

By: Senator(s) Blackwell

To: Medicaid

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 THIS HOSPITAL; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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





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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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





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

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



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



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

445 (p) The department may issue a certificate of need for  
446 the construction of a municipally owned nursing facility within  
447 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
448 beds, provided that the recipient of the certificate of need  
449 agrees in writing that the skilled nursing facility will not at  
450 any time participate in the Medicaid program (Section 43-13-101 et  
451 seq.) or admit or keep any patients in the skilled nursing  
452 facility who are participating in the Medicaid program. This  
453 written agreement by the recipient of the certificate of need  
454 shall be fully binding on any subsequent owner of the skilled  
455 nursing facility, if the ownership of the facility is transferred  
456 at any time after the issuance of the certificate of need.  
457 Agreement that the skilled nursing facility will not participate  
458 in the Medicaid program shall be a condition of the issuance of a  
459 certificate of need to any person under this paragraph (p), and if  
460 such skilled nursing facility at any time after the issuance of  
461 the certificate of need, regardless of the ownership of the  
462 facility, participates in the Medicaid program or admits or keeps  
463 any patients in the facility who are participating in the Medicaid  
464 program, the State Department of Health shall revoke the  
465 certificate of need, if it is still outstanding, and shall deny or  
466 revoke the license of the skilled nursing facility, at the time  
467 that the department determines, after a hearing complying with due



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

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



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

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



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

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

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



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

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



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

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

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

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

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





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

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

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



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

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

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



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



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

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



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

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

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



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

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



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

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

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



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

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

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

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





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

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



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

835 (i) [Deleted]

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



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

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

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



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

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

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



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



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

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

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



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

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



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

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





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

1012 (8) The Department of Health shall not grant approval for or  
1013 issue a certificate of need to any person proposing the new



1014 construction of, addition to or expansion of a health care  
1015 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1016 except as hereinafter provided: The department may issue a  
1017 certificate of need to a nonprofit corporation located in Madison  
1018 County, Mississippi, for the construction, expansion or conversion  
1019 of not more than twenty (20) beds in a community living program  
1020 for developmentally disabled adults in a facility as defined in  
1021 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1022 subsection (8), the provisions of Section 41-7-193(1) requiring  
1023 substantial compliance with the projection of need as reported in  
1024 the current State Health Plan and the provisions of Section  
1025 41-7-197 requiring a formal certificate of need hearing process  
1026 are waived. There shall be no prohibition or restrictions on  
1027 participation in the Medicaid program for the person receiving the  
1028 certificate of need authorized under this subsection (8).

1029 (9) The Department of Health shall not grant approval for or  
1030 issue a certificate of need to any person proposing the  
1031 establishment of, or expansion of the currently approved territory  
1032 of, or the contracting to establish a home office, subunit or  
1033 branch office within the space operated as a health care facility  
1034 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1035 care facility as defined in subparagraph (ix) of Section  
1036 41-7-173(h).

1037 (10) Health care facilities owned and/or operated by the  
1038 state or its agencies are exempt from the restraints in this



1039 section against issuance of a certificate of need if such addition  
1040 or expansion consists of repairing or renovation necessary to  
1041 comply with the state licensure law. This exception shall not  
1042 apply to the new construction of any building by such state  
1043 facility. This exception shall not apply to any health care  
1044 facilities owned and/or operated by counties, municipalities,  
1045 districts, unincorporated areas, other defined persons, or any  
1046 combination thereof.

1047 (11) The new construction, renovation or expansion of or  
1048 addition to any health care facility defined in subparagraph (ii)  
1049 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1050 facility), subparagraph (vi) (intermediate care facility),  
1051 subparagraph (viii) (intermediate care facility for the mentally  
1052 retarded) and subparagraph (x) (psychiatric residential treatment  
1053 facility) of Section 41-7-173(h) which is owned by the State of  
1054 Mississippi and under the direction and control of the State  
1055 Department of Mental Health, and the addition of new beds or the  
1056 conversion of beds from one category to another in any such  
1057 defined health care facility which is owned by the State of  
1058 Mississippi and under the direction and control of the State  
1059 Department of Mental Health, shall not require the issuance of a  
1060 certificate of need under Section 41-7-171 et seq.,  
1061 notwithstanding any provision in Section 41-7-171 et seq. to the  
1062 contrary.



