. There shall be no prohibition or restrictions on  
764 participation in the Medicaid program (Section 43-13-101 et seq.)



765 for the person(s) receiving the certificate of the need authorized  
766 under this paragraph (c) or for the beds constructed or converted  
767 under the authority of that certificate of need.

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

776 (e) Of the total number of beds authorized under this  
777 subsection (3) the department shall issue a certificate of need to  
778 a privately owned, nonprofit psychiatric residential treatment  
779 facility in Hinds County for an eight-bed expansion of the  
780 facility, provided that the facility agrees in writing that the  
781 facility shall give priority for the use of those eight (8) beds  
782 to Mississippi residents who are presently being treated in  
783 out-of-state facilities.

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





790 in Lauderdale County. As a condition of issuance of the  
791 certificate of need under this paragraph, the facility shall give  
792 priority in admissions to the child/adolescent psychiatric  
793 residential treatment facility beds authorized under this  
794 paragraph to patients who otherwise would require out-of-state  
795 placement. The Division of Medicaid, in conjunction with the  
796 Department of Human Services, shall furnish the facility a list of  
797 all out-of-state patients on a quarterly basis. Furthermore,  
798 notice shall also be provided to the parent, custodial parent or  
799 guardian of each out-of-state patient notifying them of the  
800 priority status granted by this paragraph. For purposes of this  
801 paragraph, the provisions of Section 41-7-193(1) requiring  
802 substantial compliance with the projection of need as reported in  
803 the current State Health Plan are waived. The total number of  
804 child/adolescent psychiatric residential treatment facility beds  
805 that may be authorized under the authority of this paragraph shall  
806 be sixty (60) beds. There shall be no prohibition or restrictions  
807 on participation in the Medicaid program (Section 43-13-101 et  
808 seq.) for the person receiving the certificate of need authorized  
809 under this paragraph or for the beds converted pursuant to the  
810 authority of that certificate of need.

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



815 child/adolescent chemical dependency beds, or for the conversion  
816 of any other health care facility to a hospital, psychiatric  
817 hospital or chemical dependency hospital that will contain any  
818 child/adolescent psychiatric or child/adolescent chemical  
819 dependency beds. There shall be no prohibition or restrictions on  
820 participation in the Medicaid program (Section 43-13-101 et seq.)  
821 for the person(s) receiving the certificate(s) of need authorized  
822 under this paragraph (a) or for the beds converted pursuant to the  
823 authority of that certificate of need. In issuing any new  
824 certificate of need for any child/adolescent psychiatric or  
825 child/adolescent chemical dependency beds, either by new  
826 construction or conversion of beds of another category, the  
827 department shall give preference to beds which will be located in  
828 an area of the state which does not have such beds located in it,  
829 and to a location more than sixty-five (65) miles from existing  
830 beds. Upon receiving 2020 census data, the department may amend  
831 the State Health Plan regarding child/adolescent psychiatric and  
832 child/adolescent chemical dependency beds to reflect the need  
833 based on new census data.

834 (i) [Deleted]

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



840 with the projection of need as reported in the current State  
841 Health Plan are waived. The total number of beds that may be  
842 authorized under authority of this subparagraph shall not exceed  
843 twenty (20) beds. There shall be no prohibition or restrictions  
844 on participation in the Medicaid program (Section 43-13-101 et  
845 seq.) for the hospital receiving the certificate of need  
846 authorized under this subparagraph or for the beds converted  
847 pursuant to the authority of that certificate of need.

848 (iii) The department may issue a certificate or  
849 certificates of need for the construction or expansion of  
850 child/adolescent psychiatric beds or the conversion of other beds  
851 to child/adolescent psychiatric beds in Warren County. For  
852 purposes of this subparagraph (iii), the provisions of Section  
853 41-7-193(1) requiring substantial compliance with the projection  
854 of need as reported in the current State Health Plan are waived.  
855 The total number of beds that may be authorized under the  
856 authority of this subparagraph shall not exceed twenty (20) beds.  
857 There shall be no prohibition or restrictions on participation in  
858 the Medicaid program (Section 43-13-101 et seq.) for the person  
859 receiving the certificate of need authorized under this  
860 subparagraph or for the beds converted pursuant to the authority  
861 of that certificate of need.

