

By: Senator(s) England

To: Public Health and Welfare

SENATE BILL NO. 2744

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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

142       \* \* \*



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

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

157 \* \* \*

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

165 \* \* \*

166 ( \* \* \*y) "Home health agency" means a public or  
167 privately owned agency or organization, or a subdivision of such



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

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

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





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

195       \* \* \*

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

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

214                       ( \* \* \*viii) "Comprehensive medical rehabilitation  
215 facility" means a hospital or hospital unit that is licensed  
216 and/or certified as a comprehensive medical rehabilitation



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

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

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

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

229                           \* \* \*a. Physical Therapy;

230                           \* \* \*b. Occupational Therapy;

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

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

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

235                           \* \* \*a. Psychology;

236                           \* \* \*b. Audiology;

237                           \* \* \*c. Respiratory Therapy;

238                           \* \* \*d. Therapeutic Recreation;

239                           \* \* \*e. Orthotics;

240                           \* \* \*f. Prosthetics;

241                           \* \* \*g. Special Education;



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

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

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

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

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

261                           (iii) Provides physician services primarily:

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

337 41-7-191. (1) No person shall engage in any of the  
338 following activities without obtaining the required certificate of  
339 need:

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



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

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

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



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

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

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





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



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

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

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

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

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



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

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

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

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

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



467 41-7-173(h) as part of a life care retirement facility, in any  
468 county bordering on the Gulf of Mexico in which is located a  
469 National Aeronautics and Space Administration facility, not to  
470 exceed forty (40) beds. From and after July 1, 1999, there shall  
471 be no prohibition or restrictions on participation in the Medicaid  
472 program (Section 43-13-101 et seq.) for the beds in the health  
473 care facility that were authorized under this paragraph (a).

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

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



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

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



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

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

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

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



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

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

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



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





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

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



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

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



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

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



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

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



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



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

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



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



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

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

784 Agreement that the skilled nursing facility will not participate  
785 in the Medicaid program shall be a condition of the issuance of a  
786 certificate of need to any person under this paragraph (p), and if  
787 such skilled nursing facility at any time after the issuance of  
788 the certificate of need, regardless of the ownership of the





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



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

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

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



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

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



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

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



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

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

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

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



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

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

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



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

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

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

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



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





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

1005 (u) The State Department of Health shall issue a  
1006 certificate of need to a nonprofit venture for the establishment,  
1007 construction and operation of a skilled nursing facility of not  
1008 more than sixty (60) beds to provide skilled nursing care for  
1009 ventilator dependent or otherwise medically dependent pediatric  
1010 patients who require medical and nursing care or rehabilitation  
1011 services to be located in a county in which an academic medical



1012 center and a children's hospital are located, and for any  
1013 construction and for the acquisition of equipment related to those  
1014 beds. The facility shall be authorized to keep such ventilator  
1015 dependent or otherwise medically dependent pediatric patients  
1016 beyond age twenty-one (21) in accordance with regulations of the  
1017 State Board of Health. For purposes of this paragraph (u), the  
1018 provisions of Section 41-7-193(1) requiring substantial compliance  
1019 with the projection of need as reported in the current State  
1020 Health Plan are waived, and the provisions of Section 41-7-197  
1021 requiring a formal certificate of need hearing process are waived.  
1022 The beds authorized by this paragraph shall be counted as  
1023 pediatric skilled nursing facility beds for health planning  
1024 purposes under Section 41-7-171 et seq. There shall be no  
1025 prohibition of or restrictions on participation in the Medicaid  
1026 program for the person receiving the certificate of need  
1027 authorized by this paragraph.

1028 (3) The State Department of Health may grant approval for  
1029 and issue certificates of need to any person proposing the new  
1030 construction of, addition to, conversion of beds of or expansion  
1031 of any health care facility defined in subparagraph (x)  
1032 (psychiatric residential treatment facility) of Section  
1033 41-7-173(h). The total number of beds which may be authorized by  
1034 such certificates of need shall not exceed three hundred  
1035 thirty-four (334) beds for the entire state.



