

By: Senator(s) Wiggins

To: Medicaid; Corrections

SENATE BILL NO. 2656

1 AN ACT TO BRING FORWARD SECTIONS 41-85-5, 43-11-1, 43-11-13,
2 47-5-28, 47-7-4 AND 41-7-191, MISSISSIPPI CODE OF 1972, WHICH ARE
3 VARIOUS PROVISIONS RELATED TO MEDICAID, CORRECTIONS, CERTIFICATES
4 OF NEED AND A SPECIAL CARE FACILITY FOR PAROLED INMATES, FOR THE
5 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-85-5, Mississippi Code of 1972, is
8 brought forward as follows:

9 41-85-5. (1) It is unlawful for a person to operate or
10 maintain a hospice, use the title "hospice," or represent that the
11 person provides a hospice program of care, without first obtaining
12 a license therefor from the department.

13 (2) The license shall be displayed in a conspicuous place
14 inside the hospice program office; shall be valid only in the
15 possession of the person to which it is issued; shall not be
16 subject to sale, assignment or other transfer, voluntary or
17 involuntary; and shall not be valid for any hospice other than the
18 hospice for which originally issued.



19 (3) Services provided by a hospital, nursing home or other
20 health care facility or health care provider shall not be
21 considered to constitute a hospice program of care unless such
22 facility, provider or care giver establishes a freestanding or
23 distinct hospice unit, staff, facility and services to provide
24 hospice home care, homelike inpatient hospice care, or outpatient
25 hospice care under the separate and distinct administrative
26 authority of a hospice program.

27 (4) A license for a hospice program shall not be issued if
28 the hospice is to be located in an area in violation of any local
29 zoning ordinances or regulations.

30 (5) The Department of Corrections may provide hospice care
31 services to inmates confined in facilities under the jurisdiction
32 of the department as authorized under Section 47-5-178 without a
33 license issued under this chapter.

34 **SECTION 2.** Section 43-11-1, Mississippi Code of 1972, is
35 brought forward as follows:

36 43-11-1. When used in this chapter, the following words
37 shall have the following meaning:

38 (a) "Institutions for the aged or infirm" means a place
39 either governmental or private that provides group living
40 arrangements for four (4) or more persons who are unrelated to the
41 operator and who are being provided food, shelter and personal
42 care, whether any such place is organized or operated for profit
43 or not. The term "institution for the aged or infirm" includes



44 nursing homes, pediatric skilled nursing facilities, psychiatric
45 residential treatment facilities, convalescent homes, homes for
46 the aged, adult foster care facilities and special care facilities
47 for paroled inmates, provided that these institutions fall within
48 the scope of the definitions set forth above. The term
49 "institution for the aged or infirm" does not include hospitals,
50 clinics or mental institutions devoted primarily to providing
51 medical service, and does not include any private residence in
52 which the owner of the residence is providing personal care
53 services to disabled or homeless veterans under an agreement with,
54 and in compliance with the standards prescribed by, the United
55 States Department of Veterans Affairs, if the owner of the
56 residence also provided personal care services to disabled or
57 homeless veterans at any time during calendar year 2008.

58 (b) "Person" means any individual, firm, partnership,
59 corporation, company, association or joint-stock association, or
60 any licensee herein or the legal successor thereof.

61 (c) "Personal care" means assistance rendered by
62 personnel of the home to aged or infirm residents in performing
63 one or more of the activities of daily living, which includes, but
64 is not limited to, the bathing, walking, excretory functions,
65 feeding, personal grooming and dressing of such residents.

66 (d) "Psychiatric residential treatment facility" means
67 any nonhospital establishment with permanent facilities which
68 provides a twenty-four-hour program of care by qualified



69 therapists, including, but not limited to, duly licensed mental
70 health professionals, psychiatrists, psychologists,
71 psychotherapists and licensed certified social workers, for
72 emotionally disturbed children and adolescents referred to such
73 facility by a court, local school district or by the Department of
74 Human Services, who are not in an acute phase of illness requiring
75 the services of a psychiatric hospital, and are in need of such
76 restorative treatment services. For purposes of this paragraph,
77 the term "emotionally disturbed" means a condition exhibiting one
78 or more of the following characteristics over a long period of
79 time and to a marked degree, which adversely affects educational
80 performance:

- 81 1. An inability to learn which cannot be explained
82 by intellectual, sensory or health factors;
- 83 2. An inability to build or maintain satisfactory
84 relationships with peers and teachers;
- 85 3. Inappropriate types of behavior or feelings
86 under normal circumstances;
- 87 4. A general pervasive mood of unhappiness or
88 depression; or
- 89 5. A tendency to develop physical symptoms or
90 fears associated with personal or school problems. An
91 establishment furnishing primarily domiciliary care is not within
92 this definition.



93 (e) "Pediatric skilled nursing facility" means an
94 institution or a distinct part of an institution that is primarily
95 engaged in providing to inpatients skilled nursing care and
96 related services for persons under twenty-one (21) years of age
97 who require medical or nursing care or rehabilitation services for
98 the rehabilitation of injured, disabled or sick persons.

99 (f) "Licensing agency" means the State Department of
100 Health.

101 (g) "Medical records" mean, without restriction, those
102 medical histories, records, reports, summaries, diagnoses and
103 prognoses, records of treatment and medication ordered and given,
104 notes, entries, x-rays and other written or graphic data prepared,
105 kept, made or maintained in institutions for the aged or infirm
106 that pertain to residency in, or services rendered to residents
107 of, an institution for the aged or infirm.

108 (h) "Adult foster care facility" means a home setting
109 for vulnerable adults in the community who are unable to live
110 independently due to physical, emotional, developmental or mental
111 impairments, or in need of emergency and continuing protective
112 social services for purposes of preventing further abuse or
113 neglect and for safeguarding and enhancing the welfare of the
114 abused or neglected vulnerable adult. Adult foster care programs
115 shall be designed to meet the needs of vulnerable adults with
116 impairments through individual plans of care, which provide a
117 variety of health, social and related support services in a



118 protective setting, enabling participants to live in the
119 community. Adult foster care programs may be (i) traditional,
120 where the foster care provider lives in the residence and is the
121 primary caregiver to clients in the home; (ii) corporate, where
122 the foster care home is operated by a corporation with shift staff
123 delivering services to clients; or (iii) shelter, where the foster
124 care home accepts clients on an emergency short-term basis for up
125 to thirty (30) days.

126 (i) "Special care facilities for paroled inmates" means
127 long-term care and skilled nursing facilities licensed as special
128 care facilities for medically frail paroled inmates, formed to
129 ease the burden of prison overcrowding and provide compassionate
130 release and medical parole initiatives while impacting economic
131 outcomes for the Mississippi prison system. The facilities shall
132 meet all Mississippi Department of Health and federal Center for
133 Medicaid Services (CMS) requirements and shall be regulated by
134 both agencies; provided, however, such regulations shall not be as
135 restrictive as those required for personal care homes and other
136 institutions devoted primarily to providing medical services. The
137 facilities will offer physical, occupational and speech therapy,
138 nursing services, wound care, a dedicated COVID services unit,
139 individualized patient centered plans of care, social services,
140 spiritual services, physical activities, transportation,
141 medication, durable medical equipment, personalized meal plans by
142 a licensed dietician and security services. There may be up to



143 three (3) facilities located in each Supreme Court district, to be
144 designated by the Chairman of the State Parole Board or his
145 designee.

146 **SECTION 3.** Section 43-11-13, Mississippi Code of 1972, is
147 brought forward as follows:

148 43-11-13. (1) The licensing agency shall adopt, amend,
149 promulgate and enforce such rules, regulations and standards,
150 including classifications, with respect to all institutions for
151 the aged or infirm to be licensed under this chapter as may be
152 designed to further the accomplishment of the purpose of this
153 chapter in promoting adequate care of individuals in those
154 institutions in the interest of public health, safety and welfare.
155 Those rules, regulations and standards shall be adopted and
156 promulgated by the licensing agency and shall be recorded and
157 indexed in a book to be maintained by the licensing agency in its
158 main office in the State of Mississippi, entitled "Rules,
159 Regulations and Minimum Standards for Institutions for the Aged or
160 Infirm" and the book shall be open and available to all
161 institutions for the aged or infirm and the public generally at
162 all reasonable times. Upon the adoption of those rules,
163 regulations and standards, the licensing agency shall mail copies
164 thereof to all those institutions in the state that have filed
165 with the agency their names and addresses for this purpose, but
166 the failure to mail the same or the failure of the institutions to
167 receive the same shall in no way affect the validity thereof. The



168 rules, regulations and standards may be amended by the licensing
169 agency, from time to time, as necessary to promote the health,
170 safety and welfare of persons living in those institutions.

171 (2) The licensee shall keep posted in a conspicuous place on
172 the licensed premises all current rules, regulations and minimum
173 standards applicable to fire protection measures as adopted by the
174 licensing agency. The licensee shall furnish to the licensing
175 agency at least once each six (6) months a certificate of approval
176 and inspection by state or local fire authorities. Failure to
177 comply with state laws and/or municipal ordinances and current
178 rules, regulations and minimum standards as adopted by the
179 licensing agency, relative to fire prevention measures, shall be
180 prima facie evidence for revocation of license.

181 (3) The State Board of Health shall promulgate rules and
182 regulations restricting the storage, quantity and classes of drugs
183 allowed in personal care homes and adult foster care facilities.
184 Residents requiring administration of Schedule II Narcotics as
185 defined in the Uniform Controlled Substances Law may be admitted
186 to a personal care home. Schedule drugs may only be allowed in a
187 personal care home if they are administered or stored utilizing
188 proper procedures under the direct supervision of a licensed
189 physician or nurse.

190 (4) (a) Notwithstanding any determination by the licensing
191 agency that skilled nursing services would be appropriate for a
192 resident of a personal care home, that resident, the resident's



193 guardian or the legally recognized responsible party for the
194 resident may consent in writing for the resident to continue to
195 reside in the personal care home, if approved in writing by a
196 licensed physician. However, no personal care home shall allow
197 more than two (2) residents, or ten percent (10%) of the total
198 number of residents in the facility, whichever is greater, to
199 remain in the personal care home under the provisions of this
200 subsection (4). This consent shall be deemed to be appropriately
201 informed consent as described in the regulations promulgated by
202 the licensing agency. After that written consent has been
203 obtained, the resident shall have the right to continue to reside
204 in the personal care home for as long as the resident meets the
205 other conditions for residing in the personal care home. A copy
206 of the written consent and the physician's approval shall be
207 forwarded by the personal care home to the licensing agency.

208 (b) The State Board of Health shall promulgate rules
209 and regulations restricting the handling of a resident's personal
210 deposits by the director of a personal care home. Any funds given
211 or provided for the purpose of supplying extra comforts,
212 conveniences or services to any resident in any personal care
213 home, and any funds otherwise received and held from, for or on
214 behalf of any such resident, shall be deposited by the director or
215 other proper officer of the personal care home to the credit of
216 that resident in an account that shall be known as the Resident's
217 Personal Deposit Fund. No more than one (1) month's charge for



218 the care, support, maintenance and medical attention of the
219 resident shall be applied from the account at any one time. After
220 the death, discharge or transfer of any resident for whose benefit
221 any such fund has been provided, any unexpended balance remaining
222 in his personal deposit fund shall be applied for the payment of
223 care, cost of support, maintenance and medical attention that is
224 accrued. If any unexpended balance remains in that resident's
225 personal deposit fund after complete reimbursement has been made
226 for payment of care, support, maintenance and medical attention,
227 and the director or other proper officer of the personal care home
228 has been or shall be unable to locate the person or persons
229 entitled to the unexpended balance, the director or other proper
230 officer may, after the lapse of one (1) year from the date of that
231 death, discharge or transfer, deposit the unexpended balance to
232 the credit of the personal care home's operating fund.