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



865 existing beds to the beds authorized under this subparagraph, then  
866 the certificate of need that was previously issued under this  
867 subparagraph shall expire. If the previously issued certificate  
868 of need expires, the department may accept applications for  
869 issuance of another certificate of need for the beds authorized  
870 under this subparagraph, and may issue a certificate of need to  
871 authorize the construction, expansion or conversion of the beds  
872 authorized under this subparagraph.

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

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



890 construction or expansion of adult psychiatric beds or the  
891 conversion of other beds to adult psychiatric beds, not to exceed  
892 twenty (20) beds, provided that the recipient of the certificate  
893 of need agrees in writing that the adult psychiatric beds will not  
894 at any time be certified for participation in the Medicaid program  
895 and that the hospital will not admit or keep any patients who are  
896 participating in the Medicaid program in any of such adult  
897 psychiatric beds. This written agreement by the recipient of the  
898 certificate of need shall be fully binding on any subsequent owner  
899 of the hospital if the ownership of the hospital is transferred at  
900 any time after the issuance of the certificate of need. Agreement  
901 that the adult psychiatric beds will not be certified for  
902 participation in the Medicaid program shall be a condition of the  
903 issuance of a certificate of need to any person under this  
904 subparagraph (v), and if such hospital at any time after the  
905 issuance of the certificate of need, regardless of the ownership  
906 of the hospital, has any of such adult psychiatric beds certified  
907 for participation in the Medicaid program or admits or keeps any  
908 Medicaid patients in such adult psychiatric beds, the State  
909 Department of Health shall revoke the certificate of need, if it  
910 is still outstanding, and shall deny or revoke the license of the  
911 hospital at the time that the department determines, after a  
912 hearing complying with due process, that the hospital has failed  
913 to comply with any of the conditions upon which the certificate of



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

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

930 (b) From and after July 1, 1990, no hospital,  
931 psychiatric hospital or chemical dependency hospital shall be  
932 authorized to add any child/adolescent psychiatric or  
933 child/adolescent chemical dependency beds or convert any beds of  
934 another category to child/adolescent psychiatric or  
935 child/adolescent chemical dependency beds without a certificate of  
936 need under the authority of subsection (1)(c) and subsection  
937 (4)(a) of this section.



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

941 (6) The State Department of Health shall issue a certificate  
942 of need to a Mississippi corporation qualified to manage a  
943 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
944 Harrison County, not to exceed eighty (80) beds, including any  
945 necessary renovation or construction required for licensure and  
946 certification, provided that the recipient of the certificate of  
947 need agrees in writing that the long-term care hospital will not  
948 at any time participate in the Medicaid program (Section 43-13-101  
949 et seq.) or admit or keep any patients in the long-term care  
950 hospital who are participating in the Medicaid program. This  
951 written agreement by the recipient of the certificate of need  
952 shall be fully binding on any subsequent owner of the long-term  
953 care hospital, if the ownership of the facility is transferred at  
954 any time after the issuance of the certificate of need. Agreement  
955 that the long-term care hospital will not participate in the  
956 Medicaid program shall be a condition of the issuance of a  
957 certificate of need to any person under this subsection (6), and  
958 if such long-term care hospital at any time after the issuance of  
959 the certificate of need, regardless of the ownership of the  
960 facility, participates in the Medicaid program or admits or keeps  
961 any patients in the facility who are participating in the Medicaid  
962 program, the State Department of Health shall revoke the



963 certificate of need, if it is still outstanding, and shall deny or  
964 revoke the license of the long-term care hospital, at the time  
965 that the department determines, after a hearing complying with due  
966 process, that the facility has failed to comply with any of the  
967 conditions upon which the certificate of need was issued, as  
968 provided in this subsection and in the written agreement by the  
969 recipient of the certificate of need. For purposes of this  
970 subsection, the provisions of Section 41-7-193(1) requiring  
971 substantial compliance with the projection of need as reported in  
972 the current State Health Plan are waived.

