

By: Representative Yancey

To: Drug Policy

HOUSE BILL NO. 1493

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI  
2 CODE OF 1972, TO REMOVE PSYCHIATRIC HOSPITALS, CHEMICAL DEPENDENCY  
3 HOSPITALS, INTERMEDIATE CARE FACILITIES, INTERMEDIATE CARE  
4 FACILITIES FOR THE MENTALLY RETARDED, PSYCHIATRIC RESIDENTIAL  
5 TREATMENT FACILITIES, PSYCHIATRIC SERVICES AND CHEMICAL DEPENDENCY  
6 SERVICES FROM THE HEALTH CARE CERTIFICATE OF NEED LAW; AND FOR  
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is  
10 amended as follows:

11 41-7-173. For the purposes of Section 41-7-171 et seq., the  
12 following words shall have the meanings ascribed herein, unless  
13 the context otherwise requires:

14 (a) "Affected person" means (i) the applicant; (ii) a  
15 person residing within the geographic area to be served by the  
16 applicant's proposal; (iii) a person who regularly uses health  
17 care facilities or HMOs located in the geographic area of the  
18 proposal which provide similar service to that which is proposed;  
19 (iv) health care facilities and HMOs which have, prior to receipt  
20 of the application under review, formally indicated an intention



21 to provide service similar to that of the proposal being  
22 considered at a future date; (v) third-party payers who reimburse  
23 health care facilities located in the geographical area of the  
24 proposal; or (vi) any agency that establishes rates for health  
25 care services or HMOs located in the geographic area of the  
26 proposal.

27 (b) "Certificate of need" means a written order of the  
28 State Department of Health setting forth the affirmative finding  
29 that a proposal in prescribed application form, sufficiently  
30 satisfies the plans, standards and criteria prescribed for such  
31 service or other project by Section 41-7-171 et seq., and by rules  
32 and regulations promulgated thereunder by the State Department of  
33 Health.

34 (c) (i) "Capital expenditure," when pertaining to  
35 defined major medical equipment, shall mean an expenditure which,  
36 under generally accepted accounting principles consistently  
37 applied, is not properly chargeable as an expense of operation and  
38 maintenance and which exceeds One Million Five Hundred Thousand  
39 Dollars (\$1,500,000.00).

40 (ii) "Capital expenditure," when pertaining to  
41 other than major medical equipment, shall mean any expenditure  
42 which under generally accepted accounting principles consistently  
43 applied is not properly chargeable as an expense of operation and  
44 maintenance and which exceeds, for clinical health services, as  
45 defined in \* \* \* paragraph (k) below, Five Million Dollars



46 (\$5,000,000.00), adjusted for inflation as published by the State  
47 Department of Health or which exceeds, for nonclinical health  
48 services, as defined in \* \* \* paragraph (k) below, Ten Million  
49 Dollars (\$10,000,000.00), adjusted for inflation as published by  
50 the State Department of Health.

51 (iii) A "capital expenditure" shall include the  
52 acquisition, whether by lease, sufferance, gift, devise, legacy,  
53 settlement of a trust or other means, of any facility or part  
54 thereof, or equipment for a facility, the expenditure for which  
55 would have been considered a capital expenditure if acquired by  
56 purchase. Transactions which are separated in time but are  
57 planned to be undertaken within twelve (12) months of each other  
58 and are components of an overall plan for meeting patient care  
59 objectives shall, for purposes of this definition, be viewed in  
60 their entirety without regard to their timing.

61 (iv) In those instances where a health care  
62 facility or other provider of health services proposes to provide  
63 a service in which the capital expenditure for major medical  
64 equipment or other than major medical equipment or a combination  
65 of the two (2) may have been split between separate parties, the  
66 total capital expenditure required to provide the proposed service  
67 shall be considered in determining the necessity of certificate of  
68 need review and in determining the appropriate certificate of need  
69 review fee to be paid. The capital expenditure associated with  
70 facilities and equipment to provide services in Mississippi shall



71 be considered regardless of where the capital expenditure was  
72 made, in state or out of state, and regardless of the domicile of  
73 the party making the capital expenditure, in state or out of  
74 state.

75 (d) "Change of ownership" includes, but is not limited  
76 to, inter vivos gifts, purchases, transfers, lease arrangements,  
77 cash and/or stock transactions or other comparable arrangements  
78 whenever any person or entity acquires or controls a majority  
79 interest of an existing health care facility, and/or the change of  
80 ownership of major medical equipment, a health service, or an  
81 institutional health service. Changes of ownership from  
82 partnerships, single proprietorships or corporations to another  
83 form of ownership are specifically included. However, "change of  
84 ownership" shall not include any inherited interest acquired as a  
85 result of a testamentary instrument or under the laws of descent  
86 and distribution of the State of Mississippi.

87 (e) "Commencement of construction" means that all of  
88 the following have been completed with respect to a proposal or  
89 project proposing construction, renovating, remodeling or  
90 alteration:

91 (i) A legally binding written contract has been  
92 consummated by the proponent and a lawfully licensed contractor to  
93 construct and/or complete the intent of the proposal within a  
94 specified period of time in accordance with final architectural



95 plans which have been approved by the licensing authority of the  
96 State Department of Health;

97 (ii) Any and all permits and/or approvals deemed  
98 lawfully necessary by all authorities with responsibility for such  
99 have been secured; and

100 (iii) Actual bona fide undertaking of the subject  
101 proposal has commenced, and a progress payment of at least one  
102 percent (1%) of the total cost price of the contract has been paid  
103 to the contractor by the proponent, and the requirements of this  
104 paragraph (e) have been certified to in writing by the State  
105 Department of Health.

106 Force account expenditures, such as deposits, securities,  
107 bonds, et cetera, may, in the discretion of the State Department  
108 of Health, be excluded from any or all of the provisions of  
109 defined commencement of construction.

110 (f) "Consumer" means an individual who is not a  
111 provider of health care as defined in paragraph (q) of this  
112 section.

113 (g) "Develop," when used in connection with health  
114 services, means to undertake those activities which, on their  
115 completion, will result in the offering of a new institutional  
116 health service or the incurring of a financial obligation as  
117 defined under applicable state law in relation to the offering of  
118 such services.



119 (h) "Health care facility" includes hospitals, \* \* \*  
120 skilled nursing facilities, end-stage renal disease (ESRD)  
121 facilities, including freestanding hemodialysis units, \* \* \*  
122 ambulatory surgical facilities, \* \* \* home health agencies, \* \* \*  
123 pediatric skilled nursing facilities, long-term care hospitals,  
124 comprehensive medical rehabilitation facilities, including  
125 facilities owned or operated by the state or a political  
126 subdivision or instrumentality of the state, but does not include  
127 Christian Science sanatoriums operated or listed and certified by  
128 the First Church of Christ, Scientist, Boston, Massachusetts.  
129 This definition shall not apply to facilities for the private  
130 practice, either independently or by incorporated medical groups,  
131 of physicians, dentists or health care professionals except where  
132 such facilities are an integral part of an institutional health  
133 service. The various health care facilities listed in this  
134 paragraph shall be defined as follows:

135 (i) "Hospital" means an institution which is  
136 primarily engaged in providing to inpatients, by or under the  
137 supervision of physicians, diagnostic services and therapeutic  
138 services for medical diagnosis, treatment and care of injured,  
139 disabled or sick persons, or rehabilitation services for the  
140 rehabilitation of injured, disabled or sick persons. Such term  
141 does not include psychiatric hospitals.