233 (c) The State Board of Health shall promulgate rules
234 and regulations requiring personal care homes to maintain records
235 relating to health condition, medicine dispensed and administered,
236 and any reaction to that medicine. The director of the personal
237 care home shall be responsible for explaining the availability of
238 those records to the family of the resident at any time upon
239 reasonable request.

240 (5) The State Board of Health and the Mississippi Department
241 of Corrections shall jointly issue rules and regulations for the
242 operation of the special care facilities for paroled inmates.



243 (6) (a) For the purposes of this subsection (6):

244 (i) "Licensed entity" means a hospital, nursing
245 home, personal care home, home health agency, hospice or adult
246 foster care facility;

247 (ii) "Covered entity" means a licensed entity or a
248 health care professional staffing agency;

249 (iii) "Employee" means any individual employed by
250 a covered entity, and also includes any individual who by contract
251 provides to the patients, residents or clients being served by the
252 covered entity direct, hands-on, medical patient care in a
253 patient's, resident's or client's room or in treatment or recovery
254 rooms. The term "employee" does not include health care
255 professional/vocational technical students performing clinical
256 training in a licensed entity under contracts between their
257 schools and the licensed entity, and does not include students at
258 high schools located in Mississippi who observe the treatment and
259 care of patients in a licensed entity as part of the requirements
260 of an allied-health course taught in the high school, if:

261 1. The student is under the supervision of a
262 licensed health care provider; and

263 2. The student has signed an affidavit that
264 is on file at the student's school stating that he or she has not
265 been convicted of or pleaded guilty or nolo contendere to a felony
266 listed in paragraph (d) of this subsection (6), or that any such
267 conviction or plea was reversed on appeal or a pardon was granted



268 for the conviction or plea. Before any student may sign such an
269 affidavit, the student's school shall provide information to the
270 student explaining what a felony is and the nature of the felonies
271 listed in paragraph (d) of this subsection (6).

272 However, the health care professional/vocational technical
273 academic program in which the student is enrolled may require the
274 student to obtain criminal history record checks. In such
275 incidences, paragraph (a)(iii)1 and 2 of this subsection (6) does
276 not preclude the licensing entity from processing submitted
277 fingerprints of students from healthcare-related
278 professional/vocational technical programs who, as part of their
279 program of study, conduct observations and provide clinical care
280 and services in a covered entity.

281 (b) Under regulations promulgated by the State Board of
282 Health, the licensing agency shall require to be performed a
283 criminal history record check on (i) every new employee of a
284 covered entity who provides direct patient care or services and
285 who is employed on or after July 1, 2003, and (ii) every employee
286 of a covered entity employed before July 1, 2003, who has a
287 documented disciplinary action by his or her present employer. In
288 addition, the licensing agency shall require the covered entity to
289 perform a disciplinary check with the professional licensing
290 agency of each employee, if any, to determine if any disciplinary
291 action has been taken against the employee by that agency.



292 Except as otherwise provided in paragraph (c) of this
293 subsection (6), no such employee hired on or after July 1, 2003,
294 shall be permitted to provide direct patient care until the
295 results of the criminal history record check have revealed no
296 disqualifying record or the employee has been granted a waiver.
297 In order to determine the employee applicant's suitability for
298 employment, the applicant shall be fingerprinted. Fingerprints
299 shall be submitted to the licensing agency from scanning, with the
300 results processed through the Department of Public Safety's
301 Criminal Information Center. The fingerprints shall then be
302 forwarded by the Department of Public Safety to the Federal Bureau
303 of Investigation for a national criminal history record check.
304 The licensing agency shall notify the covered entity of the
305 results of an employee applicant's criminal history record check.
306 If the criminal history record check discloses a felony
307 conviction, guilty plea or plea of nolo contendere to a felony of
308 possession or sale of drugs, murder, manslaughter, armed robbery,
309 rape, sexual battery, sex offense listed in Section 45-33-23(h),
310 child abuse, arson, grand larceny, burglary, gratification of lust
311 or aggravated assault, or felonious abuse and/or battery of a
312 vulnerable adult that has not been reversed on appeal or for which
313 a pardon has not been granted, the employee applicant shall not be
314 eligible to be employed by the covered entity.

315 (c) Any such new employee applicant may, however, be
316 employed on a temporary basis pending the results of the criminal



317 history record check, but any employment contract with the new
318 employee shall be voidable if the new employee receives a
319 disqualifying criminal history record check and no waiver is
320 granted as provided in this subsection (6).

321 (d) Under regulations promulgated by the State Board of
322 Health, the licensing agency shall require every employee of a
323 covered entity employed before July 1, 2003, to sign an affidavit
324 stating that he or she has not been convicted of or pleaded guilty
325 or nolo contendere to a felony of possession or sale of drugs,
326 murder, manslaughter, armed robbery, rape, sexual battery, any sex
327 offense listed in Section 45-33-23(h), child abuse, arson, grand
328 larceny, burglary, gratification of lust, aggravated assault, or
329 felonious abuse and/or battery of a vulnerable adult, or that any
330 such conviction or plea was reversed on appeal or a pardon was
331 granted for the conviction or plea. No such employee of a covered
332 entity hired before July 1, 2003, shall be permitted to provide
333 direct patient care until the employee has signed the affidavit
334 required by this paragraph (d). All such existing employees of
335 covered entities must sign the affidavit required by this
336 paragraph (d) within six (6) months of the final adoption of the
337 regulations promulgated by the State Board of Health. If a person
338 signs the affidavit required by this paragraph (d), and it is
339 later determined that the person actually had been convicted of or
340 pleaded guilty or nolo contendere to any of the offenses listed in
341 this paragraph (d) and the conviction or plea has not been



342 reversed on appeal or a pardon has not been granted for the
343 conviction or plea, the person is guilty of perjury. If the
344 offense that the person was convicted of or pleaded guilty or nolo
345 contendere to was a violent offense, the person, upon a conviction
346 of perjury under this paragraph, shall be punished as provided in
347 Section 97-9-61. If the offense that the person was convicted of
348 or pleaded guilty or nolo contendere to was a nonviolent offense,
349 the person, upon a conviction of perjury under this paragraph,
350 shall be punished by a fine of not more than Five Hundred Dollars
351 (\$500.00), or by imprisonment in the county jail for not more than
352 six (6) months, or by both such fine and imprisonment.

353 (e) The covered entity may, in its discretion, allow
354 any employee who is unable to sign the affidavit required by
355 paragraph (d) of this subsection (6) or any employee applicant
356 aggrieved by an employment decision under this subsection (6) to
357 appear before the covered entity's hiring officer, or his or her
358 designee, to show mitigating circumstances that may exist and
359 allow the employee or employee applicant to be employed by the
360 covered entity. The covered entity, upon report and
361 recommendation of the hiring officer, may grant waivers for those
362 mitigating circumstances, which shall include, but not be limited
363 to: (i) age at which the crime was committed; (ii) circumstances
364 surrounding the crime; (iii) length of time since the conviction
365 and criminal history since the conviction; (iv) work history; (v)
366 current employment and character references; and (vi) other



367 evidence demonstrating the ability of the individual to perform
368 the employment responsibilities competently and that the
369 individual does not pose a threat to the health or safety of the
370 patients of the covered entity.

371 (f) The licensing agency may charge the covered entity
372 submitting the fingerprints a fee not to exceed Fifty Dollars
373 (\$50.00), which covered entity may, in its discretion, charge the
374 same fee, or a portion thereof, to the employee applicant. Any
375 increase in the fee charged by the licensing agency under this
376 paragraph shall be in accordance with the provisions of Section
377 41-3-65. Any costs incurred by a covered entity implementing this
378 subsection (6) shall be reimbursed as an allowable cost under
379 Section 43-13-116.

380 (g) If the results of an employee applicant's criminal
381 history record check reveals no disqualifying event, then the
382 covered entity shall, within two (2) weeks of the notification of
383 no disqualifying event, provide the employee applicant with a
384 notarized letter signed by the chief executive officer of the
385 covered entity, or his or her authorized designee, confirming the
386 employee applicant's suitability for employment based on his or
387 her criminal history record check. An employee applicant may use
388 that letter for a period of two (2) years from the date of the
389 letter to seek employment with any covered entity without the
390 necessity of an additional criminal history record check. Any
391 covered entity presented with the letter may rely on the letter



392 with respect to an employee applicant's criminal background and is
393 not required for a period of two (2) years from the date of the
394 letter to conduct or have conducted a criminal history record
395 check as required in this subsection (6).

396 (h) The licensing agency, the covered entity, and their
397 agents, officers, employees, attorneys and representatives, shall
398 be presumed to be acting in good faith for any employment decision
399 or action taken under this subsection (6). The presumption of
400 good faith may be overcome by a preponderance of the evidence in
401 any civil action. No licensing agency, covered entity, nor their
402 agents, officers, employees, attorneys and representatives shall
403 be held liable in any employment decision or action based in whole
404 or in part on compliance with or attempts to comply with the
405 requirements of this subsection (6).

406 (i) The licensing agency shall promulgate regulations
407 to implement this subsection (6).

408 (j) The provisions of this subsection (6) shall not
409 apply to:

410 (i) Applicants and employees of the University of
411 Mississippi Medical Center for whom criminal history record checks
412 and fingerprinting are obtained in accordance with Section
413 37-115-41; or

414 (ii) Health care professional/vocational technical
415 students for whom criminal history record checks and
416 fingerprinting are obtained in accordance with Section 37-29-232.



417 (7) The State Board of Health shall promulgate rules,
418 regulations and standards regarding the operation of adult foster
419 care facilities.

