

By: Representative Scott

To: Public Health and Human
Services

HOUSE BILL NO. 459

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE MULTISPECIALTY
3 CERTIFICATES OF NEED TO AN EXISTING AMBULATORY SURGICAL CENTER IN
4 CANTON, MISSISSIPPI; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the
9 following activities without obtaining the required certificate of
10 need:

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

15 (b) The relocation of a health care facility or portion
16 thereof, or major medical equipment, unless such relocation of a
17 health care facility or portion thereof, or major medical
18 equipment, which does not involve a capital expenditure by or on
19 behalf of a health care facility, is within five thousand two



hundred eighty (5,280) feet from the main entrance of the health care facility;

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



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

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

(e) The relocation of one or more health services from one physical facility or site to another physical facility or site, unless such relocation, which does not involve a capital



70 expenditure by or on behalf of a health care facility, (i) is to a
71 physical facility or site within five thousand two hundred eighty
72 (5,280) feet from the main entrance of the health care facility
73 where the health care service is located, or (ii) is the result of
74 an order of a court of appropriate jurisdiction or a result of
75 pending litigation in such court, or by order of the State
76 Department of Health, or by order of any other agency or legal
77 entity of the state, the federal government, or any political
78 subdivision of either, whose order is also approved by the State
79 Department of Health;

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

90 (g) Changes of ownership of existing health care
91 facilities in which a notice of intent is not filed with the State
92 Department of Health at least thirty (30) days prior to the date
93 such change of ownership occurs, or a change in services or bed
94 capacity as prescribed in paragraph (c) or (d) of this subsection



95 as a result of the change of ownership; an acquisition for less
96 than fair market value must be reviewed, if the acquisition at
97 fair market value would be subject to review;

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

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

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

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



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

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

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

135 (a) The department may issue a certificate of need to
136 any person proposing the new construction of any health care
137 facility defined in subparagraphs (iv) and (vi) of Section
138 41-7-173(h) as part of a life care retirement facility, in any
139 county bordering on the Gulf of Mexico in which is located a
140 National Aeronautics and Space Administration facility, not to
141 exceed forty (40) beds. From and after July 1, 1999, there shall
142 be no prohibition or restrictions on participation in the Medicaid



143 program (Section 43-13-101 et seq.) for the beds in the health
144 care facility that were authorized under this paragraph (a).

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

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



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

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

189 (e) The State Department of Health may issue a
190 certificate of need for the construction of a nursing facility or
191 the conversion of beds to nursing facility beds at a personal care
192 facility for the elderly in Lowndes County that is owned and



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

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

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

(h) The State Department of Health may issue a certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hancock, Harrison or Jackson County, not to exceed



sixty (60) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the facility that were authorized under this paragraph (h).

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



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

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



268 after July 1, 1999, there shall be no prohibition or restrictions
269 on participation in the Medicaid program (Section 43-13-101 et
270 seq.) for the beds in the long-term care facilities that were
271 authorized under this paragraph (j).

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



Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for participation in the Medicaid program. If the facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the written agreement.

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

(m) The State Department of Health may issue a certificate of need to a county-owned hospital in the Second Judicial District of Panola County for the conversion of not more than seventy-two (72) hospital beds to nursing facility beds, provided that the recipient of the certificate of need agrees in writing that none of the beds at the nursing facility will be



318 certified for participation in the Medicaid program (Section
319 43-13-101 et seq.), and that no claim will be submitted for
320 Medicaid reimbursement in the nursing facility in any day or for
321 any patient in the nursing facility. This written agreement by
322 the recipient of the certificate of need shall be a condition of
323 the issuance of the certificate of need under this paragraph, and
324 the agreement shall be fully binding on any subsequent owner of
325 the nursing facility if the ownership of the nursing facility is
326 transferred at any time after the issuance of the certificate of
327 need. After this written agreement is executed, the Division of
328 Medicaid and the State Department of Health shall not certify any
329 of the beds in the nursing facility for participation in the
330 Medicaid program. If the nursing facility violates the terms of
331 the written agreement by admitting or keeping in the nursing
332 facility on a regular or continuing basis any patients who are
333 participating in the Medicaid program, the State Department of
334 Health shall revoke the license of the nursing facility, at the
335 time that the department determines, after a hearing complying
336 with due process, that the nursing facility has violated the
337 condition upon which the certificate of need was issued, as
338 provided in this paragraph and in the written agreement. If the
339 certificate of need authorized under this paragraph is not issued
340 within twelve (12) months after July 1, 2001, the department shall
341 deny the application for the certificate of need and shall not
342 issue the certificate of need at any time after the twelve-month