1036 (a) Of the total number of beds authorized under this  
1037 subsection, the department shall issue a certificate of need to a  
1038 privately owned psychiatric residential treatment facility in  
1039 Simpson County for the conversion of sixteen (16) intermediate  
1040 care facility for the mentally retarded (ICF-MR) beds to  
1041 psychiatric residential treatment facility beds, provided that  
1042 facility agrees in writing that the facility shall give priority  
1043 for the use of those sixteen (16) beds to Mississippi residents  
1044 who are presently being treated in out-of-state facilities.

1045 (b) Of the total number of beds authorized under this  
1046 subsection, the department may issue a certificate or certificates  
1047 of need for the construction or expansion of psychiatric  
1048 residential treatment facility beds or the conversion of other  
1049 beds to psychiatric residential treatment facility beds in Warren  
1050 County, not to exceed sixty (60) psychiatric residential treatment  
1051 facility beds, provided that the facility agrees in writing that  
1052 no more than thirty (30) of the beds at the psychiatric  
1053 residential treatment facility will be certified for participation  
1054 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1055 any patients other than those who are participating only in the  
1056 Medicaid program of another state, and that no claim will be  
1057 submitted to the Division of Medicaid for Medicaid reimbursement  
1058 for more than thirty (30) patients in the psychiatric residential  
1059 treatment facility in any day or for any patient in the  
1060 psychiatric residential treatment facility who is in a bed that is



1061 not Medicaid-certified. This written agreement by the recipient  
1062 of the certificate of need shall be a condition of the issuance of  
1063 the certificate of need under this paragraph, and the agreement  
1064 shall be fully binding on any subsequent owner of the psychiatric  
1065 residential treatment facility if the ownership of the facility is  
1066 transferred at any time after the issuance of the certificate of  
1067 need. After this written agreement is executed, the Division of  
1068 Medicaid and the State Department of Health shall not certify more  
1069 than thirty (30) of the beds in the psychiatric residential  
1070 treatment facility for participation in the Medicaid program for  
1071 the use of any patients other than those who are participating  
1072 only in the Medicaid program of another state. If the psychiatric  
1073 residential treatment facility violates the terms of the written  
1074 agreement by admitting or keeping in the facility on a regular or  
1075 continuing basis more than thirty (30) patients who are  
1076 participating in the Mississippi Medicaid program, the State  
1077 Department of Health shall revoke the license of the facility, at  
1078 the time that the department determines, after a hearing complying  
1079 with due process, that the facility has violated the condition  
1080 upon which the certificate of need was issued, as provided in this  
1081 paragraph and in the written agreement.

1082         The State Department of Health, on or before July 1, 2002,  
1083 shall transfer the certificate of need authorized under the  
1084 authority of this paragraph (b), or reissue the certificate of  
1085 need if it has expired, to River Region Health System.



1086 (c) Of the total number of beds authorized under this  
1087 subsection, the department shall issue a certificate of need to a  
1088 hospital currently operating Medicaid-certified acute psychiatric  
1089 beds for adolescents in DeSoto County, for the establishment of a  
1090 forty-bed psychiatric residential treatment facility in DeSoto  
1091 County, provided that the hospital agrees in writing (i) that the  
1092 hospital shall give priority for the use of those forty (40) beds  
1093 to Mississippi residents who are presently being treated in  
1094 out-of-state facilities, and (ii) that no more than fifteen (15)  
1095 of the beds at the psychiatric residential treatment facility will  
1096 be certified for participation in the Medicaid program (Section  
1097 43-13-101 et seq.), and that no claim will be submitted for  
1098 Medicaid reimbursement for more than fifteen (15) patients in the  
1099 psychiatric residential treatment facility in any day or for any  
1100 patient in the psychiatric residential treatment facility who is  
1101 in a bed that is not Medicaid-certified. This written agreement  
1102 by the recipient of the certificate of need shall be a condition  
1103 of the issuance of the certificate of need under this paragraph,  
1104 and the agreement shall be fully binding on any subsequent owner  
1105 of the psychiatric residential treatment facility if the ownership  
1106 of the facility is transferred at any time after the issuance of  
1107 the certificate of need. After this written agreement is  
1108 executed, the Division of Medicaid and the State Department of  
1109 Health shall not certify more than fifteen (15) of the beds in the  
1110 psychiatric residential treatment facility for participation in



