

By: Senator(s) Blackwell

To: Medicaid

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2210

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO REVISE CERTAIN PROVISIONS RELATING TO A HOSPITAL THAT HAS A
3 CERTIFICATE OF NEED FOR A FORTY-BED PSYCHIATRIC RESIDENTIAL
4 TREATMENT FACILITY IN DESOTO COUNTY; TO PROVIDE THAT THERE SHALL
5 BE NO PROHIBITION OR RESTRICTIONS ON PARTICIPATION IN THE MEDICAID
6 PROGRAM FOR SUCH FACILITY THAT WOULD NOT OTHERWISE APPLY TO ANY
7 OTHER SUCH FACILITY; AND FOR RELATED PURPOSES.

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

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

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

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

18 (b) The relocation of a health care facility or portion
19 thereof, or major medical equipment, unless such relocation of a
20 health care facility or portion thereof, or major medical



21 equipment, which does not involve a capital expenditure by or on
22 behalf of a health care facility, is within five thousand two
23 hundred eighty (5,280) feet from the main entrance of the health
24 care facility;

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



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

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

52 (i) Open-heart surgery services;

53 (ii) Cardiac catheterization services;

54 (iii) Comprehensive inpatient rehabilitation
55 services;

56 (iv) Licensed psychiatric services;

57 (v) Licensed chemical dependency services;

58 (vi) Radiation therapy services;

59 (vii) Diagnostic imaging services of an invasive
60 nature, i.e. invasive digital angiography;

61 (viii) Nursing home care as defined in
62 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

63 (ix) Home health services;

64 (x) Swing-bed services;

65 (xi) Ambulatory surgical services;

66 (xii) Magnetic resonance imaging services;

67 (xiii) [Deleted]

68 (xiv) Long-term care hospital services;

69 (xv) Positron emission tomography (PET) services;



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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



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

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



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



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

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

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



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

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



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

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



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

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

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



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

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



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

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

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

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

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



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

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

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



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

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

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



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



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

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



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

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

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



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

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



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

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

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



767 for the person(s) receiving the certificate of need authorized
768 under this paragraph (c) or for the beds converted pursuant to the
769 authority of that certificate of need that would not apply to any
770 other psychiatric residential treatment facility.

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

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

787 (f) The department shall issue a certificate of need to
788 a one-hundred-thirty-four-bed specialty hospital located on
789 twenty-nine and forty-four one-hundredths (29.44) commercial acres
790 at 5900 Highway 39 North in Meridian (Lauderdale County),
791 Mississippi, for the addition, construction or expansion of



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

814 (4) (a) From and after March 25, 2021, the department may
815 issue a certificate of need to any person for the new construction
816 of any hospital, psychiatric hospital or chemical dependency



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

837 (i) [Deleted]

838 (ii) The department may issue a certificate of
839 need for the conversion of existing beds in a county hospital in
840 Choctaw County from acute care beds to child/adolescent chemical
841 dependency beds. For purposes of this subparagraph (ii), the



842 provisions of Section 41-7-193(1) requiring substantial compliance
843 with the projection of need as reported in the current State
844 Health Plan are waived. The total number of beds that may be
845 authorized under authority of this subparagraph shall not exceed
846 twenty (20) beds. There shall be no prohibition or restrictions
847 on participation in the Medicaid program (Section 43-13-101 et
848 seq.) for the hospital receiving the certificate of need
849 authorized under this subparagraph or for the beds converted
850 pursuant to the authority of that certificate of need.

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

865 If by January 1, 2002, there has been no significant
866 commencement of construction of the beds authorized under this



867 subparagraph (iii), or no significant action taken to convert
868 existing beds to the beds authorized under this subparagraph, then
869 the certificate of need that was previously issued under this
870 subparagraph shall expire. If the previously issued certificate
871 of need expires, the department may accept applications for
872 issuance of another certificate of need for the beds authorized
873 under this subparagraph, and may issue a certificate of need to
874 authorize the construction, expansion or conversion of the beds
875 authorized under this subparagraph.