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

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



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



393 issue a license for the nursing facility at any time after the
394 eighteen-month period. However, if the issuance of the
395 certificate of need is contested, the department shall require
396 substantial construction of the nursing facility beds within six
397 (6) months after final adjudication on the issuance of the
398 certificate of need.

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



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



(p) The department may issue a certificate of need for the construction of a municipally owned nursing facility within the Town of Belmont in Tishomingo County, not to exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (p), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as



provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(q) (i) Beginning on July 1, 1999, the State Department of Health shall issue certificates of need during each of the next four (4) fiscal years for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in each county in the state having a need



for fifty (50) or more additional nursing facility beds, as shown in the fiscal year 1999 State Health Plan, in the manner provided in this paragraph (q). The total number of nursing facility beds that may be authorized by any certificate of need authorized under this paragraph (q) shall not exceed sixty (60) beds.

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



the department also shall issue a certificate of need for new nursing facility beds in Amite County and a certificate of need for new nursing facility beds in Carroll County.

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

(iv) Subject to the provisions of subparagraph (v), the certificate of need issued under subparagraph (ii) for nursing facility beds in the two (2) counties from the state at large during each fiscal year shall first be available for nursing facility beds in the two (2) counties that have the highest need in the state for those beds, as shown in the fiscal year 1999 State Health Plan, when considering the need on a statewide basis and without regard to the Long-Term Care Planning Districts in



543 which the counties are located. If there are no applications for
544 a certificate of need for nursing facility beds in either of the
545 two (2) counties having the highest need for those beds on a
546 statewide basis by the date specified by the department, then the
547 certificate of need shall be available for nursing facility beds
548 in other counties from the state at large in descending order of
549 the need for those beds on a statewide basis, from the county with
550 the second highest need to the county with the lowest need, until
551 an application is received for nursing facility beds in an
552 eligible county from the state at large.

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



which counties have the highest need for nursing facility beds in succeeding fiscal years.

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

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

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

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



Plan, to provide care exclusively to patients with Alzheimer's disease.

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

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



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

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



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



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

676 (u) The State Department of Health shall issue a
677 certificate of need to a nonprofit venture for the establishment,
678 construction and operation of a skilled nursing facility of not
679 more than sixty (60) beds to provide skilled nursing care for
680 ventilator dependent or otherwise medically dependent pediatric
681 patients who require medical and nursing care or rehabilitation
682 services to be located in a county in which an academic medical
683 center and a children's hospital are located, and for any
684 construction and for the acquisition of equipment related to those
685 beds. The facility shall be authorized to keep such ventilator
686 dependent or otherwise medically dependent pediatric patients
687 beyond age twenty-one (21) in accordance with regulations of the
688 State Board of Health. For purposes of this paragraph (u), the
689 provisions of Section 41-7-193(1) requiring substantial compliance
690 with the projection of need as reported in the current State
691 Health Plan are waived, and the provisions of Section 41-7-197



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

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

707 (a) Of the total number of beds authorized under this
708 subsection, the department shall issue a certificate of need to a
709 privately owned psychiatric residential treatment facility in
710 Simpson County for the conversion of sixteen (16) intermediate
711 care facility for individuals with intellectual disabilities
712 (ICF-IID) beds to psychiatric residential treatment facility beds,
713 provided that facility agrees in writing that the facility shall
714 give priority for the use of those sixteen (16) beds to
715 Mississippi residents who are presently being treated in
716 out-of-state facilities.