1111 the Medicaid program. If the psychiatric residential treatment  
1112 facility violates the terms of the written agreement by admitting  
1113 or keeping in the facility on a regular or continuing basis more  
1114 than fifteen (15) patients who are participating in the Medicaid  
1115 program, the State Department of Health shall revoke the license  
1116 of the facility, at the time that the department determines, after  
1117 a hearing complying with due process, that the facility has  
1118 violated the condition upon which the certificate of need was  
1119 issued, as provided in this paragraph and in the written  
1120 agreement.

1121 (d) Of the total number of beds authorized under this  
1122 subsection, the department may issue a certificate or certificates  
1123 of need for the construction or expansion of psychiatric  
1124 residential treatment facility beds or the conversion of other  
1125 beds to psychiatric treatment facility beds, not to exceed thirty  
1126 (30) psychiatric residential treatment facility beds, in either  
1127 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1128 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1129 (e) Of the total number of beds authorized under this  
1130 subsection (3) the department shall issue a certificate of need to  
1131 a privately owned, nonprofit psychiatric residential treatment  
1132 facility in Hinds County for an eight-bed expansion of the  
1133 facility, provided that the facility agrees in writing that the  
1134 facility shall give priority for the use of those eight (8) beds



1135 to Mississippi residents who are presently being treated in  
1136 out-of-state facilities.

1137 (f) The department shall issue a certificate of need to  
1138 a one-hundred-thirty-four-bed specialty hospital located on  
1139 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1140 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1141 Mississippi, for the addition, construction or expansion of  
1142 child/adolescent psychiatric residential treatment facility beds  
1143 in Lauderdale County. As a condition of issuance of the  
1144 certificate of need under this paragraph, the facility shall give  
1145 priority in admissions to the child/adolescent psychiatric  
1146 residential treatment facility beds authorized under this  
1147 paragraph to patients who otherwise would require out-of-state  
1148 placement. The Division of Medicaid, in conjunction with the  
1149 Department of Human Services, shall furnish the facility a list of  
1150 all out-of-state patients on a quarterly basis. Furthermore,  
1151 notice shall also be provided to the parent, custodial parent or  
1152 guardian of each out-of-state patient notifying them of the  
1153 priority status granted by this paragraph. For purposes of this  
1154 paragraph, the provisions of Section 41-7-193(1) requiring  
1155 substantial compliance with the projection of need as reported in  
1156 the current State Health Plan are waived. The total number of  
1157 child/adolescent psychiatric residential treatment facility beds  
1158 that may be authorized under the authority of this paragraph shall  
1159 be sixty (60) beds. There shall be no prohibition or restrictions



1160 on participation in the Medicaid program (Section 43-13-101 et  
1161 seq.) for the person receiving the certificate of need authorized  
1162 under this paragraph or for the beds converted pursuant to the  
1163 authority of that certificate of need.

1164 (4) (a) From and after March 25, 2021, the department may  
1165 issue a certificate of need to any person for the new construction  
1166 of any hospital, psychiatric hospital or chemical dependency  
1167 hospital that will contain any child/adolescent psychiatric or  
1168 child/adolescent chemical dependency beds, or for the conversion  
1169 of any other health care facility to a hospital, psychiatric  
1170 hospital or chemical dependency hospital that will contain any  
1171 child/adolescent psychiatric or child/adolescent chemical  
1172 dependency beds. There shall be no prohibition or restrictions on  
1173 participation in the Medicaid program (Section 43-13-101 et seq.)  
1174 for the person(s) receiving the certificate(s) of need authorized  
1175 under this paragraph (a) or for the beds converted pursuant to the  
1176 authority of that certificate of need. In issuing any new  
1177 certificate of need for any child/adolescent psychiatric or  
1178 child/adolescent chemical dependency beds, either by new  
1179 construction or conversion of beds of another category, the  
1180 department shall give preference to beds which will be located in  
1181 an area of the state which does not have such beds located in it,  
1182 and to a location more than sixty-five (65) miles from existing  
1183 beds. Upon receiving 2020 census data, the department may amend  
1184 the State Health Plan regarding child/adolescent psychiatric and





1185 child/adolescent chemical dependency beds to reflect the need  
1186 based on new census data.