973 (7) The State Department of Health may issue a certificate  
974 of need to any hospital in the state to utilize a portion of its  
975 beds for the "swing-bed" concept. Any such hospital must be in  
976 conformance with the federal regulations regarding such swing-bed  
977 concept at the time it submits its application for a certificate  
978 of need to the State Department of Health, except that such  
979 hospital may have more licensed beds or a higher average daily  
980 census (ADC) than the maximum number specified in federal  
981 regulations for participation in the swing-bed program. Any  
982 hospital meeting all federal requirements for participation in the  
983 swing-bed program which receives such certificate of need shall  
984 render services provided under the swing-bed concept to any  
985 patient eligible for Medicare (Title XVIII of the Social Security  
986 Act) who is certified by a physician to be in need of such  
987 services, and no such hospital shall permit any patient who is





988 eligible for both Medicaid and Medicare or eligible only for  
989 Medicaid to stay in the swing beds of the hospital for more than  
990 thirty (30) days per admission unless the hospital receives prior  
991 approval for such patient from the Division of Medicaid, Office of  
992 the Governor. Any hospital having more licensed beds or a higher  
993 average daily census (ADC) than the maximum number specified in  
994 federal regulations for participation in the swing-bed program  
995 which receives such certificate of need shall develop a procedure  
996 to ensure that before a patient is allowed to stay in the swing  
997 beds of the hospital, there are no vacant nursing home beds  
998 available for that patient located within a fifty-mile radius of  
999 the hospital. When any such hospital has a patient staying in the  
1000 swing beds of the hospital and the hospital receives notice from a  
1001 nursing home located within such radius that there is a vacant bed  
1002 available for that patient, the hospital shall transfer the  
1003 patient to the nursing home within a reasonable time after receipt  
1004 of the notice. Any hospital which is subject to the requirements  
1005 of the two (2) preceding sentences of this subsection may be  
1006 suspended from participation in the swing-bed program for a  
1007 reasonable period of time by the State Department of Health if the  
1008 department, after a hearing complying with due process, determines  
1009 that the hospital has failed to comply with any of those  
1010 requirements.

1011 (8) The Department of Health shall not grant approval for or  
1012 issue a certificate of need to any person proposing the new



1013 construction of, addition to or expansion of a health care  
1014 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1015 except as hereinafter provided: The department may issue a  
1016 certificate of need to a nonprofit corporation located in Madison  
1017 County, Mississippi, for the construction, expansion or conversion  
1018 of not more than twenty (20) beds in a community living program  
1019 for developmentally disabled adults in a facility as defined in  
1020 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1021 subsection (8), the provisions of Section 41-7-193(1) requiring  
1022 substantial compliance with the projection of need as reported in  
1023 the current State Health Plan and the provisions of Section  
1024 41-7-197 requiring a formal certificate of need hearing process  
1025 are waived. There shall be no prohibition or restrictions on  
1026 participation in the Medicaid program for the person receiving the  
1027 certificate of need authorized under this subsection (8).

1028 (9) The Department of Health shall not grant approval for or  
1029 issue a certificate of need to any person proposing the  
1030 establishment of, or expansion of the currently approved territory  
1031 of, or the contracting to establish a home office, subunit or  
1032 branch office within the space operated as a health care facility  
1033 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1034 care facility as defined in subparagraph (ix) of Section  
1035 41-7-173(h).

1036 (10) Health care facilities owned and/or operated by the  
1037 state or its agencies are exempt from the restraints in this



1038 section against issuance of a certificate of need if such addition  
1039 or expansion consists of repairing or renovation necessary to  
1040 comply with the state licensure law. This exception shall not  
1041 apply to the new construction of any building by such state  
1042 facility. This exception shall not apply to any health care  
1043 facilities owned and/or operated by counties, municipalities,  
1044 districts, unincorporated areas, other defined persons, or any  
1045 combination thereof.