1063           (12) The new construction, renovation or expansion of or  
1064 addition to any veterans homes or domiciliaries for eligible  
1065 veterans of the State of Mississippi as authorized under Section  
1066 35-1-19 shall not require the issuance of a certificate of need,  
1067 notwithstanding any provision in Section 41-7-171 et seq. to the  
1068 contrary.

1069           (13) The repair or the rebuilding of an existing, operating  
1070 health care facility that sustained significant damage from a  
1071 natural disaster that occurred after April 15, 2014, in an area  
1072 that is proclaimed a disaster area or subject to a state of  
1073 emergency by the Governor or by the President of the United States  
1074 shall be exempt from all of the requirements of the Mississippi  
1075 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1076 rules and regulations promulgated under that law, subject to the  
1077 following conditions:

1078           (a) The repair or the rebuilding of any such damaged  
1079 health care facility must be within one (1) mile of the  
1080 pre-disaster location of the campus of the damaged health care  
1081 facility, except that any temporary post-disaster health care  
1082 facility operating location may be within five (5) miles of the  
1083 pre-disaster location of the damaged health care facility;

1084           (b) The repair or the rebuilding of the damaged health  
1085 care facility (i) does not increase or change the complement of  
1086 its bed capacity that it had before the Governor's or the  
1087 President's proclamation, (ii) does not increase or change its



1088 levels and types of health care services that it provided before  
1089 the Governor's or the President's proclamation, and (iii) does not  
1090 rebuild in a different county; however, this paragraph does not  
1091 restrict or prevent a health care facility from decreasing its bed  
1092 capacity that it had before the Governor's or the President's  
1093 proclamation, or from decreasing the levels of or decreasing or  
1094 eliminating the types of health care services that it provided  
1095 before the Governor's or the President's proclamation, when the  
1096 damaged health care facility is repaired or rebuilt;

1097 (c) The exemption from Certificate of Need Law provided  
1098 under this subsection (13) is valid for only five (5) years from  
1099 the date of the Governor's or the President's proclamation. If  
1100 actual construction has not begun within that five-year period,  
1101 the exemption provided under this subsection is inapplicable; and

1102 (d) The Division of Health Facilities Licensure and  
1103 Certification of the State Department of Health shall provide the  
1104 same oversight for the repair or the rebuilding of the damaged  
1105 health care facility that it provides to all health care facility  
1106 construction projects in the state.

1107 For the purposes of this subsection (13), "significant  
1108 damage" to a health care facility means damage to the health care  
1109 facility requiring an expenditure of at least One Million Dollars  
1110 (\$1,000,000.00).

1111 (14) The State Department of Health shall issue a  
1112 certificate of need to any hospital which is currently licensed



1113 for two hundred fifty (250) or more acute care beds and is located  
1114 in any general hospital service area not having a comprehensive  
1115 cancer center, for the establishment and equipping of such a  
1116 center which provides facilities and services for outpatient  
1117 radiation oncology therapy, outpatient medical oncology therapy,  
1118 and appropriate support services including the provision of  
1119 radiation therapy services. The provisions of Section 41-7-193(1)  
1120 regarding substantial compliance with the projection of need as  
1121 reported in the current State Health Plan are waived for the  
1122 purpose of this subsection.

1123 (15) The State Department of Health may authorize the  
1124 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1125 North Panola Community Hospital to the South Panola Community  
1126 Hospital. The authorization for the transfer of those beds shall  
1127 be exempt from the certificate of need review process.