142 (ii) \* \* \* [Deleted]

143 (iii) \* \* \* [Deleted]



144 (iv) "Skilled nursing facility" means an  
145 institution or a distinct part of an institution which is  
146 primarily engaged in providing to inpatients skilled nursing care  
147 and related services for patients who require medical or nursing  
148 care or rehabilitation services for the rehabilitation of injured,  
149 disabled or sick persons.

150 (v) "End-stage renal disease (ESRD) facilities"  
151 means kidney disease treatment centers, which includes  
152 freestanding hemodialysis units and limited care facilities. The  
153 term "limited care facility" generally refers to an  
154 off-hospital-premises facility, regardless of whether it is  
155 provider or nonprovider operated, which is engaged primarily in  
156 furnishing maintenance hemodialysis services to stabilized  
157 patients.

158 (vi) \* \* \* [Deleted]

159 (vii) "Ambulatory surgical facility" means a  
160 facility primarily organized or established for the purpose of  
161 performing surgery for outpatients and is a separate identifiable  
162 legal entity from any other health care facility. Such term does  
163 not include the offices of private physicians or dentists, whether  
164 for individual or group practice, and does not include any  
165 abortion facility as defined in Section 41-75-1(f).

166 (viii) \* \* \* [Deleted]

167 (ix) "Home health agency" means a public or  
168 privately owned agency or organization, or a subdivision of such



169 an agency or organization, properly authorized to conduct business  
170 in Mississippi, which is primarily engaged in providing to  
171 individuals at the written direction of a licensed physician, in  
172 the individual's place of residence, skilled nursing services  
173 provided by or under the supervision of a registered nurse  
174 licensed to practice in Mississippi, and one or more of the  
175 following services or items:

- 176 1. Physical, occupational or speech therapy;
- 177 2. Medical social services;
- 178 3. Part-time or intermittent services of a  
179 home health aide;
- 180 4. Other services as approved by the  
181 licensing agency for home health agencies;
- 182 5. Medical supplies, other than drugs and  
183 biologicals, and the use of medical appliances; or
- 184 6. Medical services provided by an intern or  
185 resident-in-training at a hospital under a teaching program of  
186 such hospital.

187 Further, all skilled nursing services and those services  
188 listed in items 1 through 4 of this subparagraph (ix) must be  
189 provided directly by the licensed home health agency. For  
190 purposes of this subparagraph, "directly" means either through an  
191 agency employee or by an arrangement with another individual not  
192 defined as a health care facility.





193           This subparagraph (ix) shall not apply to health care  
194 facilities which had contracts for the above services with a home  
195 health agency on January 1, 1990.

196                       (x)   \* \* \* [Deleted]

197                       (xi)   "Pediatric skilled nursing facility" means an  
198 institution or a distinct part of an institution that is primarily  
199 engaged in providing to inpatients skilled nursing care and  
200 related services for persons under twenty-one (21) years of age  
201 who require medical or nursing care or rehabilitation services for  
202 the rehabilitation of injured, disabled or sick persons.

203                       (xii)  "Long-term care hospital" means a  
204 freestanding, Medicare-certified hospital that has an average  
205 length of inpatient stay greater than twenty-five (25) days, which  
206 is primarily engaged in providing chronic or long-term medical  
207 care to patients who do not require more than three (3) hours of  
208 rehabilitation or comprehensive rehabilitation per day, and has a  
209 transfer agreement with an acute care medical center and a  
210 comprehensive medical rehabilitation facility. Long-term care  
211 hospitals shall not use rehabilitation, comprehensive medical  
212 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
213 nursing home, skilled nursing facility or sub-acute care facility  
214 in association with its name.

215                       (xiii) "Comprehensive medical rehabilitation  
216 facility" means a hospital or hospital unit that is licensed  
217 and/or certified as a comprehensive medical rehabilitation



218 facility which provides specialized programs that are accredited  
219 by the Commission on Accreditation of Rehabilitation Facilities  
220 and supervised by a physician board certified or board eligible in  
221 physiatry or other doctor of medicine or osteopathy with at least  
222 two (2) years of training in the medical direction of a  
223 comprehensive rehabilitation program that:

224 1. Includes evaluation and treatment of  
225 individuals with physical disabilities;

226 2. Emphasizes education and training of  
227 individuals with disabilities;

228 3. Incorporates at least the following core  
229 disciplines:

230 \* \* \*a. Physical Therapy;

231 \* \* \*b. Occupational Therapy;

232 \* \* \*c. Speech and Language Therapy;

233 \* \* \*d. Rehabilitation Nursing; and

234 4. Incorporates at least three (3) of the  
235 following disciplines:

236 \* \* \*a. Psychology;

237 \* \* \*b. Audiology;

238 \* \* \*c. Respiratory Therapy;

239 \* \* \*d. Therapeutic Recreation;

240 \* \* \*e. Orthotics;

241 \* \* \*f. Prosthetics;

242 \* \* \*g. Special Education;



- 243                   \* \* \*h. Vocational Rehabilitation;  
244                   \* \* \*i. Psychotherapy;  
245                   \* \* \*j. Social Work;  
246                   \* \* \*k. Rehabilitation Engineering.

247           These specialized programs include, but are not limited to:  
248 spinal cord injury programs, head injury programs and infant and  
249 early childhood development programs.

250                   (i) "Health maintenance organization" or "HMO" means a  
251 public or private organization organized under the laws of this  
252 state or the federal government which:

253                           (i) Provides or otherwise makes available to  
254 enrolled participants health care services, including  
255 substantially the following basic health care services: usual  
256 physician services, hospitalization, laboratory, x-ray, emergency  
257 and preventive services, and out-of-area coverage;

258                           (ii) Is compensated (except for copayments) for  
259 the provision of the basic health care services listed in  
260 subparagraph (i) of this paragraph to enrolled participants on a  
261 predetermined basis; and

262                           (iii) Provides physician services primarily:

263                                   1. Directly through physicians who are either  
264 employees or partners of such organization; or

265                                   2. Through arrangements with individual  
266 physicians or one or more groups of physicians (organized on a  
267 group practice or individual practice basis).



268           (j) "Health service area" means a geographic area of  
269 the state designated in the State Health Plan as the area to be  
270 used in planning for specified health facilities and services and  
271 to be used when considering certificate of need applications to  
272 provide health facilities and services.