1187 (i) [Deleted]

1188 (ii) The department may issue a certificate of  
1189 need for the conversion of existing beds in a county hospital in  
1190 Choctaw County from acute care beds to child/adolescent chemical  
1191 dependency beds. For purposes of this subparagraph (ii), the  
1192 provisions of Section 41-7-193(1) requiring substantial compliance  
1193 with the projection of need as reported in the current State  
1194 Health Plan are waived. The total number of beds that may be  
1195 authorized under authority of this subparagraph shall not exceed  
1196 twenty (20) beds. There shall be no prohibition or restrictions  
1197 on participation in the Medicaid program (Section 43-13-101 et  
1198 seq.) for the hospital receiving the certificate of need  
1199 authorized under this subparagraph or for the beds converted  
1200 pursuant to the authority of that certificate of need.

1201 (iii) The department may issue a certificate or  
1202 certificates of need for the construction or expansion of  
1203 child/adolescent psychiatric beds or the conversion of other beds  
1204 to child/adolescent psychiatric beds in Warren County. For  
1205 purposes of this subparagraph (iii), the provisions of Section  
1206 41-7-193(1) requiring substantial compliance with the projection  
1207 of need as reported in the current State Health Plan are waived.  
1208 The total number of beds that may be authorized under the  
1209 authority of this subparagraph shall not exceed twenty (20) beds.



1210 There shall be no prohibition or restrictions on participation in  
1211 the Medicaid program (Section 43-13-101 et seq.) for the person  
1212 receiving the certificate of need authorized under this  
1213 subparagraph or for the beds converted pursuant to the authority  
1214 of that certificate of need.

1215 If by January 1, 2002, there has been no significant  
1216 commencement of construction of the beds authorized under this  
1217 subparagraph (iii), or no significant action taken to convert  
1218 existing beds to the beds authorized under this subparagraph, then  
1219 the certificate of need that was previously issued under this  
1220 subparagraph shall expire. If the previously issued certificate  
1221 of need expires, the department may accept applications for  
1222 issuance of another certificate of need for the beds authorized  
1223 under this subparagraph, and may issue a certificate of need to  
1224 authorize the construction, expansion or conversion of the beds  
1225 authorized under this subparagraph.

1226 (iv) The department shall issue a certificate of  
1227 need to the Region 7 Mental Health/Retardation Commission for the  
1228 construction or expansion of child/adolescent psychiatric beds or  
1229 the conversion of other beds to child/adolescent psychiatric beds  
1230 in any of the counties served by the commission. For purposes of  
1231 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1232 requiring substantial compliance with the projection of need as  
1233 reported in the current State Health Plan are waived. The total  
1234 number of beds that may be authorized under the authority of this



1235 subparagraph shall not exceed twenty (20) beds. There shall be no  
1236 prohibition or restrictions on participation in the Medicaid  
1237 program (Section 43-13-101 et seq.) for the person receiving the  
1238 certificate of need authorized under this subparagraph or for the  
1239 beds converted pursuant to the authority of that certificate of  
1240 need.