(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the psychiatric residential



742 treatment facility for participation in the Medicaid program for
743 the use of any patients other than those who are participating
744 only in the Medicaid program of another state. If the psychiatric
745 residential treatment facility violates the terms of the written
746 agreement by admitting or keeping in the facility on a regular or
747 continuing basis more than thirty (30) patients who are
748 participating in the Mississippi Medicaid program, the State
749 Department of Health shall revoke the license of the facility, at
750 the time that the department determines, after a hearing complying
751 with due process, that the facility has violated the condition
752 upon which the certificate of need was issued, as provided in this
753 paragraph and in the written agreement.

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

758 (c) Of the total number of beds authorized under this
759 subsection, the department shall issue a certificate of need to a
760 hospital currently operating Medicaid-certified acute psychiatric
761 beds for adolescents in DeSoto County, for the establishment of a
762 forty-bed psychiatric residential treatment facility in DeSoto
763 County, provided that the hospital agrees in writing (i) that the
764 hospital shall give priority for the use of those forty (40) beds
765 to Mississippi residents who are presently being treated in
766 out-of-state facilities, and (ii) that no more than fifteen (15)



767 of the beds at the psychiatric residential treatment facility will
768 be certified for participation in the Medicaid program (Section
769 43-13-101 et seq.), and that no claim will be submitted for
770 Medicaid reimbursement for more than fifteen (15) patients in the
771 psychiatric residential treatment facility in any day or for any
772 patient in the psychiatric residential treatment facility who is
773 in a bed that is not Medicaid-certified. This written agreement
774 by the recipient of the certificate of need shall be a condition
775 of the issuance of the certificate of need under this paragraph,
776 and the agreement shall be fully binding on any subsequent owner
777 of the psychiatric residential treatment facility if the ownership
778 of the facility is transferred at any time after the issuance of
779 the certificate of need. After this written agreement is
780 executed, the Division of Medicaid and the State Department of
781 Health shall not certify more than fifteen (15) of the beds in the
782 psychiatric residential treatment facility for participation in
783 the Medicaid program. If the psychiatric residential treatment
784 facility violates the terms of the written agreement by admitting
785 or keeping in the facility on a regular or continuing basis more
786 than fifteen (15) patients who are participating in the Medicaid
787 program, the State Department of Health shall revoke the license
788 of the facility, at the time that the department determines, after
789 a hearing complying with due process, that the facility has
790 violated the condition upon which the certificate of need was



issued, as provided in this paragraph and in the written agreement.

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

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

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



816 certificate of need under this paragraph, the facility shall give
817 priority in admissions to the child/adolescent psychiatric
818 residential treatment facility beds authorized under this
819 paragraph to patients who otherwise would require out-of-state
820 placement. The Division of Medicaid, in conjunction with the
821 Department of Human Services, shall furnish the facility a list of
822 all out-of-state patients on a quarterly basis. Furthermore,
823 notice shall also be provided to the parent, custodial parent or
824 guardian of each out-of-state patient notifying them of the
825 priority status granted by this paragraph. For purposes of this
826 paragraph, the provisions of Section 41-7-193(1) requiring
827 substantial compliance with the projection of need as reported in
828 the current State Health Plan are waived. The total number of
829 child/adolescent psychiatric residential treatment facility beds
830 that may be authorized under the authority of this paragraph shall
831 be sixty (60) beds. There shall be no prohibition or restrictions
832 on participation in the Medicaid program (Section 43-13-101 et
833 seq.) for the person receiving the certificate of need authorized
834 under this paragraph or for the beds converted pursuant to the
835 authority of that certificate of need.

836 (4) (a) From and after March 25, 2021, the department may
837 issue a certificate of need to any person for the new construction
838 of any hospital, psychiatric hospital or chemical dependency
839 hospital that will contain any child/adolescent psychiatric or
840 child/adolescent chemical dependency beds, or for the conversion



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

(i) [Deleted]

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



Health Plan are waived. The total number of beds that may be authorized under authority of this subparagraph shall not exceed twenty (20) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph or for the beds converted pursuant to the authority of that certificate of need.

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

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



the certificate of need that was previously issued under this subparagraph shall expire. If the previously issued certificate of need expires, the department may accept applications for issuance of another certificate of need for the beds authorized under this subparagraph, and may issue a certificate of need to authorize the construction, expansion or conversion of the beds authorized under this subparagraph.