273           (k) "Health services" means clinically related (i.e.,  
274 diagnostic, treatment or rehabilitative) services and includes  
275 alcohol, drug abuse, mental health and home health care services.  
276 "Clinical health services" shall only include those activities  
277 which contemplate any change in the existing bed complement of any  
278 health care facility through the addition or conversion of any  
279 beds, under Section 41-7-191(1)(c) or propose to offer any health  
280 services if those services have not been provided on a regular  
281 basis by the proposed provider of such services within the period  
282 of twelve (12) months prior to the time such services would be  
283 offered, under Section 41-7-191(1)(d). "Nonclinical health  
284 services" shall be all other services which do not involve any  
285 change in the existing bed complement or offering health services  
286 as described above.

287           (l) "Institutional health services" shall mean health  
288 services provided in or through health care facilities and shall  
289 include the entities in or through which such services are  
290 provided.

291           (m) "Major medical equipment" means medical equipment  
292 designed for providing medical or any health-related service which



293 costs in excess of One Million Five Hundred Thousand Dollars  
294 (\$1,500,000.00). However, this definition shall not be applicable  
295 to clinical laboratories if they are determined by the State  
296 Department of Health to be independent of any physician's office,  
297 hospital or other health care facility or otherwise not so defined  
298 by federal or state law, or rules and regulations promulgated  
299 thereunder.

300 (n) "State Department of Health" or "department" shall  
301 mean the state agency created under Section 41-3-15, which shall  
302 be considered to be the State Health Planning and Development  
303 Agency, as defined in paragraph (u) of this section.

304 (o) "Offer," when used in connection with health  
305 services, means that it has been determined by the State  
306 Department of Health that the health care facility is capable of  
307 providing specified health services.

308 (p) "Person" means an individual, a trust or estate,  
309 partnership, corporation (including associations, joint-stock  
310 companies and insurance companies), the state or a political  
311 subdivision or instrumentality of the state.

312 (q) "Provider" shall mean any person who is a provider  
313 or representative of a provider of health care services requiring  
314 a certificate of need under Section 41-7-171 et seq., or who has  
315 any financial or indirect interest in any provider of services.

316 (r) "Radiation therapy services" means the treatment of  
317 cancer and other diseases using ionizing radiation of either high



318 energy photons (x-rays or gamma rays) or charged particles  
319 (electrons, protons or heavy nuclei). However, for purposes of a  
320 certificate of need, radiation therapy services shall not include  
321 low energy, superficial, external beam x-ray treatment of  
322 superficial skin lesions.

323 (s) "Secretary" means the Secretary of Health and Human  
324 Services, and any officer or employee of the Department of Health  
325 and Human Services to whom the authority involved has been  
326 delegated.

327 (t) "State Health Plan" means the sole and official  
328 statewide health plan for Mississippi which identifies priority  
329 state health needs and establishes standards and criteria for  
330 health-related activities which require certificate of need review  
331 in compliance with Section 41-7-191.

332 (u) "State Health Planning and Development Agency"  
333 means the agency of state government designated to perform health  
334 planning and resource development programs for the State of  
335 Mississippi.

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

338 41-7-191. (1) No person shall engage in any of the  
339 following activities without obtaining the required certificate of  
340 need:

341 (a) The construction, development or other  
342 establishment of a new health care facility, which establishment



343 shall include the reopening of a health care facility that has  
344 ceased to operate for a period of sixty (60) months or more;

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

352 (c) Any change in the existing bed complement of any  
353 health care facility through the addition or conversion of any  
354 beds or the alteration, modernizing or refurbishing of any unit or  
355 department in which the beds may be located; however, if a health  
356 care facility has voluntarily delicensed some of its existing bed  
357 complement, it may later relicense some or all of its delicensed  
358 beds without the necessity of having to acquire a certificate of  
359 need. The State Department of Health shall maintain a record of  
360 the delicensing health care facility and its voluntarily  
361 delicensed beds and continue counting those beds as part of the  
362 state's total bed count for health care planning purposes. If a  
363 health care facility that has voluntarily delicensed some of its  
364 beds later desires to relicense some or all of its voluntarily  
365 delicensed beds, it shall notify the State Department of Health of  
366 its intent to increase the number of its licensed beds. The State  
367 Department of Health shall survey the health care facility within



368 thirty (30) days of that notice and, if appropriate, issue the  
369 health care facility a new license reflecting the new contingent  
370 of beds. However, in no event may a health care facility that has  
371 voluntarily delicensed some of its beds be reissued a license to  
372 operate beds in excess of its bed count before the voluntary  
373 delicensure of some of its beds without seeking certificate of  
374 need approval;

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

- 379 (i) Open-heart surgery services;
- 380 (ii) Cardiac catheterization services;
- 381 (iii) Comprehensive inpatient rehabilitation  
382 services;
- 383 (iv) \* \* \* [Deleted]
- 384 (v) \* \* \* [Deleted]
- 385 (vi) Radiation therapy services;
- 386 (vii) Diagnostic imaging services of an invasive  
387 nature, i.e. invasive digital angiography;
- 388 (viii) Nursing home care as defined in  
389 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 390 (ix) Home health services;
- 391 (x) Swing-bed services;
- 392 (xi) Ambulatory surgical services;





393 (xii) Magnetic resonance imaging services;  
394 (xiii) [Deleted]  
395 (xiv) Long-term care hospital services;  
396 (xv) Positron emission tomography (PET) services;  
397 (e) The relocation of one or more health services from  
398 one physical facility or site to another physical facility or  
399 site, unless such relocation, which does not involve a capital  
400 expenditure by or on behalf of a health care facility, (i) is to a  
401 physical facility or site within five thousand two hundred eighty  
402 (5,280) feet from the main entrance of the health care facility  
403 where the health care service is located, or (ii) is the result of  
404 an order of a court of appropriate jurisdiction or a result of  
405 pending litigation in such court, or by order of the State  
406 Department of Health, or by order of any other agency or legal  
407 entity of the state, the federal government, or any political  
408 subdivision of either, whose order is also approved by the State  
409 Department of Health;  
410 (f) The acquisition or otherwise control of any major  
411 medical equipment for the provision of medical services; however,  
412 (i) the acquisition of any major medical equipment used only for  
413 research purposes, and (ii) the acquisition of major medical  
414 equipment to replace medical equipment for which a facility is  
415 already providing medical services and for which the State  
416 Department of Health has been notified before the date of such  
417 acquisition shall be exempt from this paragraph; an acquisition



418 for less than fair market value must be reviewed, if the  
419 acquisition at fair market value would be subject to review;

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

428 (h) The change of ownership of any health care facility  
429 defined in subparagraphs (iv), (vi) and (viii) of Section  
430 41-7-173(h), in which a notice of intent as described in paragraph  
431 (g) has not been filed and if the Executive Director, Division of  
432 Medicaid, Office of the Governor, has not certified in writing  
433 that there will be no increase in allowable costs to Medicaid from  
434 revaluation of the assets or from increased interest and  
435 depreciation as a result of the proposed change of ownership;