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



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



916 to comply with any of the conditions upon which the certificate of
917 need was issued, as provided in this subparagraph and in the
918 written agreement by the recipient of the certificate of need.

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

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



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

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



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

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



991 eligible for both Medicaid and Medicare or eligible only for
992 Medicaid to stay in the swing beds of the hospital for more than
993 thirty (30) days per admission unless the hospital receives prior
994 approval for such patient from the Division of Medicaid, Office of
995 the Governor. Any hospital having more licensed beds or a higher
996 average daily census (ADC) than the maximum number specified in
997 federal regulations for participation in the swing-bed program
998 which receives such certificate of need shall develop a procedure
999 to ensure that before a patient is allowed to stay in the swing
1000 beds of the hospital, there are no vacant nursing home beds
1001 available for that patient located within a fifty-mile radius of
1002 the hospital. When any such hospital has a patient staying in the
1003 swing beds of the hospital and the hospital receives notice from a
1004 nursing home located within such radius that there is a vacant bed
1005 available for that patient, the hospital shall transfer the
1006 patient to the nursing home within a reasonable time after receipt
1007 of the notice. Any hospital which is subject to the requirements
1008 of the two (2) preceding sentences of this subsection may be
1009 suspended from participation in the swing-bed program for a
1010 reasonable period of time by the State Department of Health if the
1011 department, after a hearing complying with due process, determines
1012 that the hospital has failed to comply with any of those
1013 requirements.

1014 (8) The Department of Health shall not grant approval for or
1015 issue a certificate of need to any person proposing the new



1016 construction of, addition to or expansion of a health care
1017 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1018 except as hereinafter provided: The department may issue a
1019 certificate of need to a nonprofit corporation located in Madison
1020 County, Mississippi, for the construction, expansion or conversion
1021 of not more than twenty (20) beds in a community living program
1022 for developmentally disabled adults in a facility as defined in
1023 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1024 subsection (8), the provisions of Section 41-7-193(1) requiring
1025 substantial compliance with the projection of need as reported in
1026 the current State Health Plan and the provisions of Section
1027 41-7-197 requiring a formal certificate of need hearing process
1028 are waived. There shall be no prohibition or restrictions on
1029 participation in the Medicaid program for the person receiving the
1030 certificate of need authorized under this subsection (8).

1031 (9) The Department of Health shall not grant approval for or
1032 issue a certificate of need to any person proposing the
1033 establishment of, or expansion of the currently approved territory
1034 of, or the contracting to establish a home office, subunit or
1035 branch office within the space operated as a health care facility
1036 as defined in Section 41-7-173(h) (i) through (viii) by a health
1037 care facility as defined in subparagraph (ix) of Section
1038 41-7-173(h).

1039 (10) Health care facilities owned and/or operated by the
1040 state or its agencies are exempt from the restraints in this



1041 section against issuance of a certificate of need if such addition
1042 or expansion consists of repairing or renovation necessary to
1043 comply with the state licensure law. This exception shall not
1044 apply to the new construction of any building by such state
1045 facility. This exception shall not apply to any health care
1046 facilities owned and/or operated by counties, municipalities,
1047 districts, unincorporated areas, other defined persons, or any
1048 combination thereof.

1049 (11) The new construction, renovation or expansion of or
1050 addition to any health care facility defined in subparagraph (ii)
1051 (psychiatric hospital), subparagraph (iv) (skilled nursing
1052 facility), subparagraph (vi) (intermediate care facility),
1053 subparagraph (viii) (intermediate care facility for the mentally
1054 retarded) and subparagraph (x) (psychiatric residential treatment
1055 facility) of Section 41-7-173(h) which is owned by the State of
1056 Mississippi and under the direction and control of the State
1057 Department of Mental Health, and the addition of new beds or the
1058 conversion of beds from one category to another in any such
1059 defined health care facility which is owned by the State of
1060 Mississippi and under the direction and control of the State
1061 Department of Mental Health, shall not require the issuance of a
1062 certificate of need under Section 41-7-171 et seq.,
1063 notwithstanding any provision in Section 41-7-171 et seq. to the
1064 contrary.