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

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the



916 conversion of other beds to adult psychiatric beds, not to exceed
917 twenty (20) beds, provided that the recipient of the certificate
918 of need agrees in writing that the adult psychiatric beds will not
919 at any time be certified for participation in the Medicaid program
920 and that the hospital will not admit or keep any patients who are
921 participating in the Medicaid program in any of such adult
922 psychiatric beds. This written agreement by the recipient of the
923 certificate of need shall be fully binding on any subsequent owner
924 of the hospital if the ownership of the hospital is transferred at
925 any time after the issuance of the certificate of need. Agreement
926 that the adult psychiatric beds will not be certified for
927 participation in the Medicaid program shall be a condition of the
928 issuance of a certificate of need to any person under this
929 subparagraph (v), and if such hospital at any time after the
930 issuance of the certificate of need, regardless of the ownership
931 of the hospital, has any of such adult psychiatric beds certified
932 for participation in the Medicaid program or admits or keeps any
933 Medicaid patients in such adult psychiatric beds, the State
934 Department of Health shall revoke the certificate of need, if it
935 is still outstanding, and shall deny or revoke the license of the
936 hospital at the time that the department determines, after a
937 hearing complying with due process, that the hospital has failed
938 to comply with any of the conditions upon which the certificate of
939 need was issued, as provided in this subparagraph and in the
940 written agreement by the recipient of the certificate of need.



941 (vi) The department may issue a certificate or
942 certificates of need for the expansion of child psychiatric beds
943 or the conversion of other beds to child psychiatric beds at the
944 University of Mississippi Medical Center. For purposes of this
945 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
946 substantial compliance with the projection of need as reported in
947 the current State Health Plan are waived. The total number of
948 beds that may be authorized under the authority of this
949 subparagraph shall not exceed fifteen (15) beds. There shall be
950 no prohibition or restrictions on participation in the Medicaid
951 program (Section 43-13-101 et seq.) for the hospital receiving the
952 certificate of need authorized under this subparagraph or for the
953 beds converted pursuant to the authority of that certificate of
954 need.

955 (b) From and after July 1, 1990, no hospital,
956 psychiatric hospital or chemical dependency hospital shall be
957 authorized to add any child/adolescent psychiatric or
958 child/adolescent chemical dependency beds or convert any beds of
959 another category to child/adolescent psychiatric or
960 child/adolescent chemical dependency beds without a certificate of
961 need under the authority of subsection (1)(c) and subsection
962 (4)(a) of this section.

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



966 (6) The State Department of Health shall issue a certificate
967 of need to a Mississippi corporation qualified to manage a
968 long-term care hospital as defined in Section 41-7-173(h)(xii) in
969 Harrison County, not to exceed eighty (80) beds, including any
970 necessary renovation or construction required for licensure and
971 certification, provided that the recipient of the certificate of
972 need agrees in writing that the long-term care hospital will not
973 at any time participate in the Medicaid program (Section 43-13-101
974 et seq.) or admit or keep any patients in the long-term care
975 hospital who are participating in the Medicaid program. This
976 written agreement by the recipient of the certificate of need
977 shall be fully binding on any subsequent owner of the long-term
978 care hospital, if the ownership of the facility is transferred at
979 any time after the issuance of the certificate of need. Agreement
980 that the long-term care hospital will not participate in the
981 Medicaid program shall be a condition of the issuance of a
982 certificate of need to any person under this subsection (6), and
983 if such long-term care hospital at any time after the issuance of
984 the certificate of need, regardless of the ownership of the
985 facility, participates in the Medicaid program or admits or keeps
986 any patients in the facility who are participating in the Medicaid
987 program, the State Department of Health shall revoke the
988 certificate of need, if it is still outstanding, and shall deny or
989 revoke the license of the long-term care hospital, at the time
990 that the department determines, after a hearing complying with due



991 process, that the facility has failed to comply with any of the
992 conditions upon which the certificate of need was issued, as
993 provided in this subsection and in the written agreement by the
994 recipient of the certificate of need. For purposes of this
995 subsection, the provisions of Section 41-7-193(1) requiring
996 substantial compliance with the projection of need as reported in
997 the current State Health Plan are waived.