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

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



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

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

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

458 (2) The State Department of Health shall not grant approval  
459 for or issue a certificate of need to any person proposing the new  
460 construction of, addition to, or expansion of any health care  
461 facility defined in \* \* \* subparagraph (iv) (skilled nursing  
462 facility) \* \* \* of Section 41-7-173(h) or the conversion of vacant  
463 hospital beds to provide skilled \* \* \* nursing home care, except  
464 as hereinafter authorized:

465 (a) The department may issue a certificate of need to  
466 any person proposing the new construction of any health care  
467 facility defined in subparagraphs (iv) and (vi) of Section



468 41-7-173(h) as part of a life care retirement facility, in any  
469 county bordering on the Gulf of Mexico in which is located a  
470 National Aeronautics and Space Administration facility, not to  
471 exceed forty (40) beds. From and after July 1, 1999, there shall  
472 be no prohibition or restrictions on participation in the Medicaid  
473 program (Section 43-13-101 et seq.) for the beds in the health  
474 care facility that were authorized under this paragraph (a).

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

482 (c) The department may issue a certificate of need for  
483 the addition to or expansion of any skilled nursing facility that  
484 is part of an existing continuing care retirement community  
485 located in Madison County, provided that the recipient of the  
486 certificate of need agrees in writing that the skilled nursing  
487 facility will not at any time participate in the Medicaid program  
488 (Section 43-13-101 et seq.) or admit or keep any patients in the  
489 skilled nursing facility who are participating in the Medicaid  
490 program. This written agreement by the recipient of the  
491 certificate of need shall be fully binding on any subsequent owner  
492 of the skilled nursing facility, if the ownership of the facility



493 is transferred at any time after the issuance of the certificate  
494 of need. Agreement that the skilled nursing facility will not  
495 participate in the Medicaid program shall be a condition of the  
496 issuance of a certificate of need to any person under this  
497 paragraph (c), and if such skilled nursing facility at any time  
498 after the issuance of the certificate of need, regardless of the  
499 ownership of the facility, participates in the Medicaid program or  
500 admits or keeps any patients in the facility who are participating  
501 in the Medicaid program, the State Department of Health shall  
502 revoke the certificate of need, if it is still outstanding, and  
503 shall deny or revoke the license of the skilled nursing facility,  
504 at the time that the department determines, after a hearing  
505 complying with due process, that the facility has failed to comply  
506 with any of the conditions upon which the certificate of need was  
507 issued, as provided in this paragraph and in the written agreement  
508 by the recipient of the certificate of need. The total number of  
509 beds that may be authorized under the authority of this paragraph  
510 (c) shall not exceed sixty (60) beds.

511 (d) The State Department of Health may issue a  
512 certificate of need to any hospital located in DeSoto County for  
513 the new construction of a skilled nursing facility, not to exceed  
514 one hundred twenty (120) beds, in DeSoto County. From and after  
515 July 1, 1999, there shall be no prohibition or restrictions on  
516 participation in the Medicaid program (Section 43-13-101 et seq.)



517 for the beds in the nursing facility that were authorized under  
518 this paragraph (d).

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

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

536 (g) The State Department of Health may issue a  
537 certificate of need for the construction or expansion of nursing  
538 facility beds or the conversion of other beds to nursing facility  
539 beds in either Hinds, Madison or Rankin County, not to exceed  
540 sixty (60) beds. From and after July 1, 1999, there shall be no  
541 prohibition or restrictions on participation in the Medicaid



542 program (Section 43-13-101 et seq.) for the beds in the nursing  
543 facility that were authorized under this paragraph (g).

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

552 (i) The department may issue a certificate of need for  
553 the new construction of a skilled nursing facility in Leake  
554 County, provided that the recipient of the certificate of need  
555 agrees in writing that the skilled nursing facility will not at  
556 any time participate in the Medicaid program (Section 43-13-101 et  
557 seq.) or admit or keep any patients in the skilled nursing  
558 facility who are participating in the Medicaid program. This  
559 written agreement by the recipient of the certificate of need  
560 shall be fully binding on any subsequent owner of the skilled  
561 nursing facility, if the ownership of the facility is transferred  
562 at any time after the issuance of the certificate of need.  
563 Agreement that the skilled nursing facility will not participate  
564 in the Medicaid program shall be a condition of the issuance of a  
565 certificate of need to any person under this paragraph (i), and if  
566 such skilled nursing facility at any time after the issuance of



567 the certificate of need, regardless of the ownership of the  
568 facility, participates in the Medicaid program or admits or keeps  
569 any patients in the facility who are participating in the Medicaid  
570 program, the State Department of Health shall revoke the  
571 certificate of need, if it is still outstanding, and shall deny or  
572 revoke the license of the skilled nursing facility, at the time  
573 that the department determines, after a hearing complying with due  
574 process, that the facility has failed to comply with any of the  
575 conditions upon which the certificate of need was issued, as  
576 provided in this paragraph and in the written agreement by the  
577 recipient of the certificate of need. The provision of Section  
578 41-7-193(1) regarding substantial compliance of the projection of  
579 need as reported in the current State Health Plan is waived for  
580 the purposes of this paragraph. The total number of nursing  
581 facility beds that may be authorized by any certificate of need  
582 issued under this paragraph (i) shall not exceed sixty (60) beds.  
583 If the skilled nursing facility authorized by the certificate of  
584 need issued under this paragraph is not constructed and fully  
585 operational within eighteen (18) months after July 1, 1994, the  
586 State Department of Health, after a hearing complying with due  
587 process, shall revoke the certificate of need, if it is still  
588 outstanding, and shall not issue a license for the skilled nursing  
589 facility at any time after the expiration of the eighteen-month  
590 period.





591           (j) The department may issue certificates of need to  
592 allow any existing freestanding long-term care facility in  
593 Tishomingo County and Hancock County that on July 1, 1995, is  
594 licensed with fewer than sixty (60) beds. For the purposes of  
595 this paragraph (j), the provisions of Section 41-7-193(1)  
596 requiring substantial compliance with the projection of need as  
597 reported in the current State Health Plan are waived. From and  
598 after July 1, 1999, there shall be no prohibition or restrictions  
599 on participation in the Medicaid program (Section 43-13-101 et  
600 seq.) for the beds in the long-term care facilities that were  
601 authorized under this paragraph (j).