1241 (v) The department may issue a certificate of need  
1242 to any county hospital located in Leflore County for the  
1243 construction or expansion of adult psychiatric beds or the  
1244 conversion of other beds to adult psychiatric beds, not to exceed  
1245 twenty (20) beds, provided that the recipient of the certificate  
1246 of need agrees in writing that the adult psychiatric beds will not  
1247 at any time be certified for participation in the Medicaid program  
1248 and that the hospital will not admit or keep any patients who are  
1249 participating in the Medicaid program in any of such adult  
1250 psychiatric beds. This written agreement by the recipient of the  
1251 certificate of need shall be fully binding on any subsequent owner  
1252 of the hospital if the ownership of the hospital is transferred at  
1253 any time after the issuance of the certificate of need. Agreement  
1254 that the adult psychiatric beds will not be certified for  
1255 participation in the Medicaid program shall be a condition of the  
1256 issuance of a certificate of need to any person under this  
1257 subparagraph (v), and if such hospital at any time after the  
1258 issuance of the certificate of need, regardless of the ownership  
1259 of the hospital, has any of such adult psychiatric beds certified



1260 for participation in the Medicaid program or admits or keeps any  
1261 Medicaid patients in such adult psychiatric beds, the State  
1262 Department of Health shall revoke the certificate of need, if it  
1263 is still outstanding, and shall deny or revoke the license of the  
1264 hospital at the time that the department determines, after a  
1265 hearing complying with due process, that the hospital has failed  
1266 to comply with any of the conditions upon which the certificate of  
1267 need was issued, as provided in this subparagraph and in the  
1268 written agreement by the recipient of the certificate of need.

1269                   (vi) The department may issue a certificate or  
1270 certificates of need for the expansion of child psychiatric beds  
1271 or the conversion of other beds to child psychiatric beds at the  
1272 University of Mississippi Medical Center. For purposes of this  
1273 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1274 substantial compliance with the projection of need as reported in  
1275 the current State Health Plan are waived. The total number of  
1276 beds that may be authorized under the authority of this  
1277 subparagraph shall not exceed fifteen (15) beds. There shall be  
1278 no prohibition or restrictions on participation in the Medicaid  
1279 program (Section 43-13-101 et seq.) for the hospital receiving the  
1280 certificate of need authorized under this subparagraph or for the  
1281 beds converted pursuant to the authority of that certificate of  
1282 need.

1283                   (b) From and after July 1, 1990, no hospital,  
1284 psychiatric hospital or chemical dependency hospital shall be



1285 authorized to add any child/adolescent psychiatric or  
1286 child/adolescent chemical dependency beds or convert any beds of  
1287 another category to child/adolescent psychiatric or  
1288 child/adolescent chemical dependency beds without a certificate of  
1289 need under the authority of subsection (1)(c) and subsection  
1290 (4)(a) of this section.

1291 (5) The department may issue a certificate of need to a  
1292 county hospital in Winston County for the conversion of fifteen  
1293 (15) acute care beds to geriatric psychiatric care beds.

1294 (6) The State Department of Health shall issue a certificate  
1295 of need to a Mississippi corporation qualified to manage a  
1296 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1297 Harrison County, not to exceed eighty (80) beds, including any  
1298 necessary renovation or construction required for licensure and  
1299 certification, provided that the recipient of the certificate of  
1300 need agrees in writing that the long-term care hospital will not  
1301 at any time participate in the Medicaid program (Section 43-13-101  
1302 et seq.) or admit or keep any patients in the long-term care  
1303 hospital who are participating in the Medicaid program. This  
1304 written agreement by the recipient of the certificate of need  
1305 shall be fully binding on any subsequent owner of the long-term  
1306 care hospital, if the ownership of the facility is transferred at  
1307 any time after the issuance of the certificate of need. Agreement  
1308 that the long-term care hospital will not participate in the  
1309 Medicaid program shall be a condition of the issuance of a



1310 certificate of need to any person under this subsection (6), and  
1311 if such long-term care hospital at any time after the issuance of  
1312 the certificate of need, regardless of the ownership of the  
1313 facility, participates in the Medicaid program or admits or keeps  
1314 any patients in the facility who are participating in the Medicaid  
1315 program, the State Department of Health shall revoke the  
1316 certificate of need, if it is still outstanding, and shall deny or  
1317 revoke the license of the long-term care hospital, at the time  
1318 that the department determines, after a hearing complying with due  
1319 process, that the facility has failed to comply with any of the  
1320 conditions upon which the certificate of need was issued, as  
1321 provided in this subsection and in the written agreement by the  
1322 recipient of the certificate of need. For purposes of this  
1323 subsection, the provisions of Section 41-7-193(1) requiring  
1324 substantial compliance with the projection of need as reported in  
1325 the current State Health Plan are waived.