420 **SECTION 4.** Section 47-5-28, Mississippi Code of 1972, is
421 brought forward as follows:

422 47-5-28. The commissioner shall have the following powers
423 and duties:

424 (a) To implement and administer laws and policy
425 relating to corrections and coordinate the efforts of the
426 department with those of the federal government and other state
427 departments and agencies, county governments, municipal
428 governments, and private agencies concerned with providing
429 offender services;

430 (b) To establish standards, in cooperation with other
431 state agencies having responsibility as provided by law, provide
432 technical assistance, and exercise the requisite supervision as it
433 relates to correctional programs over all state-supported adult
434 correctional facilities and community-based programs;

435 (c) To promulgate and publish such rules, regulations
436 and policies of the department as are needed for the efficient
437 government and maintenance of all facilities and programs in
438 accord insofar as possible with currently accepted standards of
439 adult offender care and treatment;

440 (d) To provide the Parole Board with suitable and
441 sufficient office space and support resources and staff necessary



442 to conduct Parole Board business under the guidance of the
443 Chairman of the Parole Board;

444 (e) To contract for transitional reentry center beds
445 that will be used as noncorrections housing for offenders released
446 from the department on parole, probation or post-release
447 supervision but do not have appropriate housing available upon
448 release. At least one hundred (100) but no more than eight
449 hundred (800) transitional reentry center beds contracted by the
450 department and chosen by the Parole Board shall be available for
451 the Parole Board to place parolees without appropriate housing;

452 (f) To designate deputy commissioners while performing
453 their officially assigned duties relating to the custody, control,
454 transportation, recapture or arrest of any offender within the
455 jurisdiction of the department or any offender of any jail,
456 penitentiary, public workhouse or overnight lockup of the state or
457 any political subdivision thereof not within the jurisdiction of
458 the department, to the status of peace officers anywhere in the
459 state in any matter relating to the custody, control,
460 transportation or recapture of such offender, and shall have the
461 status of law enforcement officers and peace officers as
462 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

463 For the purpose of administration and enforcement of this
464 chapter, deputy commissioners of the Mississippi Department of
465 Corrections, who are certified by the Mississippi Board on Law
466 Enforcement Officer Standards and Training, have the powers of a



467 law enforcement officer of this state. Such powers shall include
468 to make arrests and to serve and execute search warrants and other
469 valid legal process anywhere within the State of Mississippi while
470 performing their officially assigned duties relating to the
471 custody, control, transportation, recapture or arrest of any
472 offender within the jurisdiction of the department or any offender
473 of any jail, penitentiary, public workhouse or overnight lockup of
474 the state or any political subdivision thereof not within the
475 jurisdiction of the department in any matter relating to the
476 custody, control, transportation or recapture of such offender;

477 (g) To make an annual report to the Governor and the
478 Legislature reflecting the activities of the department and make
479 recommendations for improvement of the services to be performed by
480 the department;

481 (h) To cooperate fully with periodic independent
482 internal investigations of the department and to file the report
483 with the Governor and the Legislature;

484 (i) To contract with licensed special care facilities
485 for paroled inmates to provide authorized medical services and
486 support services for medically frail inmates who have been paroled
487 and who have voluntarily submitted to the Department of Corrections
488 an address to one of the licensed care facilities to receive such
489 services; and



490 (j) To perform such other duties necessary to
491 effectively and efficiently carry out the purposes of the
492 department as may be directed by the Governor.

493 **SECTION 5.** Section 47-7-4, Mississippi Code of 1972, is
494 brought forward as follows:

495 47-7-4. (1) The commissioner and the medical director of
496 the department may place an offender who has served not less than
497 one (1) year of his or her sentence, except an offender convicted
498 of a sex crime, on conditional medical release. However, a
499 nonviolent offender who is bedridden may be placed on conditional
500 medical release regardless of the time served on his or her
501 sentence. Upon the release of a nonviolent offender who is
502 bedridden, the state shall not be responsible or liable for any
503 medical costs that may be incurred if such costs are acquired
504 after the offender is no longer incarcerated due to his or her
505 placement on conditional medical release. The commissioner shall
506 not place an offender on conditional medical release unless the
507 medical director of the department certifies to the commissioner
508 that (a) the offender is suffering from a significant permanent
509 physical medical condition with no possibility of recovery; (b)
510 that his or her further incarceration will serve no rehabilitative
511 purposes; and (c) that the state would incur unreasonable expenses
512 as a result of his or her continued incarceration. Any offender
513 placed on conditional medical release shall be supervised by the
514 Division of Community Corrections of the department for the



515 remainder of his or her sentence. An offender's conditional
516 medical release may be revoked and the offender returned and
517 placed in actual custody of the department if the offender
518 violates an order or condition of his or her conditional medical
519 release. An offender who is no longer bedridden shall be returned
520 and placed in the actual custody of the department.

521 (2) (a) The State Parole Board may grant a medical parole
522 and referral to licensed special care facilities for paroled
523 inmates for an inmate determined to be "medically frail" as
524 defined in this subsection.

525 (b) For purposes of this subsection (2), the term
526 "medically frail" means an individual who has a mental or physical
527 medical condition from which he or she, to a reasonable degree of
528 medical certainty, is not expected to recover and as a result
529 cannot perform daily living activities and who is a minimal threat
530 to society as a result of the mental or physical medical
531 condition.

532 (c) The following conditions apply to a parole granted
533 under this subsection (2):

534 (i) An inmate who has been sentenced to capital
535 punishment is not eligible;

536 (ii) An inmate who has been convicted as a
537 criminal sex offender is not eligible;

538 (iii) An inmate does not pose a public safety risk
539 or risk of flight as determined by the State Parole Board;



540 (iv) If the prisoner is incapacitated as a result
541 of a mental or physical medical condition as prescribed under
542 paragraph (b) of this subsection, an individual legally entitled
543 to agree to the inmate's placement agrees to the inmate's
544 placement in a licensed special care facility for paroled inmates
545 or in a medical facility where medical care and treatment are
546 determined to be appropriate for the parolee by the State Parole
547 Board;

548 (v) An inmate shall agree to the release of his or
549 her medical records that are directly relevant to the condition or
550 conditions rendering the inmate medically frail to any prosecuting
551 attorney of the county from which the inmate was committed before
552 the State Parole Board determines whether or not to grant parole
553 under this subsection;

554 (vi) If the inmate is granted parole under this
555 subsection (2), the inmate shall agree to the quarterly release of
556 his or her medical records that are directly relevant to the
557 condition or conditions rendering the inmate medically frail at
558 the request of any prosecuting attorney of the county from which
559 the inmate was committed;

560 (vii) The parolee shall adhere to the terms of his
561 or her parole for the length of his or her parole term, and the
562 parole shall be for a term not less than the time necessary to
563 reach the prisoner's earliest release date;



564 (viii) The department or the State Parole Board
565 shall not retain authority over the medical treatment plan for the
566 inmate granted parole under this subsection (2);

567 (ix) The department and the State Parole Board
568 shall ensure that the placement and terms and conditions of parole
569 granted under this subsection (2) do not violate any other state
570 or federal regulations;

571 (x) A facility utilized by the department to
572 facilitate parole under this subsection (2) shall be operated in a
573 manner that ensures the safety of the residents of the facility;

574 (xi) If the inmate recovers from the mental or
575 physical medical condition that rendered the inmate medically
576 frail under this subsection (2), the State Parole Board shall
577 revoke the parole granted under this subsection (2), and the
578 department shall ensure that the inmate returns to incarceration.

579 (d) The Mississippi Department of Corrections may enter
580 into contracts to facilitate the housing of paroled inmates under
581 this subsection (2). The Mississippi Department of Corrections
582 shall appoint a specialist in the appropriate field of medicine,
583 who is not employed by the department, to evaluate the condition
584 of the inmate considered for parole under this subsection (2) and
585 to report on that condition to the department and the State Parole
586 Board. The State Parole Board shall determine whether the inmate
587 is medically frail in consultation with the Mississippi Department
588 of Health.



589 **SECTION 6.** Section 41-7-191, Mississippi Code of 1972, is
590 brought forward as follows:

591 41-7-191. (1) No person shall engage in any of the
592 following activities without obtaining the required certificate of
593 need:

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

598 (b) The relocation of a health care facility or portion
599 thereof, or major medical equipment, unless such relocation of a
600 health care facility or portion thereof, or major medical
601 equipment, which does not involve a capital expenditure by or on
602 behalf of a health care facility, is within five thousand two
603 hundred eighty (5,280) feet from the main entrance of the health
604 care facility;

605 (c) Any change in the existing bed complement of any
606 health care facility through the addition or conversion of any
607 beds or the alteration, modernizing or refurbishing of any unit or
608 department in which the beds may be located; however, if a health
609 care facility has voluntarily delicensed some of its existing bed
610 complement, it may later relicense some or all of its delicensed
611 beds without the necessity of having to acquire a certificate of
612 need. The State Department of Health shall maintain a record of
613 the delicensing health care facility and its voluntarily



614 delicensed beds and continue counting those beds as part of the
615 state's total bed count for health care planning purposes. If a
616 health care facility that has voluntarily delicensed some of its
617 beds later desires to relicense some or all of its voluntarily
618 delicensed beds, it shall notify the State Department of Health of
619 its intent to increase the number of its licensed beds. The State
620 Department of Health shall survey the health care facility within
621 thirty (30) days of that notice and, if appropriate, issue the
622 health care facility a new license reflecting the new contingent
623 of beds. However, in no event may a health care facility that has
624 voluntarily delicensed some of its beds be reissued a license to
625 operate beds in excess of its bed count before the voluntary
626 delicensure of some of its beds without seeking certificate of
627 need approval;

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

- 632 (i) Open-heart surgery services;
- 633 (ii) Cardiac catheterization services;
- 634 (iii) Comprehensive inpatient rehabilitation
635 services;
- 636 (iv) Licensed psychiatric services;
- 637 (v) Licensed chemical dependency services;
- 638 (vi) Radiation therapy services;



639 (vii) Diagnostic imaging services of an invasive
640 nature, i.e. invasive digital angiography;
641 (viii) Nursing home care as defined in
642 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
643 (ix) Home health services;
644 (x) Swing-bed services;
645 (xi) Ambulatory surgical services;
646 (xii) Magnetic resonance imaging services;
647 (xiii) [Deleted]
648 (xiv) Long-term care hospital services;
649 (xv) Positron emission tomography (PET) services;
650 (e) The relocation of one or more health services from
651 one physical facility or site to another physical facility or
652 site, unless such relocation, which does not involve a capital
653 expenditure by or on behalf of a health care facility, (i) is to a
654 physical facility or site within five thousand two hundred eighty
655 (5,280) feet from the main entrance of the health care facility
656 where the health care service is located, or (ii) is the result of
657 an order of a court of appropriate jurisdiction or a result of
658 pending litigation in such court, or by order of the State
659 Department of Health, or by order of any other agency or legal
660 entity of the state, the federal government, or any political
661 subdivision of either, whose order is also approved by the State
662 Department of Health;



663 (f) The acquisition or otherwise control of any major
664 medical equipment for the provision of medical services; however,
665 (i) the acquisition of any major medical equipment used only for
666 research purposes, and (ii) the acquisition of major medical
667 equipment to replace medical equipment for which a facility is
668 already providing medical services and for which the State
669 Department of Health has been notified before the date of such
670 acquisition shall be exempt from this paragraph; an acquisition
671 for less than fair market value must be reviewed, if the
672 acquisition at fair market value would be subject to review;

673 (g) Changes of ownership of existing health care
674 facilities in which a notice of intent is not filed with the State
675 Department of Health at least thirty (30) days prior to the date
676 such change of ownership occurs, or a change in services or bed
677 capacity as prescribed in paragraph (c) or (d) of this subsection
678 as a result of the change of ownership; an acquisition for less
679 than fair market value must be reviewed, if the acquisition at
680 fair market value would be subject to review;

681 (h) The change of ownership of any health care facility
682 defined in subparagraphs (iv), (vi) and (viii) of Section
683 41-7-173(h), in which a notice of intent as described in paragraph
684 (g) has not been filed and if the Executive Director, Division of
685 Medicaid, Office of the Governor, has not certified in writing
686 that there will be no increase in allowable costs to Medicaid from



687 revaluation of the assets or from increased interest and
688 depreciation as a result of the proposed change of ownership;

689 (i) Any activity described in paragraphs (a) through
690 (h) if undertaken by any person if that same activity would
691 require certificate of need approval if undertaken by a health
692 care facility;

693 (j) Any capital expenditure or deferred capital
694 expenditure by or on behalf of a health care facility not covered
695 by paragraphs (a) through (h);

696 (k) The contracting of a health care facility as
697 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
698 to establish a home office, subunit, or branch office in the space
699 operated as a health care facility through a formal arrangement
700 with an existing health care facility as defined in subparagraph
701 (ix) of Section 41-7-173(h);

702 (l) The replacement or relocation of a health care
703 facility designated as a critical access hospital shall be exempt
704 from subsection (1) of this section so long as the critical access
705 hospital complies with all applicable federal law and regulations
706 regarding such replacement or relocation;

707 (m) Reopening a health care facility that has ceased to
708 operate for a period of sixty (60) months or more, which reopening
709 requires a certificate of need for the establishment of a new
710 health care facility.