1128 (16) The State Department of Health shall issue any  
1129 certificates of need necessary for Mississippi State University  
1130 and a public or private health care provider to jointly acquire  
1131 and operate a linear accelerator and a magnetic resonance imaging  
1132 unit. Those certificates of need shall cover all capital  
1133 expenditures related to the project between Mississippi State  
1134 University and the health care provider, including, but not  
1135 limited to, the acquisition of the linear accelerator, the  
1136 magnetic resonance imaging unit and other radiological modalities;  
1137 the offering of linear accelerator and magnetic resonance imaging



1138 services; and the cost of construction of facilities in which to  
1139 locate these services. The linear accelerator and the magnetic  
1140 resonance imaging unit shall be (a) located in the City of  
1141 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1142 Mississippi State University and the public or private health care  
1143 provider selected by Mississippi State University through a  
1144 request for proposals (RFP) process in which Mississippi State  
1145 University selects, and the Board of Trustees of State  
1146 Institutions of Higher Learning approves, the health care provider  
1147 that makes the best overall proposal; (c) available to Mississippi  
1148 State University for research purposes two-thirds (2/3) of the  
1149 time that the linear accelerator and magnetic resonance imaging  
1150 unit are operational; and (d) available to the public or private  
1151 health care provider selected by Mississippi State University and  
1152 approved by the Board of Trustees of State Institutions of Higher  
1153 Learning one-third (1/3) of the time for clinical, diagnostic and  
1154 treatment purposes. For purposes of this subsection, the  
1155 provisions of Section 41-7-193(1) requiring substantial compliance  
1156 with the projection of need as reported in the current State  
1157 Health Plan are waived.

1158 (17) The State Department of Health shall issue a  
1159 certificate of need for the construction of an acute care hospital  
1160 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1161 be named the "John C. Stennis Memorial Hospital." In issuing the  
1162 certificate of need under this subsection, the department shall



1163 give priority to a hospital located in Lauderdale County that has  
1164 two hundred fifteen (215) beds. For purposes of this subsection,  
1165 the provisions of Section 41-7-193(1) requiring substantial  
1166 compliance with the projection of need as reported in the current  
1167 State Health Plan and the provisions of Section 41-7-197 requiring  
1168 a formal certificate of need hearing process are waived. There  
1169 shall be no prohibition or restrictions on participation in the  
1170 Medicaid program (Section 43-13-101 et seq.) for the person or  
1171 entity receiving the certificate of need authorized under this  
1172 subsection or for the beds constructed under the authority of that  
1173 certificate of need.

1174 (18) The planning, design, construction, renovation,  
1175 addition, furnishing and equipping of a clinical research unit at  
1176 any health care facility defined in Section 41-7-173(h) that is  
1177 under the direction and control of the University of Mississippi  
1178 Medical Center and located in Jackson, Mississippi, and the  
1179 addition of new beds or the conversion of beds from one (1)  
1180 category to another in any such clinical research unit, shall not  
1181 require the issuance of a certificate of need under Section  
1182 41-7-171 et seq., notwithstanding any provision in Section  
1183 41-7-171 et seq. to the contrary.

1184 (19) [Repealed]

1185 (20) Nothing in this section or in any other provision of  
1186 Section 41-7-171 et seq. shall prevent any nursing facility from  
1187 designating an appropriate number of existing beds in the facility





1188 as beds for providing care exclusively to patients with  
1189 Alzheimer's disease.

1190 (21) Nothing in this section or any other provision of  
1191 Section 41-7-171 et seq. shall prevent any health care facility  
1192 from the new construction, renovation, conversion or expansion of  
1193 new beds in the facility designated as intensive care units,  
1194 negative pressure rooms, or isolation rooms pursuant to the  
1195 provisions of Sections 41-14-1 through 41-14-11, or Section  
1196 41-14-31. For purposes of this subsection, the provisions of  
1197 Section 41-7-193(1) requiring substantial compliance with the  
1198 projection of need as reported in the current State Health Plan  
1199 and the provisions of Section 41-7-197 requiring a formal  
1200 certificate of need hearing process are waived.

1201 **SECTION 2.** This act shall take effect and be in force from  
1202 and after July 1, 2023.