1326 (7) The State Department of Health may issue a certificate  
1327 of need to any hospital in the state to utilize a portion of its  
1328 beds for the "swing-bed" concept. Any such hospital must be in  
1329 conformance with the federal regulations regarding such swing-bed  
1330 concept at the time it submits its application for a certificate  
1331 of need to the State Department of Health, except that such  
1332 hospital may have more licensed beds or a higher average daily  
1333 census (ADC) than the maximum number specified in federal  
1334 regulations for participation in the swing-bed program. Any



1335 hospital meeting all federal requirements for participation in the  
1336 swing-bed program which receives such certificate of need shall  
1337 render services provided under the swing-bed concept to any  
1338 patient eligible for Medicare (Title XVIII of the Social Security  
1339 Act) who is certified by a physician to be in need of such  
1340 services, and no such hospital shall permit any patient who is  
1341 eligible for both Medicaid and Medicare or eligible only for  
1342 Medicaid to stay in the swing beds of the hospital for more than  
1343 thirty (30) days per admission unless the hospital receives prior  
1344 approval for such patient from the Division of Medicaid, Office of  
1345 the Governor. Any hospital having more licensed beds or a higher  
1346 average daily census (ADC) than the maximum number specified in  
1347 federal regulations for participation in the swing-bed program  
1348 which receives such certificate of need shall develop a procedure  
1349 to ensure that before a patient is allowed to stay in the swing  
1350 beds of the hospital, there are no vacant nursing home beds  
1351 available for that patient located within a fifty-mile radius of  
1352 the hospital. When any such hospital has a patient staying in the  
1353 swing beds of the hospital and the hospital receives notice from a  
1354 nursing home located within such radius that there is a vacant bed  
1355 available for that patient, the hospital shall transfer the  
1356 patient to the nursing home within a reasonable time after receipt  
1357 of the notice. Any hospital which is subject to the requirements  
1358 of the two (2) preceding sentences of this subsection may be  
1359 suspended from participation in the swing-bed program for a



1360 reasonable period of time by the State Department of Health if the  
1361 department, after a hearing complying with due process, determines  
1362 that the hospital has failed to comply with any of those  
1363 requirements.

1364 (8) \* \* \* [Deleted]

1365 (9) The Department of Health shall not grant approval for or  
1366 issue a certificate of need to any person proposing the  
1367 establishment of, or expansion of the currently approved territory  
1368 of, or the contracting to establish a home office, subunit or  
1369 branch office within the space operated as a health care facility  
1370 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1371 care facility as defined in subparagraph (ix) of Section  
1372 41-7-173(h).

1373 (10) Health care facilities owned and/or operated by the  
1374 state or its agencies are exempt from the restraints in this  
1375 section against issuance of a certificate of need if such addition  
1376 or expansion consists of repairing or renovation necessary to  
1377 comply with the state licensure law. This exception shall not  
1378 apply to the new construction of any building by such state  
1379 facility. This exception shall not apply to any health care  
1380 facilities owned and/or operated by counties, municipalities,  
1381 districts, unincorporated areas, other defined persons, or any  
1382 combination thereof.

1383 (11) The new construction, renovation or expansion of or  
1384 addition to any health care facility defined in subparagraph (ii)





1385 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1386 facility), subparagraph (vi) (intermediate care facility),  
1387 subparagraph (viii) (intermediate care facility for the mentally  
1388 retarded) and subparagraph (x) (psychiatric residential treatment  
1389 facility) of Section 41-7-173(h) which is owned by the State of  
1390 Mississippi and under the direction and control of the State  
1391 Department of Mental Health, and the addition of new beds or the  
1392 conversion of beds from one category to another in any such  
1393 defined health care facility which is owned by the State of  
1394 Mississippi and under the direction and control of the State  
1395 Department of Mental Health, shall not require the issuance of a  
1396 certificate of need under Section 41-7-171 et seq.,  
1397 notwithstanding any provision in Section 41-7-171 et seq. to the  
1398 contrary.