1046 (11) The new construction, renovation or expansion of or  
1047 addition to any health care facility defined in subparagraph (ii)  
1048 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1049 facility), subparagraph (vi) (intermediate care facility),  
1050 subparagraph (viii) (intermediate care facility for the mentally  
1051 retarded) and subparagraph (x) (psychiatric residential treatment  
1052 facility) of Section 41-7-173(h) which is owned by the State of  
1053 Mississippi and under the direction and control of the State  
1054 Department of Mental Health, and the addition of new beds or the  
1055 conversion of beds from one category to another in any such  
1056 defined health care facility which is owned by the State of  
1057 Mississippi and under the direction and control of the State  
1058 Department of Mental Health, shall not require the issuance of a  
1059 certificate of need under Section 41-7-171 et seq.,  
1060 notwithstanding any provision in Section 41-7-171 et seq. to the  
1061 contrary.



1062           (12) The new construction, renovation or expansion of or  
1063 addition to any veterans homes or domiciliaries for eligible  
1064 veterans of the State of Mississippi as authorized under Section  
1065 35-1-19 shall not require the issuance of a certificate of need,  
1066 notwithstanding any provision in Section 41-7-171 et seq. to the  
1067 contrary.

1068           (13) The repair or the rebuilding of an existing, operating  
1069 health care facility that sustained significant damage from a  
1070 natural disaster that occurred after April 15, 2014, in an area  
1071 that is proclaimed a disaster area or subject to a state of  
1072 emergency by the Governor or by the President of the United States  
1073 shall be exempt from all of the requirements of the Mississippi  
1074 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1075 rules and regulations promulgated under that law, subject to the  
1076 following conditions:

1077           (a) The repair or the rebuilding of any such damaged  
1078 health care facility must be within one (1) mile of the  
1079 pre-disaster location of the campus of the damaged health care  
1080 facility, except that any temporary post-disaster health care  
1081 facility operating location may be within five (5) miles of the  
1082 pre-disaster location of the damaged health care facility;

1083           (b) The repair or the rebuilding of the damaged health  
1084 care facility (i) does not increase or change the complement of  
1085 its bed capacity that it had before the Governor's or the  
1086 President's proclamation, (ii) does not increase or change its



1087 levels and types of health care services that it provided before  
1088 the Governor's or the President's proclamation, and (iii) does not  
1089 rebuild in a different county; however, this paragraph does not  
1090 restrict or prevent a health care facility from decreasing its bed  
1091 capacity that it had before the Governor's or the President's  
1092 proclamation, or from decreasing the levels of or decreasing or  
1093 eliminating the types of health care services that it provided  
1094 before the Governor's or the President's proclamation, when the  
1095 damaged health care facility is repaired or rebuilt;

1096 (c) The exemption from Certificate of Need Law provided  
1097 under this subsection (13) is valid for only five (5) years from  
1098 the date of the Governor's or the President's proclamation. If  
1099 actual construction has not begun within that five-year period,  
1100 the exemption provided under this subsection is inapplicable; and

1101 (d) The Division of Health Facilities Licensure and  
1102 Certification of the State Department of Health shall provide the  
1103 same oversight for the repair or the rebuilding of the damaged  
1104 health care facility that it provides to all health care facility  
1105 construction projects in the state.

1106 For the purposes of this subsection (13), "significant  
1107 damage" to a health care facility means damage to the health care  
1108 facility requiring an expenditure of at least One Million Dollars  
1109 (\$1,000,000.00).

1110 (14) The State Department of Health shall issue a  
1111 certificate of need to any hospital which is currently licensed



1112 for two hundred fifty (250) or more acute care beds and is located  
1113 in any general hospital service area not having a comprehensive  
1114 cancer center, for the establishment and equipping of such a  
1115 center which provides facilities and services for outpatient  
1116 radiation oncology therapy, outpatient medical oncology therapy,  
1117 and appropriate support services including the provision of  
1118 radiation therapy services. The provisions of Section 41-7-193(1)  
1119 regarding substantial compliance with the projection of need as  
1120 reported in the current State Health Plan are waived for the  
1121 purpose of this subsection.

1122 (15) The State Department of Health may authorize the  
1123 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1124 North Panola Community Hospital to the South Panola Community  
1125 Hospital. The authorization for the transfer of those beds shall  
1126 be exempt from the certificate of need review process.