998 (7) The State Department of Health may issue a certificate
999 of need to any hospital in the state to utilize a portion of its
1000 beds for the "swing-bed" concept. Any such hospital must be in
1001 conformance with the federal regulations regarding such swing-bed
1002 concept at the time it submits its application for a certificate
1003 of need to the State Department of Health, except that such
1004 hospital may have more licensed beds or a higher average daily
1005 census (ADC) than the maximum number specified in federal
1006 regulations for participation in the swing-bed program. Any
1007 hospital meeting all federal requirements for participation in the
1008 swing-bed program which receives such certificate of need shall
1009 render services provided under the swing-bed concept to any
1010 patient eligible for Medicare (Title XVIII of the Social Security
1011 Act) who is certified by a physician to be in need of such
1012 services, and no such hospital shall permit any patient who is
1013 eligible for both Medicaid and Medicare or eligible only for
1014 Medicaid to stay in the swing beds of the hospital for more than
1015 thirty (30) days per admission unless the hospital receives prior



1016 approval for such patient from the Division of Medicaid, Office of
1017 the Governor. Any hospital having more licensed beds or a higher
1018 average daily census (ADC) than the maximum number specified in
1019 federal regulations for participation in the swing-bed program
1020 which receives such certificate of need shall develop a procedure
1021 to ensure that before a patient is allowed to stay in the swing
1022 beds of the hospital, there are no vacant nursing home beds
1023 available for that patient located within a fifty-mile radius of
1024 the hospital. When any such hospital has a patient staying in the
1025 swing beds of the hospital and the hospital receives notice from a
1026 nursing home located within such radius that there is a vacant bed
1027 available for that patient, the hospital shall transfer the
1028 patient to the nursing home within a reasonable time after receipt
1029 of the notice. Any hospital which is subject to the requirements
1030 of the two (2) preceding sentences of this subsection may be
1031 suspended from participation in the swing-bed program for a
1032 reasonable period of time by the State Department of Health if the
1033 department, after a hearing complying with due process, determines
1034 that the hospital has failed to comply with any of those
1035 requirements.

1036 (8) The Department of Health shall not grant approval for or
1037 issue a certificate of need to any person proposing the new
1038 construction of, addition to or expansion of a health care
1039 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1040 except as hereinafter provided: The department may issue a



1041 certificate of need to a nonprofit corporation located in Madison
1042 County, Mississippi, for the construction, expansion or conversion
1043 of not more than twenty (20) beds in a community living program
1044 for developmentally disabled adults in a facility as defined in
1045 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1046 subsection (8), the provisions of Section 41-7-193(1) requiring
1047 substantial compliance with the projection of need as reported in
1048 the current State Health Plan and the provisions of Section
1049 41-7-197 requiring a formal certificate of need hearing process
1050 are waived. There shall be no prohibition or restrictions on
1051 participation in the Medicaid program for the person receiving the
1052 certificate of need authorized under this subsection (8).

1053 (9) The Department of Health shall not grant approval for or
1054 issue a certificate of need to any person proposing the
1055 establishment of, or expansion of the currently approved territory
1056 of, or the contracting to establish a home office, subunit or
1057 branch office within the space operated as a health care facility
1058 as defined in Section 41-7-173(h)(i) through (viii) by a health
1059 care facility as defined in subparagraph (ix) of Section
1060 41-7-173(h).

1061 (10) Health care facilities owned and/or operated by the
1062 state or its agencies are exempt from the restraints in this
1063 section against issuance of a certificate of need if such addition
1064 or expansion consists of repairing or renovation necessary to
1065 comply with the state licensure law. This exception shall not



1066 apply to the new construction of any building by such state
1067 facility. This exception shall not apply to any health care
1068 facilities owned and/or operated by counties, municipalities,
1069 districts, unincorporated areas, other defined persons, or any
1070 combination thereof.