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

718 (a) The department may issue a certificate of need to
719 any person proposing the new construction of any health care
720 facility defined in subparagraphs (iv) and (vi) of Section
721 41-7-173(h) as part of a life care retirement facility, in any
722 county bordering on the Gulf of Mexico in which is located a
723 National Aeronautics and Space Administration facility, not to
724 exceed forty (40) beds. From and after July 1, 1999, there shall
725 be no prohibition or restrictions on participation in the Medicaid
726 program (Section 43-13-101 et seq.) for the beds in the health
727 care facility that were authorized under this paragraph (a).

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



735 (c) The department may issue a certificate of need for
736 the addition to or expansion of any skilled nursing facility that
737 is part of an existing continuing care retirement community
738 located in Madison County, provided that the recipient of the
739 certificate of need agrees in writing that the skilled nursing
740 facility will not at any time participate in the Medicaid program
741 (Section 43-13-101 et seq.) or admit or keep any patients in the
742 skilled nursing facility who are participating in the Medicaid
743 program. This written agreement by the recipient of the
744 certificate of need shall be fully binding on any subsequent owner
745 of the skilled nursing facility, if the ownership of the facility
746 is transferred at any time after the issuance of the certificate
747 of need. Agreement that the skilled nursing facility will not
748 participate in the Medicaid program shall be a condition of the
749 issuance of a certificate of need to any person under this
750 paragraph (c), and if such skilled nursing facility at any time
751 after the issuance of the certificate of need, regardless of the
752 ownership of the facility, participates in the Medicaid program or
753 admits or keeps any patients in the facility who are participating
754 in the Medicaid program, the State Department of Health shall
755 revoke the certificate of need, if it is still outstanding, and
756 shall deny or revoke the license of the skilled nursing facility,
757 at the time that the department determines, after a hearing
758 complying with due process, that the facility has failed to comply
759 with any of the conditions upon which the certificate of need was



760 issued, as provided in this paragraph and in the written agreement
761 by the recipient of the certificate of need. The total number of
762 beds that may be authorized under the authority of this paragraph
763 (c) shall not exceed sixty (60) beds.

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

772 (e) The State Department of Health may issue a
773 certificate of need for the construction of a nursing facility or
774 the conversion of beds to nursing facility beds at a personal care
775 facility for the elderly in Lowndes County that is owned and
776 operated by a Mississippi nonprofit corporation, not to exceed
777 sixty (60) beds. From and after July 1, 1999, there shall be no
778 prohibition or restrictions on participation in the Medicaid
779 program (Section 43-13-101 et seq.) for the beds in the nursing
780 facility that were authorized under this paragraph (e).

781 (f) The State Department of Health may issue a
782 certificate of need for conversion of a county hospital facility
783 in Itawamba County to a nursing facility, not to exceed sixty (60)
784 beds, including any necessary construction, renovation or



785 expansion. From and after July 1, 1999, there shall be no
786 prohibition or restrictions on participation in the Medicaid
787 program (Section 43-13-101 et seq.) for the beds in the nursing
788 facility that were authorized under this paragraph (f).

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

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

805 (i) The department may issue a certificate of need for
806 the new construction of a skilled nursing facility in Leake
807 County, provided that the recipient of the certificate of need
808 agrees in writing that the skilled nursing facility will not at
809 any time participate in the Medicaid program (Section 43-13-101 et



810 seq.) or admit or keep any patients in the skilled nursing
811 facility who are participating in the Medicaid program. This
812 written agreement by the recipient of the certificate of need
813 shall be fully binding on any subsequent owner of the skilled
814 nursing facility, if the ownership of the facility is transferred
815 at any time after the issuance of the certificate of need.
816 Agreement that the skilled nursing facility will not participate
817 in the Medicaid program shall be a condition of the issuance of a
818 certificate of need to any person under this paragraph (i), and if
819 such skilled nursing facility at any time after the issuance of
820 the certificate of need, regardless of the ownership of the
821 facility, participates in the Medicaid program or admits or keeps
822 any patients in the facility who are participating in the Medicaid
823 program, the State Department of Health shall revoke the
824 certificate of need, if it is still outstanding, and shall deny or
825 revoke the license of the skilled nursing facility, at the time
826 that the department determines, after a hearing complying with due
827 process, that the facility has failed to comply with any of the
828 conditions upon which the certificate of need was issued, as
829 provided in this paragraph and in the written agreement by the
830 recipient of the certificate of need. The provision of Section
831 41-7-193(1) regarding substantial compliance of the projection of
832 need as reported in the current State Health Plan is waived for
833 the purposes of this paragraph. The total number of nursing
834 facility beds that may be authorized by any certificate of need



835 issued under this paragraph (i) shall not exceed sixty (60) beds.
836 If the skilled nursing facility authorized by the certificate of
837 need issued under this paragraph is not constructed and fully
838 operational within eighteen (18) months after July 1, 1994, the
839 State Department of Health, after a hearing complying with due
840 process, shall revoke the certificate of need, if it is still
841 outstanding, and shall not issue a license for the skilled nursing
842 facility at any time after the expiration of the eighteen-month
843 period.

844 (j) The department may issue certificates of need to
845 allow any existing freestanding long-term care facility in
846 Tishomingo County and Hancock County that on July 1, 1995, is
847 licensed with fewer than sixty (60) beds. For the purposes of
848 this paragraph (j), the provisions of Section 41-7-193(1)
849 requiring substantial compliance with the projection of need as
850 reported in the current State Health Plan are waived. From and
851 after July 1, 1999, there shall be no prohibition or restrictions
852 on participation in the Medicaid program (Section 43-13-101 et
853 seq.) for the beds in the long-term care facilities that were
854 authorized under this paragraph (j).

855 (k) The department may issue a certificate of need for
856 the construction of a nursing facility at a continuing care
857 retirement community in Lowndes County. The total number of beds
858 that may be authorized under the authority of this paragraph (k)
859 shall not exceed sixty (60) beds. From and after July 1, 2001,



860 the prohibition on the facility participating in the Medicaid
861 program (Section 43-13-101 et seq.) that was a condition of
862 issuance of the certificate of need under this paragraph (k) shall
863 be revised as follows: The nursing facility may participate in
864 the Medicaid program from and after July 1, 2001, if the owner of
865 the facility on July 1, 2001, agrees in writing that no more than
866 thirty (30) of the beds at the facility will be certified for
867 participation in the Medicaid program, and that no claim will be
868 submitted for Medicaid reimbursement for more than thirty (30)
869 patients in the facility in any month or for any patient in the
870 facility who is in a bed that is not Medicaid-certified. This
871 written agreement by the owner of the facility shall be a
872 condition of licensure of the facility, and the agreement shall be
873 fully binding on any subsequent owner of the facility if the
874 ownership of the facility is transferred at any time after July 1,
875 2001. After this written agreement is executed, the Division of
876 Medicaid and the State Department of Health shall not certify more
877 than thirty (30) of the beds in the facility for participation in
878 the Medicaid program. If the facility violates the terms of the
879 written agreement by admitting or keeping in the facility on a
880 regular or continuing basis more than thirty (30) patients who are
881 participating in the Medicaid program, the State Department of
882 Health shall revoke the license of the facility, at the time that
883 the department determines, after a hearing complying with due
884 process, that the facility has violated the written agreement.



885 (1) Provided that funds are specifically appropriated
886 therefor by the Legislature, the department may issue a
887 certificate of need to a rehabilitation hospital in Hinds County
888 for the construction of a sixty-bed long-term care nursing
889 facility dedicated to the care and treatment of persons with
890 severe disabilities including persons with spinal cord and
891 closed-head injuries and ventilator dependent patients. The
892 provisions of Section 41-7-193(1) regarding substantial compliance
893 with projection of need as reported in the current State Health
894 Plan are waived for the purpose of this paragraph.

895 (m) The State Department of Health may issue a
896 certificate of need to a county-owned hospital in the Second
897 Judicial District of Panola County for the conversion of not more
898 than seventy-two (72) hospital beds to nursing facility beds,
899 provided that the recipient of the certificate of need agrees in
900 writing that none of the beds at the nursing facility will be
901 certified for participation in the Medicaid program (Section
902 43-13-101 et seq.), and that no claim will be submitted for
903 Medicaid reimbursement in the nursing facility in any day or for
904 any patient in the nursing facility. This written agreement by
905 the recipient of the certificate of need shall be a condition of
906 the issuance of the certificate of need under this paragraph, and
907 the agreement shall be fully binding on any subsequent owner of
908 the nursing facility if the ownership of the nursing facility is
909 transferred at any time after the issuance of the certificate of



910 need. After this written agreement is executed, the Division of
911 Medicaid and the State Department of Health shall not certify any
912 of the beds in the nursing facility for participation in the
913 Medicaid program. If the nursing facility violates the terms of
914 the written agreement by admitting or keeping in the nursing
915 facility on a regular or continuing basis any patients who are
916 participating in the Medicaid program, the State Department of
917 Health shall revoke the license of the nursing facility, at the
918 time that the department determines, after a hearing complying
919 with due process, that the nursing facility has violated the
920 condition upon which the certificate of need was issued, as
921 provided in this paragraph and in the written agreement. If the
922 certificate of need authorized under this paragraph is not issued
923 within twelve (12) months after July 1, 2001, the department shall
924 deny the application for the certificate of need and shall not
925 issue the certificate of need at any time after the twelve-month
926 period, unless the issuance is contested. If the certificate of
927 need is issued and substantial construction of the nursing
928 facility beds has not commenced within eighteen (18) months after
929 July 1, 2001, the State Department of Health, after a hearing
930 complying with due process, shall revoke the certificate of need
931 if it is still outstanding, and the department shall not issue a
932 license for the nursing facility at any time after the
933 eighteen-month period. However, if the issuance of the
934 certificate of need is contested, the department shall require



935 substantial construction of the nursing facility beds within six
936 (6) months after final adjudication on the issuance of the
937 certificate of need.