602           (k) The department may issue a certificate of need for  
603 the construction of a nursing facility at a continuing care  
604 retirement community in Lowndes County. The total number of beds  
605 that may be authorized under the authority of this paragraph (k)  
606 shall not exceed sixty (60) beds. From and after July 1, 2001,  
607 the prohibition on the facility participating in the Medicaid  
608 program (Section 43-13-101 et seq.) that was a condition of  
609 issuance of the certificate of need under this paragraph (k) shall  
610 be revised as follows: The nursing facility may participate in  
611 the Medicaid program from and after July 1, 2001, if the owner of  
612 the facility on July 1, 2001, agrees in writing that no more than  
613 thirty (30) of the beds at the facility will be certified for  
614 participation in the Medicaid program, and that no claim will be  
615 submitted for Medicaid reimbursement for more than thirty (30)



616 patients in the facility in any month or for any patient in the  
617 facility who is in a bed that is not Medicaid-certified. This  
618 written agreement by the owner of the facility shall be a  
619 condition of licensure of the facility, and the agreement shall be  
620 fully binding on any subsequent owner of the facility if the  
621 ownership of the facility is transferred at any time after July 1,  
622 2001. After this written agreement is executed, the Division of  
623 Medicaid and the State Department of Health shall not certify more  
624 than thirty (30) of the beds in the facility for participation in  
625 the Medicaid program. If the facility violates the terms of the  
626 written agreement by admitting or keeping in the facility on a  
627 regular or continuing basis more than thirty (30) patients who are  
628 participating in the Medicaid program, the State Department of  
629 Health shall revoke the license of the facility, at the time that  
630 the department determines, after a hearing complying with due  
631 process, that the facility has violated the written agreement.

632 (1) Provided that funds are specifically appropriated  
633 therefor by the Legislature, the department may issue a  
634 certificate of need to a rehabilitation hospital in Hinds County  
635 for the construction of a sixty-bed long-term care nursing  
636 facility dedicated to the care and treatment of persons with  
637 severe disabilities including persons with spinal cord and  
638 closed-head injuries and ventilator dependent patients. The  
639 provisions of Section 41-7-193(1) regarding substantial compliance



640 with projection of need as reported in the current State Health  
641 Plan are waived for the purpose of this paragraph.

642 (m) The State Department of Health may issue a  
643 certificate of need to a county-owned hospital in the Second  
644 Judicial District of Panola County for the conversion of not more  
645 than seventy-two (72) hospital beds to nursing facility beds,  
646 provided that the recipient of the certificate of need agrees in  
647 writing that none of the beds at the nursing facility will be  
648 certified for participation in the Medicaid program (Section  
649 43-13-101 et seq.), and that no claim will be submitted for  
650 Medicaid reimbursement in the nursing facility in any day or for  
651 any patient in the nursing facility. This written agreement by  
652 the recipient of the certificate of need shall be a condition of  
653 the issuance of the certificate of need under this paragraph, and  
654 the agreement shall be fully binding on any subsequent owner of  
655 the nursing facility if the ownership of the nursing facility is  
656 transferred at any time after the issuance of the certificate of  
657 need. After this written agreement is executed, the Division of  
658 Medicaid and the State Department of Health shall not certify any  
659 of the beds in the nursing facility for participation in the  
660 Medicaid program. If the nursing facility violates the terms of  
661 the written agreement by admitting or keeping in the nursing  
662 facility on a regular or continuing basis any patients who are  
663 participating in the Medicaid program, the State Department of  
664 Health shall revoke the license of the nursing facility, at the



665 time that the department determines, after a hearing complying  
666 with due process, that the nursing facility has violated the  
667 condition upon which the certificate of need was issued, as  
668 provided in this paragraph and in the written agreement. If the  
669 certificate of need authorized under this paragraph is not issued  
670 within twelve (12) months after July 1, 2001, the department shall  
671 deny the application for the certificate of need and shall not  
672 issue the certificate of need at any time after the twelve-month  
673 period, unless the issuance is contested. If the certificate of  
674 need is issued and substantial construction of the nursing  
675 facility beds has not commenced within eighteen (18) months after  
676 July 1, 2001, the State Department of Health, after a hearing  
677 complying with due process, shall revoke the certificate of need  
678 if it is still outstanding, and the department shall not issue a  
679 license for the nursing facility at any time after the  
680 eighteen-month period. However, if the issuance of the  
681 certificate of need is contested, the department shall require  
682 substantial construction of the nursing facility beds within six  
683 (6) months after final adjudication on the issuance of the  
684 certificate of need.

685 (n) The department may issue a certificate of need for  
686 the new construction, addition or conversion of skilled nursing  
687 facility beds in Madison County, provided that the recipient of  
688 the certificate of need agrees in writing that the skilled nursing  
689 facility will not at any time participate in the Medicaid program



690 (Section 43-13-101 et seq.) or admit or keep any patients in the  
691 skilled nursing facility who are participating in the Medicaid  
692 program. This written agreement by the recipient of the  
693 certificate of need shall be fully binding on any subsequent owner  
694 of the skilled nursing facility, if the ownership of the facility  
695 is transferred at any time after the issuance of the certificate  
696 of need. Agreement that the skilled nursing facility will not  
697 participate in the Medicaid program shall be a condition of the  
698 issuance of a certificate of need to any person under this  
699 paragraph (n), and if such skilled nursing facility at any time  
700 after the issuance of the certificate of need, regardless of the  
701 ownership of the facility, participates in the Medicaid program or  
702 admits or keeps any patients in the facility who are participating  
703 in the Medicaid program, the State Department of Health shall  
704 revoke the certificate of need, if it is still outstanding, and  
705 shall deny or revoke the license of the skilled nursing facility,  
706 at the time that the department determines, after a hearing  
707 complying with due process, that the facility has failed to comply  
708 with any of the conditions upon which the certificate of need was  
709 issued, as provided in this paragraph and in the written agreement  
710 by the recipient of the certificate of need. The total number of  
711 nursing facility beds that may be authorized by any certificate of  
712 need issued under this paragraph (n) shall not exceed sixty (60)  
713 beds. If the certificate of need authorized under this paragraph  
714 is not issued within twelve (12) months after July 1, 1998, the



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

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



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



765 hearing complying with due process, shall revoke the certificate  
766 of need if it is still outstanding, and the department shall not  
767 issue a license for the nursing facility at any time after the  
768 eighteen-month period. However, if the issuance of the  
769 certificate of need is contested, the department shall require  
770 substantial construction of the nursing facility beds within six  
771 (6) months after final adjudication on the issuance of the  
772 certificate of need.

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





790 facility, participates in the Medicaid program or admits or keeps  
791 any patients in the facility who are participating in the Medicaid  
792 program, the State Department of Health shall revoke the  
793 certificate of need, if it is still outstanding, and shall deny or  
794 revoke the license of the skilled nursing facility, at the time  
795 that the department determines, after a hearing complying with due  
796 process, that the facility has failed to comply with any of the  
797 conditions upon which the certificate of need was issued, as  
798 provided in this paragraph and in the written agreement by the  
799 recipient of the certificate of need. The provision of Section  
800 41-7-193(1) regarding substantial compliance of the projection of  
801 need as reported in the current State Health Plan is waived for  
802 the purposes of this paragraph. If the certificate of need  
803 authorized under this paragraph is not issued within twelve (12)  
804 months after July 1, 1998, the department shall deny the  
805 application for the certificate of need and shall not issue the  
806 certificate of need at any time after the twelve-month period,  
807 unless the issuance is contested. If the certificate of need is  
808 issued and substantial construction of the nursing facility beds  
809 has not commenced within eighteen (18) months after July 1, 1998,  
810 the State Department of Health, after a hearing complying with due  
811 process, shall revoke the certificate of need if it is still  
812 outstanding, and the department shall not issue a license for the  
813 nursing facility at any time after the eighteen-month period.  
814 However, if the issuance of the certificate of need is contested,



815 the department shall require substantial construction of the  
816 nursing facility beds within six (6) months after final  
817 adjudication on the issuance of the certificate of need.