1071 (11) The new construction, renovation or expansion of or
1072 addition to any health care facility defined in subparagraph (ii)
1073 (psychiatric hospital), subparagraph (iv) (skilled nursing
1074 facility), subparagraph (vi) (intermediate care facility),
1075 subparagraph (viii) (intermediate care facility for individuals
1076 with intellectual disabilities) and subparagraph (x) (psychiatric
1077 residential treatment facility) of Section 41-7-173(h) which is
1078 owned by the State of Mississippi and under the direction and
1079 control of the State Department of Mental Health, and the addition
1080 of new beds or the conversion of beds from one category to another
1081 in any such defined health care facility which is owned by the
1082 State of Mississippi and under the direction and control of the
1083 State Department of Mental Health, shall not require the issuance
1084 of a certificate of need under Section 41-7-171 et seq.,
1085 notwithstanding any provision in Section 41-7-171 et seq. to the
1086 contrary.

1087 (12) The new construction, renovation or expansion of or
1088 addition to any veterans homes or domiciliaries for eligible
1089 veterans of the State of Mississippi as authorized under Section
1090 35-1-19 shall not require the issuance of a certificate of need,



1091 notwithstanding any provision in Section 41-7-171 et seq. to the
1092 contrary.

1093 (13) The repair or the rebuilding of an existing, operating
1094 health care facility that sustained significant damage from a
1095 natural disaster that occurred after April 15, 2014, in an area
1096 that is proclaimed a disaster area or subject to a state of
1097 emergency by the Governor or by the President of the United States
1098 shall be exempt from all of the requirements of the Mississippi
1099 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1100 rules and regulations promulgated under that law, subject to the
1101 following conditions:

1102 (a) The repair or the rebuilding of any such damaged
1103 health care facility must be within one (1) mile of the
1104 pre-disaster location of the campus of the damaged health care
1105 facility, except that any temporary post-disaster health care
1106 facility operating location may be within five (5) miles of the
1107 pre-disaster location of the damaged health care facility;

1108 (b) The repair or the rebuilding of the damaged health
1109 care facility (i) does not increase or change the complement of
1110 its bed capacity that it had before the Governor's or the
1111 President's proclamation, (ii) does not increase or change its
1112 levels and types of health care services that it provided before
1113 the Governor's or the President's proclamation, and (iii) does not
1114 rebuild in a different county; however, this paragraph does not
1115 restrict or prevent a health care facility from decreasing its bed



1116 capacity that it had before the Governor's or the President's
1117 proclamation, or from decreasing the levels of or decreasing or
1118 eliminating the types of health care services that it provided
1119 before the Governor's or the President's proclamation, when the
1120 damaged health care facility is repaired or rebuilt;

1121 (c) The exemption from Certificate of Need Law provided
1122 under this subsection (13) is valid for only five (5) years from
1123 the date of the Governor's or the President's proclamation. If
1124 actual construction has not begun within that five-year period,
1125 the exemption provided under this subsection is inapplicable; and

1126 (d) The Division of Health Facilities Licensure and
1127 Certification of the State Department of Health shall provide the
1128 same oversight for the repair or the rebuilding of the damaged
1129 health care facility that it provides to all health care facility
1130 construction projects in the state.

1131 For the purposes of this subsection (13), "significant
1132 damage" to a health care facility means damage to the health care
1133 facility requiring an expenditure of at least One Million Dollars
1134 (\$1,000,000.00).

1135 (14) The State Department of Health shall issue a
1136 certificate of need to any hospital which is currently licensed
1137 for two hundred fifty (250) or more acute care beds and is located
1138 in any general hospital service area not having a comprehensive
1139 cancer center, for the establishment and equipping of such a
1140 center which provides facilities and services for outpatient



1141 radiation oncology therapy, outpatient medical oncology therapy,
1142 and appropriate support services including the provision of
1143 radiation therapy services. The provisions of Section 41-7-193(1)
1144 regarding substantial compliance with the projection of need as
1145 reported in the current State Health Plan are waived for the
1146 purpose of this subsection.

1147 (15) The State Department of Health may authorize the
1148 transfer of hospital beds, not to exceed sixty (60) beds, from the
1149 North Panola Community Hospital to the South Panola Community
1150 Hospital. The authorization for the transfer of those beds shall
1151 be exempt from the certificate of need review process.