1399 (12) The new construction, renovation or expansion of or  
1400 addition to any veterans homes or domiciliaries for eligible  
1401 veterans of the State of Mississippi as authorized under Section  
1402 35-1-19 shall not require the issuance of a certificate of need,  
1403 notwithstanding any provision in Section 41-7-171 et seq. to the  
1404 contrary.

1405 (13) The repair or the rebuilding of an existing, operating  
1406 health care facility that sustained significant damage from a  
1407 natural disaster that occurred after April 15, 2014, in an area  
1408 that is proclaimed a disaster area or subject to a state of  
1409 emergency by the Governor or by the President of the United States



1410 shall be exempt from all of the requirements of the Mississippi  
1411 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1412 rules and regulations promulgated under that law, subject to the  
1413 following conditions:

1414 (a) The repair or the rebuilding of any such damaged  
1415 health care facility must be within one (1) mile of the  
1416 pre-disaster location of the campus of the damaged health care  
1417 facility, except that any temporary post-disaster health care  
1418 facility operating location may be within five (5) miles of the  
1419 pre-disaster location of the damaged health care facility;

1420 (b) The repair or the rebuilding of the damaged health  
1421 care facility (i) does not increase or change the complement of  
1422 its bed capacity that it had before the Governor's or the  
1423 President's proclamation, (ii) does not increase or change its  
1424 levels and types of health care services that it provided before  
1425 the Governor's or the President's proclamation, and (iii) does not  
1426 rebuild in a different county; however, this paragraph does not  
1427 restrict or prevent a health care facility from decreasing its bed  
1428 capacity that it had before the Governor's or the President's  
1429 proclamation, or from decreasing the levels of or decreasing or  
1430 eliminating the types of health care services that it provided  
1431 before the Governor's or the President's proclamation, when the  
1432 damaged health care facility is repaired or rebuilt;

1433 (c) The exemption from Certificate of Need Law provided  
1434 under this subsection (13) is valid for only five (5) years from



1435 the date of the Governor's or the President's proclamation. If  
1436 actual construction has not begun within that five-year period,  
1437 the exemption provided under this subsection is inapplicable; and

1438 (d) The Division of Health Facilities Licensure and  
1439 Certification of the State Department of Health shall provide the  
1440 same oversight for the repair or the rebuilding of the damaged  
1441 health care facility that it provides to all health care facility  
1442 construction projects in the state.

1443 For the purposes of this subsection (13), "significant  
1444 damage" to a health care facility means damage to the health care  
1445 facility requiring an expenditure of at least One Million Dollars  
1446 (\$1,000,000.00).

1447 (14) The State Department of Health shall issue a  
1448 certificate of need to any hospital which is currently licensed  
1449 for two hundred fifty (250) or more acute care beds and is located  
1450 in any general hospital service area not having a comprehensive  
1451 cancer center, for the establishment and equipping of such a  
1452 center which provides facilities and services for outpatient  
1453 radiation oncology therapy, outpatient medical oncology therapy,  
1454 and appropriate support services including the provision of  
1455 radiation therapy services. The provisions of Section 41-7-193(1)  
1456 regarding substantial compliance with the projection of need as  
1457 reported in the current State Health Plan are waived for the  
1458 purpose of this subsection.



1459           (15) The State Department of Health may authorize the  
1460 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1461 North Panola Community Hospital to the South Panola Community  
1462 Hospital. The authorization for the transfer of those beds shall  
1463 be exempt from the certificate of need review process.