818 (q) (i) Beginning on July 1, 1999, the State  
819 Department of Health shall issue certificates of need during each  
820 of the next four (4) fiscal years for the construction or  
821 expansion of nursing facility beds or the conversion of other beds  
822 to nursing facility beds in each county in the state having a need  
823 for fifty (50) or more additional nursing facility beds, as shown  
824 in the fiscal year 1999 State Health Plan, in the manner provided  
825 in this paragraph (q). The total number of nursing facility beds  
826 that may be authorized by any certificate of need authorized under  
827 this paragraph (q) shall not exceed sixty (60) beds.

828 (ii) Subject to the provisions of subparagraph  
829 (v), during each of the next four (4) fiscal years, the department  
830 shall issue six (6) certificates of need for new nursing facility  
831 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
832 (1) certificate of need shall be issued for new nursing facility  
833 beds in the county in each of the four (4) Long-Term Care Planning  
834 Districts designated in the fiscal year 1999 State Health Plan  
835 that has the highest need in the district for those beds; and two  
836 (2) certificates of need shall be issued for new nursing facility  
837 beds in the two (2) counties from the state at large that have the  
838 highest need in the state for those beds, when considering the  
839 need on a statewide basis and without regard to the Long-Term Care



840 Planning Districts in which the counties are located. During  
841 fiscal year 2003, one (1) certificate of need shall be issued for  
842 new nursing facility beds in any county having a need for fifty  
843 (50) or more additional nursing facility beds, as shown in the  
844 fiscal year 1999 State Health Plan, that has not received a  
845 certificate of need under this paragraph (q) during the three (3)  
846 previous fiscal years. During fiscal year 2000, in addition to  
847 the six (6) certificates of need authorized in this subparagraph,  
848 the department also shall issue a certificate of need for new  
849 nursing facility beds in Amite County and a certificate of need  
850 for new nursing facility beds in Carroll County.

851 (iii) Subject to the provisions of subparagraph  
852 (v), the certificate of need issued under subparagraph (ii) for  
853 nursing facility beds in each Long-Term Care Planning District  
854 during each fiscal year shall first be available for nursing  
855 facility beds in the county in the district having the highest  
856 need for those beds, as shown in the fiscal year 1999 State Health  
857 Plan. If there are no applications for a certificate of need for  
858 nursing facility beds in the county having the highest need for  
859 those beds by the date specified by the department, then the  
860 certificate of need shall be available for nursing facility beds  
861 in other counties in the district in descending order of the need  
862 for those beds, from the county with the second highest need to  
863 the county with the lowest need, until an application is received  
864 for nursing facility beds in an eligible county in the district.



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

883 (v) If a certificate of need is authorized to be  
884 issued under this paragraph (q) for nursing facility beds in a  
885 county on the basis of the need in the Long-Term Care Planning  
886 District during any fiscal year of the four-year period, a  
887 certificate of need shall not also be available under this  
888 paragraph (q) for additional nursing facility beds in that county  
889 on the basis of the need in the state at large, and that county



890 shall be excluded in determining which counties have the highest  
891 need for nursing facility beds in the state at large for that  
892 fiscal year. After a certificate of need has been issued under  
893 this paragraph (q) for nursing facility beds in a county during  
894 any fiscal year of the four-year period, a certificate of need  
895 shall not be available again under this paragraph (q) for  
896 additional nursing facility beds in that county during the  
897 four-year period, and that county shall be excluded in determining  
898 which counties have the highest need for nursing facility beds in  
899 succeeding fiscal years.

900 (vi) If more than one (1) application is made for  
901 a certificate of need for nursing home facility beds available  
902 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
903 County, and one (1) of the applicants is a county-owned hospital  
904 located in the county where the nursing facility beds are  
905 available, the department shall give priority to the county-owned  
906 hospital in granting the certificate of need if the following  
907 conditions are met:

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

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



914 qualifications of the other applicants for the certificate of  
915 need.

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

924           (ii) Not more than twenty (20) beds may be  
925 authorized by any certificate of need issued under this paragraph  
926 (r), and not more than a total of sixty (60) beds may be  
927 authorized in any Long-Term Care Planning District by all  
928 certificates of need issued under this paragraph (r). However,  
929 the total number of beds that may be authorized by all  
930 certificates of need issued under this paragraph (r) during any  
931 fiscal year shall not exceed one hundred twenty (120) beds, and  
932 the total number of beds that may be authorized in any Long-Term  
933 Care Planning District during any fiscal year shall not exceed  
934 forty (40) beds. Of the certificates of need that are issued for  
935 each Long-Term Care Planning District during the next two (2)  
936 fiscal years, at least one (1) shall be issued for beds in the  
937 northern part of the district, at least one (1) shall be issued



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

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

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

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



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





988 facility if the ownership of either facility is transferred at any  
989 time after the certificates of need are issued. After this  
990 written agreement is executed, the Division of Medicaid and the  
991 State Department of Health shall not certify more than fifty (50)  
992 of the beds at the Hancock County facility or more than forty-nine  
993 (49) of the beds at the Harrison County facility for participation  
994 in the Medicaid program. If the Hancock County facility violates  
995 the terms of the written agreement by admitting or keeping in the  
996 facility on a regular or continuing basis more than fifty (50)  
997 patients who are participating in the Medicaid program, or if the  
998 Harrison County facility violates the terms of the written  
999 agreement by admitting or keeping in the facility on a regular or  
1000 continuing basis more than forty-nine (49) patients who are  
1001 participating in the Medicaid program, the State Department of  
1002 Health shall revoke the license of the facility that is in  
1003 violation of the agreement, at the time that the department  
1004 determines, after a hearing complying with due process, that the  
1005 facility has violated the agreement.

1006 (u) The State Department of Health shall issue a  
1007 certificate of need to a nonprofit venture for the establishment,  
1008 construction and operation of a skilled nursing facility of not  
1009 more than sixty (60) beds to provide skilled nursing care for  
1010 ventilator dependent or otherwise medically dependent pediatric  
1011 patients who require medical and nursing care or rehabilitation  
1012 services to be located in a county in which an academic medical



1013 center and a children's hospital are located, and for any  
1014 construction and for the acquisition of equipment related to those  
1015 beds. The facility shall be authorized to keep such ventilator  
1016 dependent or otherwise medically dependent pediatric patients  
1017 beyond age twenty-one (21) in accordance with regulations of the  
1018 State Board of Health. For purposes of this paragraph (u), the  
1019 provisions of Section 41-7-193(1) requiring substantial compliance  
1020 with the projection of need as reported in the current State  
1021 Health Plan are waived, and the provisions of Section 41-7-197  
1022 requiring a formal certificate of need hearing process are waived.  
1023 The beds authorized by this paragraph shall be counted as  
1024 pediatric skilled nursing facility beds for health planning  
1025 purposes under Section 41-7-171 et seq. There shall be no  
1026 prohibition of or restrictions on participation in the Medicaid  
1027 program for the person receiving the certificate of need  
1028 authorized by this paragraph.