1152 (16) The State Department of Health shall issue any
1153 certificates of need necessary for Mississippi State University
1154 and a public or private health care provider to jointly acquire
1155 and operate a linear accelerator and a magnetic resonance imaging
1156 unit. Those certificates of need shall cover all capital
1157 expenditures related to the project between Mississippi State
1158 University and the health care provider, including, but not
1159 limited to, the acquisition of the linear accelerator, the
1160 magnetic resonance imaging unit and other radiological modalities;
1161 the offering of linear accelerator and magnetic resonance imaging
1162 services; and the cost of construction of facilities in which to
1163 locate these services. The linear accelerator and the magnetic
1164 resonance imaging unit shall be (a) located in the City of
1165 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by



1166 Mississippi State University and the public or private health care
1167 provider selected by Mississippi State University through a
1168 request for proposals (RFP) process in which Mississippi State
1169 University selects, and the Board of Trustees of State
1170 Institutions of Higher Learning approves, the health care provider
1171 that makes the best overall proposal; (c) available to Mississippi
1172 State University for research purposes two-thirds (2/3) of the
1173 time that the linear accelerator and magnetic resonance imaging
1174 unit are operational; and (d) available to the public or private
1175 health care provider selected by Mississippi State University and
1176 approved by the Board of Trustees of State Institutions of Higher
1177 Learning one-third (1/3) of the time for clinical, diagnostic and
1178 treatment purposes. For purposes of this subsection, the
1179 provisions of Section 41-7-193(1) requiring substantial compliance
1180 with the projection of need as reported in the current State
1181 Health Plan are waived.

1182 (17) The State Department of Health shall issue a
1183 certificate of need for the construction of an acute care hospital
1184 in Kemper County, not to exceed twenty-five (25) beds, which shall
1185 be named the "John C. Stennis Memorial Hospital." In issuing the
1186 certificate of need under this subsection, the department shall
1187 give priority to a hospital located in Lauderdale County that has
1188 two hundred fifteen (215) beds. For purposes of this subsection,
1189 the provisions of Section 41-7-193(1) requiring substantial
1190 compliance with the projection of need as reported in the current



1191 State Health Plan and the provisions of Section 41-7-197 requiring
1192 a formal certificate of need hearing process are waived. There
1193 shall be no prohibition or restrictions on participation in the
1194 Medicaid program (Section 43-13-101 et seq.) for the person or
1195 entity receiving the certificate of need authorized under this
1196 subsection or for the beds constructed under the authority of that
1197 certificate of need.

1198 (18) The planning, design, construction, renovation,
1199 addition, furnishing and equipping of a clinical research unit at
1200 any health care facility defined in Section 41-7-173(h) that is
1201 under the direction and control of the University of Mississippi
1202 Medical Center and located in Jackson, Mississippi, and the
1203 addition of new beds or the conversion of beds from one (1)
1204 category to another in any such clinical research unit, shall not
1205 require the issuance of a certificate of need under Section
1206 41-7-171 et seq., notwithstanding any provision in Section
1207 41-7-171 et seq. to the contrary.

1208 (19) [Repealed]

1209 (20) The department shall issue multispecialty certificates
1210 of need to include two (2) OR-multispecialty rooms in Canton,
1211 Mississippi, to reopen the ambulatory surgery center located at
1212 1883 Highway 43 in Canton. These certificates shall not be moved
1213 or relocated from this facility.

1214 (* * *21) Nothing in this section or in any other provision
1215 of Section 41-7-171 et seq. shall prevent any nursing facility



1216 from designating an appropriate number of existing beds in the
1217 facility as beds for providing care exclusively to patients with
1218 Alzheimer's disease.

1219 (* * *22) Nothing in this section or any other provision of
1220 Section 41-7-171 et seq. shall prevent any health care facility
1221 from the new construction, renovation, conversion or expansion of
1222 new beds in the facility designated as intensive care units,
1223 negative pressure rooms, or isolation rooms pursuant to the
1224 provisions of Sections 41-14-1 through 41-14-11, or Section
1225 41-14-31. For purposes of this subsection, the provisions of
1226 Section 41-7-193(1) requiring substantial compliance with the
1227 projection of need as reported in the current State Health Plan
1228 and the provisions of Section 41-7-197 requiring a formal
1229 certificate of need hearing process are waived.

1230 **SECTION 2.** This act shall take effect and be in force from
1231 and after July 1, 2025.