938 (n) The department may issue a certificate of need for
939 the new construction, addition or conversion of skilled nursing
940 facility beds in Madison County, provided that the recipient of
941 the certificate of need agrees in writing that the skilled nursing
942 facility will not at any time participate in the Medicaid program
943 (Section 43-13-101 et seq.) or admit or keep any patients in the
944 skilled nursing facility who are participating in the Medicaid
945 program. This written agreement by the recipient of the
946 certificate of need shall be fully binding on any subsequent owner
947 of the skilled nursing facility, if the ownership of the facility
948 is transferred at any time after the issuance of the certificate
949 of need. Agreement that the skilled nursing facility will not
950 participate in the Medicaid program shall be a condition of the
951 issuance of a certificate of need to any person under this
952 paragraph (n), and if such skilled nursing facility at any time
953 after the issuance of the certificate of need, regardless of the
954 ownership of the facility, participates in the Medicaid program or
955 admits or keeps any patients in the facility who are participating
956 in the Medicaid program, the State Department of Health shall
957 revoke the certificate of need, if it is still outstanding, and
958 shall deny or revoke the license of the skilled nursing facility,
959 at the time that the department determines, after a hearing



960 complying with due process, that the facility has failed to comply
961 with any of the conditions upon which the certificate of need was
962 issued, as provided in this paragraph and in the written agreement
963 by the recipient of the certificate of need. The total number of
964 nursing facility beds that may be authorized by any certificate of
965 need issued under this paragraph (n) shall not exceed sixty (60)
966 beds. If the certificate of need authorized under this paragraph
967 is not issued within twelve (12) months after July 1, 1998, the
968 department shall deny the application for the certificate of need
969 and shall not issue the certificate of need at any time after the
970 twelve-month period, unless the issuance is contested. If the
971 certificate of need is issued and substantial construction of the
972 nursing facility beds has not commenced within eighteen (18)
973 months after July 1, 1998, the State Department of Health, after a
974 hearing complying with due process, shall revoke the certificate
975 of need if it is still outstanding, and the department shall not
976 issue a license for the nursing facility at any time after the
977 eighteen-month period. However, if the issuance of the
978 certificate of need is contested, the department shall require
979 substantial construction of the nursing facility beds within six
980 (6) months after final adjudication on the issuance of the
981 certificate of need.

982 (o) The department may issue a certificate of need for
983 the new construction, addition or conversion of skilled nursing
984 facility beds in Leake County, provided that the recipient of the



985 certificate of need agrees in writing that the skilled nursing
986 facility will not at any time participate in the Medicaid program
987 (Section 43-13-101 et seq.) or admit or keep any patients in the
988 skilled nursing facility who are participating in the Medicaid
989 program. This written agreement by the recipient of the
990 certificate of need shall be fully binding on any subsequent owner
991 of the skilled nursing facility, if the ownership of the facility
992 is transferred at any time after the issuance of the certificate
993 of need. Agreement that the skilled nursing facility will not
994 participate in the Medicaid program shall be a condition of the
995 issuance of a certificate of need to any person under this
996 paragraph (o), and if such skilled nursing facility at any time
997 after the issuance of the certificate of need, regardless of the
998 ownership of the facility, participates in the Medicaid program or
999 admits or keeps any patients in the facility who are participating
1000 in the Medicaid program, the State Department of Health shall
1001 revoke the certificate of need, if it is still outstanding, and
1002 shall deny or revoke the license of the skilled nursing facility,
1003 at the time that the department determines, after a hearing
1004 complying with due process, that the facility has failed to comply
1005 with any of the conditions upon which the certificate of need was
1006 issued, as provided in this paragraph and in the written agreement
1007 by the recipient of the certificate of need. The total number of
1008 nursing facility beds that may be authorized by any certificate of
1009 need issued under this paragraph (o) shall not exceed sixty (60)



1010 beds. If the certificate of need authorized under this paragraph
1011 is not issued within twelve (12) months after July 1, 2001, the
1012 department shall deny the application for the certificate of need
1013 and shall not issue the certificate of need at any time after the
1014 twelve-month period, unless the issuance is contested. If the
1015 certificate of need is issued and substantial construction of the
1016 nursing facility beds has not commenced within eighteen (18)
1017 months after July 1, 2001, the State Department of Health, after a
1018 hearing complying with due process, shall revoke the certificate
1019 of need if it is still outstanding, and the department shall not
1020 issue a license for the nursing facility at any time after the
1021 eighteen-month period. However, if the issuance of the
1022 certificate of need is contested, the department shall require
1023 substantial construction of the nursing facility beds within six
1024 (6) months after final adjudication on the issuance of the
1025 certificate of need.

1026 (p) The department may issue a certificate of need for
1027 the construction of a municipally owned nursing facility within
1028 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1029 beds, provided that the recipient of the certificate of need
1030 agrees in writing that the skilled nursing facility will not at
1031 any time participate in the Medicaid program (Section 43-13-101 et
1032 seq.) or admit or keep any patients in the skilled nursing
1033 facility who are participating in the Medicaid program. This
1034 written agreement by the recipient of the certificate of need



1035 shall be fully binding on any subsequent owner of the skilled
1036 nursing facility, if the ownership of the facility is transferred
1037 at any time after the issuance of the certificate of need.
1038 Agreement that the skilled nursing facility will not participate
1039 in the Medicaid program shall be a condition of the issuance of a
1040 certificate of need to any person under this paragraph (p), and if
1041 such skilled nursing facility at any time after the issuance of
1042 the certificate of need, regardless of the ownership of the
1043 facility, participates in the Medicaid program or admits or keeps
1044 any patients in the facility who are participating in the Medicaid
1045 program, the State Department of Health shall revoke the
1046 certificate of need, if it is still outstanding, and shall deny or
1047 revoke the license of the skilled nursing facility, at the time
1048 that the department determines, after a hearing complying with due
1049 process, that the facility has failed to comply with any of the
1050 conditions upon which the certificate of need was issued, as
1051 provided in this paragraph and in the written agreement by the
1052 recipient of the certificate of need. The provision of Section
1053 41-7-193(1) regarding substantial compliance of the projection of
1054 need as reported in the current State Health Plan is waived for
1055 the purposes of this paragraph. If the certificate of need
1056 authorized under this paragraph is not issued within twelve (12)
1057 months after July 1, 1998, the department shall deny the
1058 application for the certificate of need and shall not issue the
1059 certificate of need at any time after the twelve-month period,



1060 unless the issuance is contested. If the certificate of need is
1061 issued and substantial construction of the nursing facility beds
1062 has not commenced within eighteen (18) months after July 1, 1998,
1063 the State Department of Health, after a hearing complying with due
1064 process, shall revoke the certificate of need if it is still
1065 outstanding, and the department shall not issue a license for the
1066 nursing facility at any time after the eighteen-month period.
1067 However, if the issuance of the certificate of need is contested,
1068 the department shall require substantial construction of the
1069 nursing facility beds within six (6) months after final
1070 adjudication on the issuance of the certificate of need.

1071 (q) (i) Beginning on July 1, 1999, the State
1072 Department of Health shall issue certificates of need during each
1073 of the next four (4) fiscal years for the construction or
1074 expansion of nursing facility beds or the conversion of other beds
1075 to nursing facility beds in each county in the state having a need
1076 for fifty (50) or more additional nursing facility beds, as shown
1077 in the fiscal year 1999 State Health Plan, in the manner provided
1078 in this paragraph (q). The total number of nursing facility beds
1079 that may be authorized by any certificate of need authorized under
1080 this paragraph (q) shall not exceed sixty (60) beds.

1081 (ii) Subject to the provisions of subparagraph
1082 (v), during each of the next four (4) fiscal years, the department
1083 shall issue six (6) certificates of need for new nursing facility
1084 beds, as follows: During fiscal years 2000, 2001 and 2002, one



1085 (1) certificate of need shall be issued for new nursing facility
1086 beds in the county in each of the four (4) Long-Term Care Planning
1087 Districts designated in the fiscal year 1999 State Health Plan
1088 that has the highest need in the district for those beds; and two
1089 (2) certificates of need shall be issued for new nursing facility
1090 beds in the two (2) counties from the state at large that have the
1091 highest need in the state for those beds, when considering the
1092 need on a statewide basis and without regard to the Long-Term Care
1093 Planning Districts in which the counties are located. During
1094 fiscal year 2003, one (1) certificate of need shall be issued for
1095 new nursing facility beds in any county having a need for fifty
1096 (50) or more additional nursing facility beds, as shown in the
1097 fiscal year 1999 State Health Plan, that has not received a
1098 certificate of need under this paragraph (q) during the three (3)
1099 previous fiscal years. During fiscal year 2000, in addition to
1100 the six (6) certificates of need authorized in this subparagraph,
1101 the department also shall issue a certificate of need for new
1102 nursing facility beds in Amite County and a certificate of need
1103 for new nursing facility beds in Carroll County.

1104 (iii) Subject to the provisions of subparagraph
1105 (v), the certificate of need issued under subparagraph (ii) for
1106 nursing facility beds in each Long-Term Care Planning District
1107 during each fiscal year shall first be available for nursing
1108 facility beds in the county in the district having the highest
1109 need for those beds, as shown in the fiscal year 1999 State Health



1110 Plan. If there are no applications for a certificate of need for
1111 nursing facility beds in the county having the highest need for
1112 those beds by the date specified by the department, then the
1113 certificate of need shall be available for nursing facility beds
1114 in other counties in the district in descending order of the need
1115 for those beds, from the county with the second highest need to
1116 the county with the lowest need, until an application is received
1117 for nursing facility beds in an eligible county in the district.

1118 (iv) Subject to the provisions of subparagraph
1119 (v), the certificate of need issued under subparagraph (ii) for
1120 nursing facility beds in the two (2) counties from the state at
1121 large during each fiscal year shall first be available for nursing
1122 facility beds in the two (2) counties that have the highest need
1123 in the state for those beds, as shown in the fiscal year 1999
1124 State Health Plan, when considering the need on a statewide basis
1125 and without regard to the Long-Term Care Planning Districts in
1126 which the counties are located. If there are no applications for
1127 a certificate of need for nursing facility beds in either of the
1128 two (2) counties having the highest need for those beds on a
1129 statewide basis by the date specified by the department, then the
1130 certificate of need shall be available for nursing facility beds
1131 in other counties from the state at large in descending order of
1132 the need for those beds on a statewide basis, from the county with
1133 the second highest need to the county with the lowest need, until



1134 an application is received for nursing facility beds in an
1135 eligible county from the state at large.

1136 (v) If a certificate of need is authorized to be
1137 issued under this paragraph (q) for nursing facility beds in a
1138 county on the basis of the need in the Long-Term Care Planning
1139 District during any fiscal year of the four-year period, a
1140 certificate of need shall not also be available under this
1141 paragraph (q) for additional nursing facility beds in that county
1142 on the basis of the need in the state at large, and that county
1143 shall be excluded in determining which counties have the highest
1144 need for nursing facility beds in the state at large for that
1145 fiscal year. After a certificate of need has been issued under
1146 this paragraph (q) for nursing facility beds in a county during
1147 any fiscal year of the four-year period, a certificate of need
1148 shall not be available again under this paragraph (q) for
1149 additional nursing facility beds in that county during the
1150 four-year period, and that county shall be excluded in determining
1151 which counties have the highest need for nursing facility beds in
1152 succeeding fiscal years.

1153 (vi) If more than one (1) application is made for
1154 a certificate of need for nursing home facility beds available
1155 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1156 County, and one (1) of the applicants is a county-owned hospital
1157 located in the county where the nursing facility beds are
1158 available, the department shall give priority to the county-owned



1159 hospital in granting the certificate of need if the following
1160 conditions are met:

1161 1. The county-owned hospital fully meets all
1162 applicable criteria and standards required to obtain a certificate
1163 of need for the nursing facility beds; and

1164 2. The county-owned hospital's qualifications
1165 for the certificate of need, as shown in its application and as
1166 determined by the department, are at least equal to the
1167 qualifications of the other applicants for the certificate of
1168 need.