1065 (12) The new construction, renovation or expansion of or
1066 addition to any veterans homes or domiciliaries for eligible
1067 veterans of the State of Mississippi as authorized under Section
1068 35-1-19 shall not require the issuance of a certificate of need,
1069 notwithstanding any provision in Section 41-7-171 et seq. to the
1070 contrary.

1071 (13) The repair or the rebuilding of an existing, operating
1072 health care facility that sustained significant damage from a
1073 natural disaster that occurred after April 15, 2014, in an area
1074 that is proclaimed a disaster area or subject to a state of
1075 emergency by the Governor or by the President of the United States
1076 shall be exempt from all of the requirements of the Mississippi
1077 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1078 rules and regulations promulgated under that law, subject to the
1079 following conditions:

1080 (a) The repair or the rebuilding of any such damaged
1081 health care facility must be within one (1) mile of the
1082 pre-disaster location of the campus of the damaged health care
1083 facility, except that any temporary post-disaster health care
1084 facility operating location may be within five (5) miles of the
1085 pre-disaster location of the damaged health care facility;

1086 (b) The repair or the rebuilding of the damaged health
1087 care facility (i) does not increase or change the complement of
1088 its bed capacity that it had before the Governor's or the
1089 President's proclamation, (ii) does not increase or change its



1090 levels and types of health care services that it provided before
1091 the Governor's or the President's proclamation, and (iii) does not
1092 rebuild in a different county; however, this paragraph does not
1093 restrict or prevent a health care facility from decreasing its bed
1094 capacity that it had before the Governor's or the President's
1095 proclamation, or from decreasing the levels of or decreasing or
1096 eliminating the types of health care services that it provided
1097 before the Governor's or the President's proclamation, when the
1098 damaged health care facility is repaired or rebuilt;

1099 (c) The exemption from Certificate of Need Law provided
1100 under this subsection (13) is valid for only five (5) years from
1101 the date of the Governor's or the President's proclamation. If
1102 actual construction has not begun within that five-year period,
1103 the exemption provided under this subsection is inapplicable; and

1104 (d) The Division of Health Facilities Licensure and
1105 Certification of the State Department of Health shall provide the
1106 same oversight for the repair or the rebuilding of the damaged
1107 health care facility that it provides to all health care facility
1108 construction projects in the state.

1109 For the purposes of this subsection (13), "significant
1110 damage" to a health care facility means damage to the health care
1111 facility requiring an expenditure of at least One Million Dollars
1112 (\$1,000,000.00).

1113 (14) The State Department of Health shall issue a
1114 certificate of need to any hospital which is currently licensed



1115 for two hundred fifty (250) or more acute care beds and is located
1116 in any general hospital service area not having a comprehensive
1117 cancer center, for the establishment and equipping of such a
1118 center which provides facilities and services for outpatient
1119 radiation oncology therapy, outpatient medical oncology therapy,
1120 and appropriate support services including the provision of
1121 radiation therapy services. The provisions of Section 41-7-193(1)
1122 regarding substantial compliance with the projection of need as
1123 reported in the current State Health Plan are waived for the
1124 purpose of this subsection.

1125 (15) The State Department of Health may authorize the
1126 transfer of hospital beds, not to exceed sixty (60) beds, from the
1127 North Panola Community Hospital to the South Panola Community
1128 Hospital. The authorization for the transfer of those beds shall
1129 be exempt from the certificate of need review process.