1127 (16) The State Department of Health shall issue any  
1128 certificates of need necessary for Mississippi State University  
1129 and a public or private health care provider to jointly acquire  
1130 and operate a linear accelerator and a magnetic resonance imaging  
1131 unit. Those certificates of need shall cover all capital  
1132 expenditures related to the project between Mississippi State  
1133 University and the health care provider, including, but not  
1134 limited to, the acquisition of the linear accelerator, the  
1135 magnetic resonance imaging unit and other radiological modalities;  
1136 the offering of linear accelerator and magnetic resonance imaging



1137 services; and the cost of construction of facilities in which to  
1138 locate these services. The linear accelerator and the magnetic  
1139 resonance imaging unit shall be (a) located in the City of  
1140 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1141 Mississippi State University and the public or private health care  
1142 provider selected by Mississippi State University through a  
1143 request for proposals (RFP) process in which Mississippi State  
1144 University selects, and the Board of Trustees of State  
1145 Institutions of Higher Learning approves, the health care provider  
1146 that makes the best overall proposal; (c) available to Mississippi  
1147 State University for research purposes two-thirds (2/3) of the  
1148 time that the linear accelerator and magnetic resonance imaging  
1149 unit are operational; and (d) available to the public or private  
1150 health care provider selected by Mississippi State University and  
1151 approved by the Board of Trustees of State Institutions of Higher  
1152 Learning one-third (1/3) of the time for clinical, diagnostic and  
1153 treatment purposes. For purposes of this subsection, the  
1154 provisions of Section 41-7-193(1) requiring substantial compliance  
1155 with the projection of need as reported in the current State  
1156 Health Plan are waived.

1157 (17) The State Department of Health shall issue a  
1158 certificate of need for the construction of an acute care hospital  
1159 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1160 be named the "John C. Stennis Memorial Hospital." In issuing the  
1161 certificate of need under this subsection, the department shall



1162 give priority to a hospital located in Lauderdale County that has  
1163 two hundred fifteen (215) beds. For purposes of this subsection,  
1164 the provisions of Section 41-7-193(1) requiring substantial  
1165 compliance with the projection of need as reported in the current  
1166 State Health Plan and the provisions of Section 41-7-197 requiring  
1167 a formal certificate of need hearing process are waived. There  
1168 shall be no prohibition or restrictions on participation in the  
1169 Medicaid program (Section 43-13-101 et seq.) for the person or  
1170 entity receiving the certificate of need authorized under this  
1171 subsection or for the beds constructed under the authority of that  
1172 certificate of need.

1173 (18) The planning, design, construction, renovation,  
1174 addition, furnishing and equipping of a clinical research unit at  
1175 any health care facility defined in Section 41-7-173(h) that is  
1176 under the direction and control of the University of Mississippi  
1177 Medical Center and located in Jackson, Mississippi, and the  
1178 addition of new beds or the conversion of beds from one (1)  
1179 category to another in any such clinical research unit, shall not  
1180 require the issuance of a certificate of need under Section  
1181 41-7-171 et seq., notwithstanding any provision in Section  
1182 41-7-171 et seq. to the contrary.

1183 (19) [Repealed]

1184 (20) Nothing in this section or in any other provision of  
1185 Section 41-7-171 et seq. shall prevent any nursing facility from  
1186 designating an appropriate number of existing beds in the facility





1187 as beds for providing care exclusively to patients with  
1188 Alzheimer's disease.

1189 (21) Nothing in this section or any other provision of  
1190 Section 41-7-171 et seq. shall prevent any health care facility  
1191 from the new construction, renovation, conversion or expansion of  
1192 new beds in the facility designated as intensive care units,  
1193 negative pressure rooms, or isolation rooms pursuant to the  
1194 provisions of Sections 41-14-1 through 41-14-11, or Section  
1195 41-14-31. For purposes of this subsection, the provisions of  
1196 Section 41-7-193(1) requiring substantial compliance with the  
1197 projection of need as reported in the current State Health Plan  
1198 and the provisions of Section 41-7-197 requiring a formal  
1199 certificate of need hearing process are waived.

1200 **SECTION 2.** This act shall take effect and be in force from  
1201 and after July 1, 2023.