1169 (r) (i) Beginning on July 1, 1999, the State
1170 Department of Health shall issue certificates of need during each
1171 of the next two (2) fiscal years for the construction or expansion
1172 of nursing facility beds or the conversion of other beds to
1173 nursing facility beds in each of the four (4) Long-Term Care
1174 Planning Districts designated in the fiscal year 1999 State Health
1175 Plan, to provide care exclusively to patients with Alzheimer's
1176 disease.

1177 (ii) Not more than twenty (20) beds may be
1178 authorized by any certificate of need issued under this paragraph
1179 (r), and not more than a total of sixty (60) beds may be
1180 authorized in any Long-Term Care Planning District by all
1181 certificates of need issued under this paragraph (r). However,
1182 the total number of beds that may be authorized by all
1183 certificates of need issued under this paragraph (r) during any



1184 fiscal year shall not exceed one hundred twenty (120) beds, and
1185 the total number of beds that may be authorized in any Long-Term
1186 Care Planning District during any fiscal year shall not exceed
1187 forty (40) beds. Of the certificates of need that are issued for
1188 each Long-Term Care Planning District during the next two (2)
1189 fiscal years, at least one (1) shall be issued for beds in the
1190 northern part of the district, at least one (1) shall be issued
1191 for beds in the central part of the district, and at least one (1)
1192 shall be issued for beds in the southern part of the district.

1193 (iii) The State Department of Health, in
1194 consultation with the Department of Mental Health and the Division
1195 of Medicaid, shall develop and prescribe the staffing levels,
1196 space requirements and other standards and requirements that must
1197 be met with regard to the nursing facility beds authorized under
1198 this paragraph (r) to provide care exclusively to patients with
1199 Alzheimer's disease.

1200 (s) The State Department of Health may issue a
1201 certificate of need to a nonprofit skilled nursing facility using
1202 the Green House model of skilled nursing care and located in Yazoo
1203 City, Yazoo County, Mississippi, for the construction, expansion
1204 or conversion of not more than nineteen (19) nursing facility
1205 beds. For purposes of this paragraph (s), the provisions of
1206 Section 41-7-193(1) requiring substantial compliance with the
1207 projection of need as reported in the current State Health Plan
1208 and the provisions of Section 41-7-197 requiring a formal



1209 certificate of need hearing process are waived. There shall be no
1210 prohibition or restrictions on participation in the Medicaid
1211 program for the person receiving the certificate of need
1212 authorized under this paragraph (s).

1213 (t) The State Department of Health shall issue
1214 certificates of need to the owner of a nursing facility in
1215 operation at the time of Hurricane Katrina in Hancock County that
1216 was not operational on December 31, 2005, because of damage
1217 sustained from Hurricane Katrina to authorize the following: (i)
1218 the construction of a new nursing facility in Harrison County;
1219 (ii) the relocation of forty-nine (49) nursing facility beds from
1220 the Hancock County facility to the new Harrison County facility;
1221 (iii) the establishment of not more than twenty (20) non-Medicaid
1222 nursing facility beds at the Hancock County facility; and (iv) the
1223 establishment of not more than twenty (20) non-Medicaid beds at
1224 the new Harrison County facility. The certificates of need that
1225 authorize the non-Medicaid nursing facility beds under
1226 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1227 subject to the following conditions: The owner of the Hancock
1228 County facility and the new Harrison County facility must agree in
1229 writing that no more than fifty (50) of the beds at the Hancock
1230 County facility and no more than forty-nine (49) of the beds at
1231 the Harrison County facility will be certified for participation
1232 in the Medicaid program, and that no claim will be submitted for
1233 Medicaid reimbursement for more than fifty (50) patients in the



1234 Hancock County facility in any month, or for more than forty-nine
1235 (49) patients in the Harrison County facility in any month, or for
1236 any patient in either facility who is in a bed that is not
1237 Medicaid-certified. This written agreement by the owner of the
1238 nursing facilities shall be a condition of the issuance of the
1239 certificates of need under this paragraph (t), and the agreement
1240 shall be fully binding on any later owner or owners of either
1241 facility if the ownership of either facility is transferred at any
1242 time after the certificates of need are issued. After this
1243 written agreement is executed, the Division of Medicaid and the
1244 State Department of Health shall not certify more than fifty (50)
1245 of the beds at the Hancock County facility or more than forty-nine
1246 (49) of the beds at the Harrison County facility for participation
1247 in the Medicaid program. If the Hancock County facility violates
1248 the terms of the written agreement by admitting or keeping in the
1249 facility on a regular or continuing basis more than fifty (50)
1250 patients who are participating in the Medicaid program, or if the
1251 Harrison County facility violates the terms of the written
1252 agreement by admitting or keeping in the facility on a regular or
1253 continuing basis more than forty-nine (49) patients who are
1254 participating in the Medicaid program, the State Department of
1255 Health shall revoke the license of the facility that is in
1256 violation of the agreement, at the time that the department
1257 determines, after a hearing complying with due process, that the
1258 facility has violated the agreement.



1259 (u) The State Department of Health shall issue a
1260 certificate of need to a nonprofit venture for the establishment,
1261 construction and operation of a skilled nursing facility of not
1262 more than sixty (60) beds to provide skilled nursing care for
1263 ventilator dependent or otherwise medically dependent pediatric
1264 patients who require medical and nursing care or rehabilitation
1265 services to be located in a county in which an academic medical
1266 center and a children's hospital are located, and for any
1267 construction and for the acquisition of equipment related to those
1268 beds. The facility shall be authorized to keep such ventilator
1269 dependent or otherwise medically dependent pediatric patients
1270 beyond age twenty-one (21) in accordance with regulations of the
1271 State Board of Health. For purposes of this paragraph (u), the
1272 provisions of Section 41-7-193(1) requiring substantial compliance
1273 with the projection of need as reported in the current State
1274 Health Plan are waived, and the provisions of Section 41-7-197
1275 requiring a formal certificate of need hearing process are waived.
1276 The beds authorized by this paragraph shall be counted as
1277 pediatric skilled nursing facility beds for health planning
1278 purposes under Section 41-7-171 et seq. There shall be no
1279 prohibition of or restrictions on participation in the Medicaid
1280 program for the person receiving the certificate of need
1281 authorized by this paragraph.

1282 (3) The State Department of Health may grant approval for
1283 and issue certificates of need to any person proposing the new



1284 construction of, addition to, conversion of beds of or expansion
1285 of any health care facility defined in subparagraph (x)
1286 (psychiatric residential treatment facility) of Section
1287 41-7-173(h). The total number of beds which may be authorized by
1288 such certificates of need shall not exceed three hundred
1289 thirty-four (334) beds for the entire state.

1290 (a) Of the total number of beds authorized under this
1291 subsection, the department shall issue a certificate of need to a
1292 privately owned psychiatric residential treatment facility in
1293 Simpson County for the conversion of sixteen (16) intermediate
1294 care facility for the mentally retarded (ICF-MR) beds to
1295 psychiatric residential treatment facility beds, provided that
1296 facility agrees in writing that the facility shall give priority
1297 for the use of those sixteen (16) beds to Mississippi residents
1298 who are presently being treated in out-of-state facilities.

1299 (b) Of the total number of beds authorized under this
1300 subsection, the department may issue a certificate or certificates
1301 of need for the construction or expansion of psychiatric
1302 residential treatment facility beds or the conversion of other
1303 beds to psychiatric residential treatment facility beds in Warren
1304 County, not to exceed sixty (60) psychiatric residential treatment
1305 facility beds, provided that the facility agrees in writing that
1306 no more than thirty (30) of the beds at the psychiatric
1307 residential treatment facility will be certified for participation
1308 in the Medicaid program (Section 43-13-101 et seq.) for the use of



1309 any patients other than those who are participating only in the
1310 Medicaid program of another state, and that no claim will be
1311 submitted to the Division of Medicaid for Medicaid reimbursement
1312 for more than thirty (30) patients in the psychiatric residential
1313 treatment facility in any day or for any patient in the
1314 psychiatric residential treatment facility who is in a bed that is
1315 not Medicaid-certified. This written agreement by the recipient
1316 of the certificate of need shall be a condition of the issuance of
1317 the certificate of need under this paragraph, and the agreement
1318 shall be fully binding on any subsequent owner of the psychiatric
1319 residential treatment facility if the ownership of the facility is
1320 transferred at any time after the issuance of the certificate of
1321 need. After this written agreement is executed, the Division of
1322 Medicaid and the State Department of Health shall not certify more
1323 than thirty (30) of the beds in the psychiatric residential
1324 treatment facility for participation in the Medicaid program for
1325 the use of any patients other than those who are participating
1326 only in the Medicaid program of another state. If the psychiatric
1327 residential treatment facility violates the terms of the written
1328 agreement by admitting or keeping in the facility on a regular or
1329 continuing basis more than thirty (30) patients who are
1330 participating in the Mississippi Medicaid program, the State
1331 Department of Health shall revoke the license of the facility, at
1332 the time that the department determines, after a hearing complying
1333 with due process, that the facility has violated the condition



1334 upon which the certificate of need was issued, as provided in this
1335 paragraph and in the written agreement.

1336 The State Department of Health, on or before July 1, 2002,
1337 shall transfer the certificate of need authorized under the
1338 authority of this paragraph (b), or reissue the certificate of
1339 need if it has expired, to River Region Health System.

1340 (c) Of the total number of beds authorized under this
1341 subsection, the department shall issue a certificate of need to a
1342 hospital currently operating Medicaid-certified acute psychiatric
1343 beds for adolescents in DeSoto County, for the establishment of a
1344 forty-bed psychiatric residential treatment facility in DeSoto
1345 County, provided that the hospital agrees in writing (i) that the
1346 hospital shall give priority for the use of those forty (40) beds
1347 to Mississippi residents who are presently being treated in
1348 out-of-state facilities, and (ii) that no more than fifteen (15)
1349 of the beds at the psychiatric residential treatment facility will
1350 be certified for participation in the Medicaid program (Section
1351 43-13-101 et seq.), and that no claim will be submitted for
1352 Medicaid reimbursement for more than fifteen (15) patients in the
1353 psychiatric residential treatment facility in any day or for any
1354 patient in the psychiatric residential treatment facility who is
1355 in a bed that is not Medicaid-certified. This written agreement
1356 by the recipient of the certificate of need shall be a condition
1357 of the issuance of the certificate of need under this paragraph,
1358 and the agreement shall be fully binding on any subsequent owner



1359 of the psychiatric residential treatment facility if the ownership
1360 of the facility is transferred at any time after the issuance of
1361 the certificate of need. After this written agreement is
1362 executed, the Division of Medicaid and the State Department of
1363 Health shall not certify more than fifteen (15) of the beds in the
1364 psychiatric residential treatment facility for participation in
1365 the Medicaid program. If the psychiatric residential treatment
1366 facility violates the terms of the written agreement by admitting
1367 or keeping in the facility on a regular or continuing basis more
1368 than fifteen (15) patients who are participating in the Medicaid
1369 program, the State Department of Health shall revoke the license
1370 of the facility, at the time that the department determines, after
1371 a hearing complying with due process, that the facility has
1372 violated the condition upon which the certificate of need was
1373 issued, as provided in this paragraph and in the written
1374 agreement.

1375 (d) Of the total number of beds authorized under this
1376 subsection, the department may issue a certificate or certificates
1377 of need for the construction or expansion of psychiatric
1378 residential treatment facility beds or the conversion of other
1379 beds to psychiatric treatment facility beds, not to exceed thirty
1380 (30) psychiatric residential treatment facility beds, in either
1381 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1382 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.