1029 (3) \* \* \* [Deleted]

1030 (4) \* \* \* [Deleted]

1031 (5) \* \* \* [Deleted]

1032 (6) The State Department of Health shall issue a certificate  
1033 of need to a Mississippi corporation qualified to manage a  
1034 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1035 Harrison County, not to exceed eighty (80) beds, including any  
1036 necessary renovation or construction required for licensure and  
1037 certification, provided that the recipient of the certificate of



1038 need agrees in writing that the long-term care hospital will not  
1039 at any time participate in the Medicaid program (Section 43-13-101  
1040 et seq.) or admit or keep any patients in the long-term care  
1041 hospital who are participating in the Medicaid program. This  
1042 written agreement by the recipient of the certificate of need  
1043 shall be fully binding on any subsequent owner of the long-term  
1044 care hospital, if the ownership of the facility is transferred at  
1045 any time after the issuance of the certificate of need. Agreement  
1046 that the long-term care hospital will not participate in the  
1047 Medicaid program shall be a condition of the issuance of a  
1048 certificate of need to any person under this subsection (6), and  
1049 if such long-term care hospital at any time after the issuance of  
1050 the certificate of need, regardless of the ownership of the  
1051 facility, participates in the Medicaid program or admits or keeps  
1052 any patients in the facility who are participating in the Medicaid  
1053 program, the State Department of Health shall revoke the  
1054 certificate of need, if it is still outstanding, and shall deny or  
1055 revoke the license of the long-term care hospital, at the time  
1056 that the department determines, after a hearing complying with due  
1057 process, that the facility has failed to comply with any of the  
1058 conditions upon which the certificate of need was issued, as  
1059 provided in this subsection and in the written agreement by the  
1060 recipient of the certificate of need. For purposes of this  
1061 subsection, the provisions of Section 41-7-193(1) requiring



1062 substantial compliance with the projection of need as reported in  
1063 the current State Health Plan are waived.

1064 (7) The State Department of Health may issue a certificate  
1065 of need to any hospital in the state to utilize a portion of its  
1066 beds for the "swing-bed" concept. Any such hospital must be in  
1067 conformance with the federal regulations regarding such swing-bed  
1068 concept at the time it submits its application for a certificate  
1069 of need to the State Department of Health, except that such  
1070 hospital may have more licensed beds or a higher average daily  
1071 census (ADC) than the maximum number specified in federal  
1072 regulations for participation in the swing-bed program. Any  
1073 hospital meeting all federal requirements for participation in the  
1074 swing-bed program which receives such certificate of need shall  
1075 render services provided under the swing-bed concept to any  
1076 patient eligible for Medicare (Title XVIII of the Social Security  
1077 Act) who is certified by a physician to be in need of such  
1078 services, and no such hospital shall permit any patient who is  
1079 eligible for both Medicaid and Medicare or eligible only for  
1080 Medicaid to stay in the swing beds of the hospital for more than  
1081 thirty (30) days per admission unless the hospital receives prior  
1082 approval for such patient from the Division of Medicaid, Office of  
1083 the Governor. Any hospital having more licensed beds or a higher  
1084 average daily census (ADC) than the maximum number specified in  
1085 federal regulations for participation in the swing-bed program  
1086 which receives such certificate of need shall develop a procedure



1087 to ensure that before a patient is allowed to stay in the swing  
1088 beds of the hospital, there are no vacant nursing home beds  
1089 available for that patient located within a fifty-mile radius of  
1090 the hospital. When any such hospital has a patient staying in the  
1091 swing beds of the hospital and the hospital receives notice from a  
1092 nursing home located within such radius that there is a vacant bed  
1093 available for that patient, the hospital shall transfer the  
1094 patient to the nursing home within a reasonable time after receipt  
1095 of the notice. Any hospital which is subject to the requirements  
1096 of the two (2) preceding sentences of this subsection may be  
1097 suspended from participation in the swing-bed program for a  
1098 reasonable period of time by the State Department of Health if the  
1099 department, after a hearing complying with due process, determines  
1100 that the hospital has failed to comply with any of those  
1101 requirements.

1102 (8) \* \* \* [Deleted]

1103 (9) The Department of Health shall not grant approval for or  
1104 issue a certificate of need to any person proposing the  
1105 establishment of, or expansion of the currently approved territory  
1106 of, or the contracting to establish a home office, subunit or  
1107 branch office within the space operated as a health care facility  
1108 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1109 care facility as defined in subparagraph (ix) of Section  
1110 41-7-173(h).



1111 (10) Health care facilities owned and/or operated by the  
1112 state or its agencies are exempt from the restraints in this  
1113 section against issuance of a certificate of need if such addition  
1114 or expansion consists of repairing or renovation necessary to  
1115 comply with the state licensure law. This exception shall not  
1116 apply to the new construction of any building by such state  
1117 facility. This exception shall not apply to any health care  
1118 facilities owned and/or operated by counties, municipalities,  
1119 districts, unincorporated areas, other defined persons, or any  
1120 combination thereof.

1121 (11) The new construction, renovation or expansion of or  
1122 addition to any health care facility defined in \* \* \* subparagraph  
1123 (iv) (skilled nursing facility), \* \* \* of Section 41-7-173(h)  
1124 which is owned by the State of Mississippi and under the direction  
1125 and control of the State Department of Mental Health, and the  
1126 addition of new beds or the conversion of beds from one category  
1127 to another in any such defined health care facility which is owned  
1128 by the State of Mississippi and under the direction and control of  
1129 the State Department of Mental Health, shall not require the  
1130 issuance of a certificate of need under Section 41-7-171 et seq.,  
1131 notwithstanding any provision in Section 41-7-171 et seq. to the  
1132 contrary.

1133 (12) The new construction, renovation or expansion of or  
1134 addition to any veterans homes or domiciliaries for eligible  
1135 veterans of the State of Mississippi as authorized under Section



1136 35-1-19 shall not require the issuance of a certificate of need,  
1137 notwithstanding any provision in Section 41-7-171 et seq. to the  
1138 contrary.