1464           (16) The State Department of Health shall issue any  
1465 certificates of need necessary for Mississippi State University  
1466 and a public or private health care provider to jointly acquire  
1467 and operate a linear accelerator and a magnetic resonance imaging  
1468 unit. Those certificates of need shall cover all capital  
1469 expenditures related to the project between Mississippi State  
1470 University and the health care provider, including, but not  
1471 limited to, the acquisition of the linear accelerator, the  
1472 magnetic resonance imaging unit and other radiological modalities;  
1473 the offering of linear accelerator and magnetic resonance imaging  
1474 services; and the cost of construction of facilities in which to  
1475 locate these services. The linear accelerator and the magnetic  
1476 resonance imaging unit shall be (a) located in the City of  
1477 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1478 Mississippi State University and the public or private health care  
1479 provider selected by Mississippi State University through a  
1480 request for proposals (RFP) process in which Mississippi State  
1481 University selects, and the Board of Trustees of State  
1482 Institutions of Higher Learning approves, the health care provider  
1483 that makes the best overall proposal; (c) available to Mississippi



1484 State University for research purposes two-thirds (2/3) of the  
1485 time that the linear accelerator and magnetic resonance imaging  
1486 unit are operational; and (d) available to the public or private  
1487 health care provider selected by Mississippi State University and  
1488 approved by the Board of Trustees of State Institutions of Higher  
1489 Learning one-third (1/3) of the time for clinical, diagnostic and  
1490 treatment purposes. For purposes of this subsection, the  
1491 provisions of Section 41-7-193(1) requiring substantial compliance  
1492 with the projection of need as reported in the current State  
1493 Health Plan are waived.

1494 (17) The State Department of Health shall issue a  
1495 certificate of need for the construction of an acute care hospital  
1496 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1497 be named the "John C. Stennis Memorial Hospital." In issuing the  
1498 certificate of need under this subsection, the department shall  
1499 give priority to a hospital located in Lauderdale County that has  
1500 two hundred fifteen (215) beds. For purposes of this subsection,  
1501 the provisions of Section 41-7-193(1) requiring substantial  
1502 compliance with the projection of need as reported in the current  
1503 State Health Plan and the provisions of Section 41-7-197 requiring  
1504 a formal certificate of need hearing process are waived. There  
1505 shall be no prohibition or restrictions on participation in the  
1506 Medicaid program (Section 43-13-101 et seq.) for the person or  
1507 entity receiving the certificate of need authorized under this



1508 subsection or for the beds constructed under the authority of that  
1509 certificate of need.

1510 (18) The planning, design, construction, renovation,  
1511 addition, furnishing and equipping of a clinical research unit at  
1512 any health care facility defined in Section 41-7-173(h) that is  
1513 under the direction and control of the University of Mississippi  
1514 Medical Center and located in Jackson, Mississippi, and the  
1515 addition of new beds or the conversion of beds from one (1)  
1516 category to another in any such clinical research unit, shall not  
1517 require the issuance of a certificate of need under Section  
1518 41-7-171 et seq., notwithstanding any provision in Section  
1519 41-7-171 et seq. to the contrary.

1520 (19) [Repealed]

1521 (20) Nothing in this section or in any other provision of  
1522 Section 41-7-171 et seq. shall prevent any nursing facility from  
1523 designating an appropriate number of existing beds in the facility  
1524 as beds for providing care exclusively to patients with  
1525 Alzheimer's disease.

1526 (21) Nothing in this section or any other provision of  
1527 Section 41-7-171 et seq. shall prevent any health care facility  
1528 from the new construction, renovation, conversion or expansion of  
1529 new beds in the facility designated as intensive care units,  
1530 negative pressure rooms, or isolation rooms pursuant to the  
1531 provisions of Sections 41-14-1 through 41-14-11, or Section  
1532 41-14-31. For purposes of this subsection, the provisions of



1533 Section 41-7-193(1) requiring substantial compliance with the  
1534 projection of need as reported in the current State Health Plan  
1535 and the provisions of Section 41-7-197 requiring a formal  
1536 certificate of need hearing process are waived.

1537           **SECTION 3.** This act shall take effect and be in force from  
1538 and after July 1, 2023.