1383 (e) Of the total number of beds authorized under this
1384 subsection (3) the department shall issue a certificate of need to
1385 a privately owned, nonprofit psychiatric residential treatment
1386 facility in Hinds County for an eight-bed expansion of the
1387 facility, provided that the facility agrees in writing that the
1388 facility shall give priority for the use of those eight (8) beds
1389 to Mississippi residents who are presently being treated in
1390 out-of-state facilities.

1391 (f) The department shall issue a certificate of need to
1392 a one-hundred-thirty-four-bed specialty hospital located on
1393 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1394 at 5900 Highway 39 North in Meridian (Lauderdale County),
1395 Mississippi, for the addition, construction or expansion of
1396 child/adolescent psychiatric residential treatment facility beds
1397 in Lauderdale County. As a condition of issuance of the
1398 certificate of need under this paragraph, the facility shall give
1399 priority in admissions to the child/adolescent psychiatric
1400 residential treatment facility beds authorized under this
1401 paragraph to patients who otherwise would require out-of-state
1402 placement. The Division of Medicaid, in conjunction with the
1403 Department of Human Services, shall furnish the facility a list of
1404 all out-of-state patients on a quarterly basis. Furthermore,
1405 notice shall also be provided to the parent, custodial parent or
1406 guardian of each out-of-state patient notifying them of the
1407 priority status granted by this paragraph. For purposes of this



1408 paragraph, the provisions of Section 41-7-193(1) requiring
1409 substantial compliance with the projection of need as reported in
1410 the current State Health Plan are waived. The total number of
1411 child/adolescent psychiatric residential treatment facility beds
1412 that may be authorized under the authority of this paragraph shall
1413 be sixty (60) beds. There shall be no prohibition or restrictions
1414 on participation in the Medicaid program (Section 43-13-101 et
1415 seq.) for the person receiving the certificate of need authorized
1416 under this paragraph or for the beds converted pursuant to the
1417 authority of that certificate of need.

1418 (4) (a) From and after March 25, 2021, the department may
1419 issue a certificate of need to any person for the new construction
1420 of any hospital, psychiatric hospital or chemical dependency
1421 hospital that will contain any child/adolescent psychiatric or
1422 child/adolescent chemical dependency beds, or for the conversion
1423 of any other health care facility to a hospital, psychiatric
1424 hospital or chemical dependency hospital that will contain any
1425 child/adolescent psychiatric or child/adolescent chemical
1426 dependency beds. There shall be no prohibition or restrictions on
1427 participation in the Medicaid program (Section 43-13-101 et seq.)
1428 for the person(s) receiving the certificate(s) of need authorized
1429 under this paragraph (a) or for the beds converted pursuant to the
1430 authority of that certificate of need. In issuing any new
1431 certificate of need for any child/adolescent psychiatric or
1432 child/adolescent chemical dependency beds, either by new



1433 construction or conversion of beds of another category, the
1434 department shall give preference to beds which will be located in
1435 an area of the state which does not have such beds located in it,
1436 and to a location more than sixty-five (65) miles from existing
1437 beds. Upon receiving 2020 census data, the department may amend
1438 the State Health Plan regarding child/adolescent psychiatric and
1439 child/adolescent chemical dependency beds to reflect the need
1440 based on new census data.

1441 (i) [Deleted]

1442 (ii) The department may issue a certificate of
1443 need for the conversion of existing beds in a county hospital in
1444 Choctaw County from acute care beds to child/adolescent chemical
1445 dependency beds. For purposes of this subparagraph (ii), the
1446 provisions of Section 41-7-193(1) requiring substantial compliance
1447 with the projection of need as reported in the current State
1448 Health Plan are waived. The total number of beds that may be
1449 authorized under authority of this subparagraph shall not exceed
1450 twenty (20) beds. There shall be no prohibition or restrictions
1451 on participation in the Medicaid program (Section 43-13-101 et
1452 seq.) for the hospital receiving the certificate of need
1453 authorized under this subparagraph or for the beds converted
1454 pursuant to the authority of that certificate of need.

1455 (iii) The department may issue a certificate or
1456 certificates of need for the construction or expansion of
1457 child/adolescent psychiatric beds or the conversion of other beds



1458 to child/adolescent psychiatric beds in Warren County. For
1459 purposes of this subparagraph (iii), the provisions of Section
1460 41-7-193(1) requiring substantial compliance with the projection
1461 of need as reported in the current State Health Plan are waived.
1462 The total number of beds that may be authorized under the
1463 authority of this subparagraph shall not exceed twenty (20) beds.
1464 There shall be no prohibition or restrictions on participation in
1465 the Medicaid program (Section 43-13-101 et seq.) for the person
1466 receiving the certificate of need authorized under this
1467 subparagraph or for the beds converted pursuant to the authority
1468 of that certificate of need.

1469 If by January 1, 2002, there has been no significant
1470 commencement of construction of the beds authorized under this
1471 subparagraph (iii), or no significant action taken to convert
1472 existing beds to the beds authorized under this subparagraph, then
1473 the certificate of need that was previously issued under this
1474 subparagraph shall expire. If the previously issued certificate
1475 of need expires, the department may accept applications for
1476 issuance of another certificate of need for the beds authorized
1477 under this subparagraph, and may issue a certificate of need to
1478 authorize the construction, expansion or conversion of the beds
1479 authorized under this subparagraph.

1480 (iv) The department shall issue a certificate of
1481 need to the Region 7 Mental Health/Retardation Commission for the
1482 construction or expansion of child/adolescent psychiatric beds or



1483 the conversion of other beds to child/adolescent psychiatric beds
1484 in any of the counties served by the commission. For purposes of
1485 this subparagraph (iv), the provisions of Section 41-7-193(1)
1486 requiring substantial compliance with the projection of need as
1487 reported in the current State Health Plan are waived. The total
1488 number of beds that may be authorized under the authority of this
1489 subparagraph shall not exceed twenty (20) beds. There shall be no
1490 prohibition or restrictions on participation in the Medicaid
1491 program (Section 43-13-101 et seq.) for the person receiving the
1492 certificate of need authorized under this subparagraph or for the
1493 beds converted pursuant to the authority of that certificate of
1494 need.

1495 (v) The department may issue a certificate of need
1496 to any county hospital located in Leflore County for the
1497 construction or expansion of adult psychiatric beds or the
1498 conversion of other beds to adult psychiatric beds, not to exceed
1499 twenty (20) beds, provided that the recipient of the certificate
1500 of need agrees in writing that the adult psychiatric beds will not
1501 at any time be certified for participation in the Medicaid program
1502 and that the hospital will not admit or keep any patients who are
1503 participating in the Medicaid program in any of such adult
1504 psychiatric beds. This written agreement by the recipient of the
1505 certificate of need shall be fully binding on any subsequent owner
1506 of the hospital if the ownership of the hospital is transferred at
1507 any time after the issuance of the certificate of need. Agreement



1508 that the adult psychiatric beds will not be certified for
1509 participation in the Medicaid program shall be a condition of the
1510 issuance of a certificate of need to any person under this
1511 subparagraph (v), and if such hospital at any time after the
1512 issuance of the certificate of need, regardless of the ownership
1513 of the hospital, has any of such adult psychiatric beds certified
1514 for participation in the Medicaid program or admits or keeps any
1515 Medicaid patients in such adult psychiatric beds, the State
1516 Department of Health shall revoke the certificate of need, if it
1517 is still outstanding, and shall deny or revoke the license of the
1518 hospital at the time that the department determines, after a
1519 hearing complying with due process, that the hospital has failed
1520 to comply with any of the conditions upon which the certificate of
1521 need was issued, as provided in this subparagraph and in the
1522 written agreement by the recipient of the certificate of need.

1523 (vi) The department may issue a certificate or
1524 certificates of need for the expansion of child psychiatric beds
1525 or the conversion of other beds to child psychiatric beds at the
1526 University of Mississippi Medical Center. For purposes of this
1527 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1528 substantial compliance with the projection of need as reported in
1529 the current State Health Plan are waived. The total number of
1530 beds that may be authorized under the authority of this
1531 subparagraph shall not exceed fifteen (15) beds. There shall be
1532 no prohibition or restrictions on participation in the Medicaid



1533 program (Section 43-13-101 et seq.) for the hospital receiving the
1534 certificate of need authorized under this subparagraph or for the
1535 beds converted pursuant to the authority of that certificate of
1536 need.

1537 (b) From and after July 1, 1990, no hospital,
1538 psychiatric hospital or chemical dependency hospital shall be
1539 authorized to add any child/adolescent psychiatric or
1540 child/adolescent chemical dependency beds or convert any beds of
1541 another category to child/adolescent psychiatric or
1542 child/adolescent chemical dependency beds without a certificate of
1543 need under the authority of subsection (1)(c) and subsection
1544 (4)(a) of this section.

1545 (5) The department may issue a certificate of need to a
1546 county hospital in Winston County for the conversion of fifteen
1547 (15) acute care beds to geriatric psychiatric care beds.

1548 (6) The State Department of Health shall issue a certificate
1549 of need to a Mississippi corporation qualified to manage a
1550 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1551 Harrison County, not to exceed eighty (80) beds, including any
1552 necessary renovation or construction required for licensure and
1553 certification, provided that the recipient of the certificate of
1554 need agrees in writing that the long-term care hospital will not
1555 at any time participate in the Medicaid program (Section 43-13-101
1556 et seq.) or admit or keep any patients in the long-term care
1557 hospital who are participating in the Medicaid program. This



1558 written agreement by the recipient of the certificate of need
1559 shall be fully binding on any subsequent owner of the long-term
1560 care hospital, if the ownership of the facility is transferred at
1561 any time after the issuance of the certificate of need. Agreement
1562 that the long-term care hospital will not participate in the
1563 Medicaid program shall be a condition of the issuance of a
1564 certificate of need to any person under this subsection (6), and
1565 if such long-term care hospital at any time after the issuance of
1566 the certificate of need, regardless of the ownership of the
1567 facility, participates in the Medicaid program or admits or keeps
1568 any patients in the facility who are participating in the Medicaid
1569 program, the State Department of Health shall revoke the
1570 certificate of need, if it is still outstanding, and shall deny or
1571 revoke the license of the long-term care hospital, at the time
1572 that the department determines, after a hearing complying with due
1573 process, that the facility has failed to comply with any of the
1574 conditions upon which the certificate of need was issued, as
1575 provided in this subsection and in the written agreement by the
1576 recipient of the certificate of need. For purposes of this
1577 subsection, the provisions of Section 41-7-193(1) requiring
1578 substantial compliance with the projection of need as reported in
1579 the current State Health Plan are waived.