1139 (13) The repair or the rebuilding of an existing, operating  
1140 health care facility that sustained significant damage from a  
1141 natural disaster that occurred after April 15, 2014, in an area  
1142 that is proclaimed a disaster area or subject to a state of  
1143 emergency by the Governor or by the President of the United States  
1144 shall be exempt from all of the requirements of the Mississippi  
1145 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1146 rules and regulations promulgated under that law, subject to the  
1147 following conditions:

1148 (a) The repair or the rebuilding of any such damaged  
1149 health care facility must be within one (1) mile of the  
1150 pre-disaster location of the campus of the damaged health care  
1151 facility, except that any temporary post-disaster health care  
1152 facility operating location may be within five (5) miles of the  
1153 pre-disaster location of the damaged health care facility;

1154 (b) The repair or the rebuilding of the damaged health  
1155 care facility (i) does not increase or change the complement of  
1156 its bed capacity that it had before the Governor's or the  
1157 President's proclamation, (ii) does not increase or change its  
1158 levels and types of health care services that it provided before  
1159 the Governor's or the President's proclamation, and (iii) does not  
1160 rebuild in a different county; however, this paragraph does not



1161 restrict or prevent a health care facility from decreasing its bed  
1162 capacity that it had before the Governor's or the President's  
1163 proclamation, or from decreasing the levels of or decreasing or  
1164 eliminating the types of health care services that it provided  
1165 before the Governor's or the President's proclamation, when the  
1166 damaged health care facility is repaired or rebuilt;

1167 (c) The exemption from Certificate of Need Law provided  
1168 under this subsection (13) is valid for only five (5) years from  
1169 the date of the Governor's or the President's proclamation. If  
1170 actual construction has not begun within that five-year period,  
1171 the exemption provided under this subsection is inapplicable; and

1172 (d) The Division of Health Facilities Licensure and  
1173 Certification of the State Department of Health shall provide the  
1174 same oversight for the repair or the rebuilding of the damaged  
1175 health care facility that it provides to all health care facility  
1176 construction projects in the state.

1177 For the purposes of this subsection (13), "significant  
1178 damage" to a health care facility means damage to the health care  
1179 facility requiring an expenditure of at least One Million Dollars  
1180 (\$1,000,000.00).

1181 (14) The State Department of Health shall issue a  
1182 certificate of need to any hospital which is currently licensed  
1183 for two hundred fifty (250) or more acute care beds and is located  
1184 in any general hospital service area not having a comprehensive  
1185 cancer center, for the establishment and equipping of such a





1186 center which provides facilities and services for outpatient  
1187 radiation oncology therapy, outpatient medical oncology therapy,  
1188 and appropriate support services including the provision of  
1189 radiation therapy services. The provisions of Section 41-7-193(1)  
1190 regarding substantial compliance with the projection of need as  
1191 reported in the current State Health Plan are waived for the  
1192 purpose of this subsection.

1193 (15) The State Department of Health may authorize the  
1194 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1195 North Panola Community Hospital to the South Panola Community  
1196 Hospital. The authorization for the transfer of those beds shall  
1197 be exempt from the certificate of need review process.

1198 (16) The State Department of Health shall issue any  
1199 certificates of need necessary for Mississippi State University  
1200 and a public or private health care provider to jointly acquire  
1201 and operate a linear accelerator and a magnetic resonance imaging  
1202 unit. Those certificates of need shall cover all capital  
1203 expenditures related to the project between Mississippi State  
1204 University and the health care provider, including, but not  
1205 limited to, the acquisition of the linear accelerator, the  
1206 magnetic resonance imaging unit and other radiological modalities;  
1207 the offering of linear accelerator and magnetic resonance imaging  
1208 services; and the cost of construction of facilities in which to  
1209 locate these services. The linear accelerator and the magnetic  
1210 resonance imaging unit shall be (a) located in the City of



1211 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1212 Mississippi State University and the public or private health care  
1213 provider selected by Mississippi State University through a  
1214 request for proposals (RFP) process in which Mississippi State  
1215 University selects, and the Board of Trustees of State  
1216 Institutions of Higher Learning approves, the health care provider  
1217 that makes the best overall proposal; (c) available to Mississippi  
1218 State University for research purposes two-thirds (2/3) of the  
1219 time that the linear accelerator and magnetic resonance imaging  
1220 unit are operational; and (d) available to the public or private  
1221 health care provider selected by Mississippi State University and  
1222 approved by the Board of Trustees of State Institutions of Higher  
1223 Learning one-third (1/3) of the time for clinical, diagnostic and  
1224 treatment purposes. For purposes of this subsection, the  
1225 provisions of Section 41-7-193(1) requiring substantial compliance  
1226 with the projection of need as reported in the current State  
1227 Health Plan are waived.

1228       (17) The State Department of Health shall issue a  
1229 certificate of need for the construction of an acute care hospital  
1230 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1231 be named the "John C. Stennis Memorial Hospital." In issuing the  
1232 certificate of need under this subsection, the department shall  
1233 give priority to a hospital located in Lauderdale County that has  
1234 two hundred fifteen (215) beds. For purposes of this subsection,  
1235 the provisions of Section 41-7-193(1) requiring substantial



1236 compliance with the projection of need as reported in the current  
1237 State Health Plan and the provisions of Section 41-7-197 requiring  
1238 a formal certificate of need hearing process are waived. There  
1239 shall be no prohibition or restrictions on participation in the  
1240 Medicaid program (Section 43-13-101 et seq.) for the person or  
1241 entity receiving the certificate of need authorized under this  
1242 subsection or for the beds constructed under the authority of that  
1243 certificate of need.

1244 (18) The planning, design, construction, renovation,  
1245 addition, furnishing and equipping of a clinical research unit at  
1246 any health care facility defined in Section 41-7-173(h) that is  
1247 under the direction and control of the University of Mississippi  
1248 Medical Center and located in Jackson, Mississippi, and the  
1249 addition of new beds or the conversion of beds from one (1)  
1250 category to another in any such clinical research unit, shall not  
1251 require the issuance of a certificate of need under Section  
1252 41-7-171 et seq., notwithstanding any provision in Section  
1253 41-7-171 et seq. to the contrary.

1254 (19) [Repealed]

1255 (20) Nothing in this section or in any other provision of  
1256 Section 41-7-171 et seq. shall prevent any nursing facility from  
1257 designating an appropriate number of existing beds in the facility  
1258 as beds for providing care exclusively to patients with  
1259 Alzheimer's disease.



1260 (21) Nothing in this section or any other provision of  
1261 Section 41-7-171 et seq. shall prevent any health care facility  
1262 from the new construction, renovation, conversion or expansion of  
1263 new beds in the facility designated as intensive care units,  
1264 negative pressure rooms, or isolation rooms pursuant to the  
1265 provisions of Sections 41-14-1 through 41-14-11, or Section  
1266 41-14-31. For purposes of this subsection, the provisions of  
1267 Section 41-7-193(1) requiring substantial compliance with the  
1268 projection of need as reported in the current State Health Plan  
1269 and the provisions of Section 41-7-197 requiring a formal  
1270 certificate of need hearing process are waived.

1271 **SECTION 3.** This act shall take effect and be in force from  
1272 and after July 1, 2023.