1130 (16) The State Department of Health shall issue any
1131 certificates of need necessary for Mississippi State University
1132 and a public or private health care provider to jointly acquire
1133 and operate a linear accelerator and a magnetic resonance imaging
1134 unit. Those certificates of need shall cover all capital
1135 expenditures related to the project between Mississippi State
1136 University and the health care provider, including, but not
1137 limited to, the acquisition of the linear accelerator, the
1138 magnetic resonance imaging unit and other radiological modalities;
1139 the offering of linear accelerator and magnetic resonance imaging



1140 services; and the cost of construction of facilities in which to
1141 locate these services. The linear accelerator and the magnetic
1142 resonance imaging unit shall be (a) located in the City of
1143 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1144 Mississippi State University and the public or private health care
1145 provider selected by Mississippi State University through a
1146 request for proposals (RFP) process in which Mississippi State
1147 University selects, and the Board of Trustees of State
1148 Institutions of Higher Learning approves, the health care provider
1149 that makes the best overall proposal; (c) available to Mississippi
1150 State University for research purposes two-thirds (2/3) of the
1151 time that the linear accelerator and magnetic resonance imaging
1152 unit are operational; and (d) available to the public or private
1153 health care provider selected by Mississippi State University and
1154 approved by the Board of Trustees of State Institutions of Higher
1155 Learning one-third (1/3) of the time for clinical, diagnostic and
1156 treatment purposes. For purposes of this subsection, the
1157 provisions of Section 41-7-193(1) requiring substantial compliance
1158 with the projection of need as reported in the current State
1159 Health Plan are waived.

1160 (17) The State Department of Health shall issue a
1161 certificate of need for the construction of an acute care hospital
1162 in Kemper County, not to exceed twenty-five (25) beds, which shall
1163 be named the "John C. Stennis Memorial Hospital." In issuing the
1164 certificate of need under this subsection, the department shall



1165 give priority to a hospital located in Lauderdale County that has
1166 two hundred fifteen (215) beds. For purposes of this subsection,
1167 the provisions of Section 41-7-193(1) requiring substantial
1168 compliance with the projection of need as reported in the current
1169 State Health Plan and the provisions of Section 41-7-197 requiring
1170 a formal certificate of need hearing process are waived. There
1171 shall be no prohibition or restrictions on participation in the
1172 Medicaid program (Section 43-13-101 et seq.) for the person or
1173 entity receiving the certificate of need authorized under this
1174 subsection or for the beds constructed under the authority of that
1175 certificate of need.

1176 (18) The planning, design, construction, renovation,
1177 addition, furnishing and equipping of a clinical research unit at
1178 any health care facility defined in Section 41-7-173(h) that is
1179 under the direction and control of the University of Mississippi
1180 Medical Center and located in Jackson, Mississippi, and the
1181 addition of new beds or the conversion of beds from one (1)
1182 category to another in any such clinical research unit, shall not
1183 require the issuance of a certificate of need under Section
1184 41-7-171 et seq., notwithstanding any provision in Section
1185 41-7-171 et seq. to the contrary.

1186 (19) [Repealed]

1187 (20) Nothing in this section or in any other provision of
1188 Section 41-7-171 et seq. shall prevent any nursing facility from
1189 designating an appropriate number of existing beds in the facility



1190 as beds for providing care exclusively to patients with
1191 Alzheimer's disease.

1192 (21) Nothing in this section or any other provision of
1193 Section 41-7-171 et seq. shall prevent any health care facility
1194 from the new construction, renovation, conversion or expansion of
1195 new beds in the facility designated as intensive care units,
1196 negative pressure rooms, or isolation rooms pursuant to the
1197 provisions of Sections 41-14-1 through 41-14-11, or Section
1198 41-14-31. For purposes of this subsection, the provisions of
1199 Section 41-7-193(1) requiring substantial compliance with the
1200 projection of need as reported in the current State Health Plan
1201 and the provisions of Section 41-7-197 requiring a formal
1202 certificate of need hearing process are waived.

1203 **SECTION 2.** This act shall take effect and be in force from
1204 and after July 1, 2023.