1580 (7) The State Department of Health may issue a certificate
1581 of need to any hospital in the state to utilize a portion of its
1582 beds for the "swing-bed" concept. Any such hospital must be in



1583 conformance with the federal regulations regarding such swing-bed
1584 concept at the time it submits its application for a certificate
1585 of need to the State Department of Health, except that such
1586 hospital may have more licensed beds or a higher average daily
1587 census (ADC) than the maximum number specified in federal
1588 regulations for participation in the swing-bed program. Any
1589 hospital meeting all federal requirements for participation in the
1590 swing-bed program which receives such certificate of need shall
1591 render services provided under the swing-bed concept to any
1592 patient eligible for Medicare (Title XVIII of the Social Security
1593 Act) who is certified by a physician to be in need of such
1594 services, and no such hospital shall permit any patient who is
1595 eligible for both Medicaid and Medicare or eligible only for
1596 Medicaid to stay in the swing beds of the hospital for more than
1597 thirty (30) days per admission unless the hospital receives prior
1598 approval for such patient from the Division of Medicaid, Office of
1599 the Governor. Any hospital having more licensed beds or a higher
1600 average daily census (ADC) than the maximum number specified in
1601 federal regulations for participation in the swing-bed program
1602 which receives such certificate of need shall develop a procedure
1603 to ensure that before a patient is allowed to stay in the swing
1604 beds of the hospital, there are no vacant nursing home beds
1605 available for that patient located within a fifty-mile radius of
1606 the hospital. When any such hospital has a patient staying in the
1607 swing beds of the hospital and the hospital receives notice from a



1608 nursing home located within such radius that there is a vacant bed
1609 available for that patient, the hospital shall transfer the
1610 patient to the nursing home within a reasonable time after receipt
1611 of the notice. Any hospital which is subject to the requirements
1612 of the two (2) preceding sentences of this subsection may be
1613 suspended from participation in the swing-bed program for a
1614 reasonable period of time by the State Department of Health if the
1615 department, after a hearing complying with due process, determines
1616 that the hospital has failed to comply with any of those
1617 requirements.

1618 (8) The Department of Health shall not grant approval for or
1619 issue a certificate of need to any person proposing the new
1620 construction of, addition to or expansion of a health care
1621 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1622 except as hereinafter provided: The department may issue a
1623 certificate of need to a nonprofit corporation located in Madison
1624 County, Mississippi, for the construction, expansion or conversion
1625 of not more than twenty (20) beds in a community living program
1626 for developmentally disabled adults in a facility as defined in
1627 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1628 subsection (8), the provisions of Section 41-7-193(1) requiring
1629 substantial compliance with the projection of need as reported in
1630 the current State Health Plan and the provisions of Section
1631 41-7-197 requiring a formal certificate of need hearing process
1632 are waived. There shall be no prohibition or restrictions on



1633 participation in the Medicaid program for the person receiving the
1634 certificate of need authorized under this subsection (8).

1635 (9) The Department of Health shall not grant approval for or
1636 issue a certificate of need to any person proposing the
1637 establishment of, or expansion of the currently approved territory
1638 of, or the contracting to establish a home office, subunit or
1639 branch office within the space operated as a health care facility
1640 as defined in Section 41-7-173(h) (i) through (viii) by a health
1641 care facility as defined in subparagraph (ix) of Section
1642 41-7-173(h).

1643 (10) Health care facilities owned and/or operated by the
1644 state or its agencies are exempt from the restraints in this
1645 section against issuance of a certificate of need if such addition
1646 or expansion consists of repairing or renovation necessary to
1647 comply with the state licensure law. This exception shall not
1648 apply to the new construction of any building by such state
1649 facility. This exception shall not apply to any health care
1650 facilities owned and/or operated by counties, municipalities,
1651 districts, unincorporated areas, other defined persons, or any
1652 combination thereof.

1653 (11) The new construction, renovation or expansion of or
1654 addition to any health care facility defined in subparagraph (ii)
1655 (psychiatric hospital), subparagraph (iv) (skilled nursing
1656 facility), subparagraph (vi) (intermediate care facility),
1657 subparagraph (viii) (intermediate care facility for the mentally



1658 retarded) and subparagraph (x) (psychiatric residential treatment
1659 facility) of Section 41-7-173(h) which is owned by the State of
1660 Mississippi and under the direction and control of the State
1661 Department of Mental Health, and the addition of new beds or the
1662 conversion of beds from one category to another in any such
1663 defined health care facility which is owned by the State of
1664 Mississippi and under the direction and control of the State
1665 Department of Mental Health, shall not require the issuance of a
1666 certificate of need under Section 41-7-171 et seq.,
1667 notwithstanding any provision in Section 41-7-171 et seq. to the
1668 contrary.

1669 (12) The new construction, renovation or expansion of or
1670 addition to any veterans homes or domiciliaries for eligible
1671 veterans of the State of Mississippi as authorized under Section
1672 35-1-19 shall not require the issuance of a certificate of need,
1673 notwithstanding any provision in Section 41-7-171 et seq. to the
1674 contrary.

1675 (13) The repair or the rebuilding of an existing, operating
1676 health care facility that sustained significant damage from a
1677 natural disaster that occurred after April 15, 2014, in an area
1678 that is proclaimed a disaster area or subject to a state of
1679 emergency by the Governor or by the President of the United States
1680 shall be exempt from all of the requirements of the Mississippi
1681 Certificate of Need Law (Section 41-7-171 et seq.) and any and all



1682 rules and regulations promulgated under that law, subject to the
1683 following conditions:

1684 (a) The repair or the rebuilding of any such damaged
1685 health care facility must be within one (1) mile of the
1686 pre-disaster location of the campus of the damaged health care
1687 facility, except that any temporary post-disaster health care
1688 facility operating location may be within five (5) miles of the
1689 pre-disaster location of the damaged health care facility;

1690 (b) The repair or the rebuilding of the damaged health
1691 care facility (i) does not increase or change the complement of
1692 its bed capacity that it had before the Governor's or the
1693 President's proclamation, (ii) does not increase or change its
1694 levels and types of health care services that it provided before
1695 the Governor's or the President's proclamation, and (iii) does not
1696 rebuild in a different county; however, this paragraph does not
1697 restrict or prevent a health care facility from decreasing its bed
1698 capacity that it had before the Governor's or the President's
1699 proclamation, or from decreasing the levels of or decreasing or
1700 eliminating the types of health care services that it provided
1701 before the Governor's or the President's proclamation, when the
1702 damaged health care facility is repaired or rebuilt;

1703 (c) The exemption from Certificate of Need Law provided
1704 under this subsection (13) is valid for only five (5) years from
1705 the date of the Governor's or the President's proclamation. If



1706 actual construction has not begun within that five-year period,
1707 the exemption provided under this subsection is inapplicable; and

1708 (d) The Division of Health Facilities Licensure and
1709 Certification of the State Department of Health shall provide the
1710 same oversight for the repair or the rebuilding of the damaged
1711 health care facility that it provides to all health care facility
1712 construction projects in the state.

1713 For the purposes of this subsection (13), "significant
1714 damage" to a health care facility means damage to the health care
1715 facility requiring an expenditure of at least One Million Dollars
1716 (\$1,000,000.00).

1717 (14) The State Department of Health shall issue a
1718 certificate of need to any hospital which is currently licensed
1719 for two hundred fifty (250) or more acute care beds and is located
1720 in any general hospital service area not having a comprehensive
1721 cancer center, for the establishment and equipping of such a
1722 center which provides facilities and services for outpatient
1723 radiation oncology therapy, outpatient medical oncology therapy,
1724 and appropriate support services including the provision of
1725 radiation therapy services. The provisions of Section 41-7-193(1)
1726 regarding substantial compliance with the projection of need as
1727 reported in the current State Health Plan are waived for the
1728 purpose of this subsection.

1729 (15) The State Department of Health may authorize the
1730 transfer of hospital beds, not to exceed sixty (60) beds, from the



1731 North Panola Community Hospital to the South Panola Community
1732 Hospital. The authorization for the transfer of those beds shall
1733 be exempt from the certificate of need review process.

1734 (16) The State Department of Health shall issue any
1735 certificates of need necessary for Mississippi State University
1736 and a public or private health care provider to jointly acquire
1737 and operate a linear accelerator and a magnetic resonance imaging
1738 unit. Those certificates of need shall cover all capital
1739 expenditures related to the project between Mississippi State
1740 University and the health care provider, including, but not
1741 limited to, the acquisition of the linear accelerator, the
1742 magnetic resonance imaging unit and other radiological modalities;
1743 the offering of linear accelerator and magnetic resonance imaging
1744 services; and the cost of construction of facilities in which to
1745 locate these services. The linear accelerator and the magnetic
1746 resonance imaging unit shall be (a) located in the City of
1747 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1748 Mississippi State University and the public or private health care
1749 provider selected by Mississippi State University through a
1750 request for proposals (RFP) process in which Mississippi State
1751 University selects, and the Board of Trustees of State
1752 Institutions of Higher Learning approves, the health care provider
1753 that makes the best overall proposal; (c) available to Mississippi
1754 State University for research purposes two-thirds (2/3) of the
1755 time that the linear accelerator and magnetic resonance imaging



1756 unit are operational; and (d) available to the public or private
1757 health care provider selected by Mississippi State University and
1758 approved by the Board of Trustees of State Institutions of Higher
1759 Learning one-third (1/3) of the time for clinical, diagnostic and
1760 treatment purposes. For purposes of this subsection, the
1761 provisions of Section 41-7-193(1) requiring substantial compliance
1762 with the projection of need as reported in the current State
1763 Health Plan are waived.

1764 (17) The State Department of Health shall issue a
1765 certificate of need for the construction of an acute care hospital
1766 in Kemper County, not to exceed twenty-five (25) beds, which shall
1767 be named the "John C. Stennis Memorial Hospital." In issuing the
1768 certificate of need under this subsection, the department shall
1769 give priority to a hospital located in Lauderdale County that has
1770 two hundred fifteen (215) beds. For purposes of this subsection,
1771 the provisions of Section 41-7-193(1) requiring substantial
1772 compliance with the projection of need as reported in the current
1773 State Health Plan and the provisions of Section 41-7-197 requiring
1774 a formal certificate of need hearing process are waived. There
1775 shall be no prohibition or restrictions on participation in the
1776 Medicaid program (Section 43-13-101 et seq.) for the person or
1777 entity receiving the certificate of need authorized under this
1778 subsection or for the beds constructed under the authority of that
1779 certificate of need.



1780 (18) The planning, design, construction, renovation,
1781 addition, furnishing and equipping of a clinical research unit at
1782 any health care facility defined in Section 41-7-173(h) that is
1783 under the direction and control of the University of Mississippi
1784 Medical Center and located in Jackson, Mississippi, and the
1785 addition of new beds or the conversion of beds from one (1)
1786 category to another in any such clinical research unit, shall not
1787 require the issuance of a certificate of need under Section
1788 41-7-171 et seq., notwithstanding any provision in Section
1789 41-7-171 et seq. to the contrary.

1790 (19) [Repealed]

1791 (20) Nothing in this section or in any other provision of
1792 Section 41-7-171 et seq. shall prevent any nursing facility from
1793 designating an appropriate number of existing beds in the facility
1794 as beds for providing care exclusively to patients with
1795 Alzheimer's disease.

1796 (21) Nothing in this section or any other provision of
1797 Section 41-7-171 et seq. shall prevent any health care facility
1798 from the new construction, renovation, conversion or expansion of
1799 new beds in the facility designated as intensive care units,
1800 negative pressure rooms, or isolation rooms pursuant to the
1801 provisions of Sections 41-14-1 through 41-14-11, or Section
1802 41-14-31. For purposes of this subsection, the provisions of
1803 Section 41-7-193(1) requiring substantial compliance with the
1804 projection of need as reported in the current State Health Plan



1805 and the provisions of Section 41-7-197 requiring a formal
1806 certificate of need hearing process are waived.

1807 **SECTION 7.** This act shall take effect and be in force from
1808 and after July 1, 2023.

