

By: Representative Burnett

To: Public Health and Human  
Services

HOUSE BILL NO. 747

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE TUNICA COUNTY HEALTH CARE AUTHORITY, TUNICA  
3 COUNTY BOARD OF SUPERVISORS, OR OTHER AUTHORIZED MANAGING ENTITY  
4 MAY APPLY FOR, AND THE STATE DEPARTMENT OF HEALTH SHALL ISSUE, A  
5 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF AN ACUTE CARE HOSPITAL  
6 IN TUNICA COUNTY UPON DEMONSTRATION OF THE FEASIBLE VIABILITY OF  
7 SUCH; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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



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

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

52 (i) Open-heart surgery services;

53 (ii) Cardiac catheterization services;

54 (iii) Comprehensive inpatient rehabilitation  
55 services;

56 (iv) Licensed psychiatric services;

57 (v) Licensed chemical dependency services;

58 (vi) Radiation therapy services;

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

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

63 (ix) Home health services;

64 (x) Swing-bed services;

65 (xi) Ambulatory surgical services;

66 (xii) Magnetic resonance imaging services;

67 (xiii) [Deleted]

68 (xiv) Long-term care hospital services;

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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





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

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

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

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



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



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

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



reported in the current State Health Plan are waived. 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 long-term care facilities that were authorized under this paragraph (j).

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



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

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

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



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



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

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



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





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.

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds 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 (o), 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



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



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

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

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



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)



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

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

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



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

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



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

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

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

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

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





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

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

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



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

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

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



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



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

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



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

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

(a) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a privately owned psychiatric residential treatment facility in Simpson County for the conversion of sixteen (16) intermediate care facility for individuals with intellectual disabilities (ICF-IID) beds to psychiatric residential treatment facility beds, provided that facility agrees in writing that the facility shall give priority for the use of those sixteen (16) beds to



Mississippi residents who are presently being treated in  
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



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

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

761       (c) Of the total number of beds authorized under this  
762 subsection, the department shall issue a certificate of need to a  
763 hospital currently operating Medicaid-certified acute psychiatric  
764 beds for adolescents in DeSoto County, for the establishment of a  
765 forty-bed psychiatric residential treatment facility in DeSoto  
766 County, provided that the hospital agrees in writing (i) that the  
767 hospital shall give priority for the use of those forty (40) beds



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





793 violated the condition upon which the certificate of need was  
794 issued, as provided in this paragraph and in the written  
795 agreement.

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

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

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



in Lauderdale County. As a condition of issuance of the certificate of need under this paragraph, the facility shall give priority in admissions to the child/adolescent psychiatric residential treatment facility beds authorized under this paragraph to patients who otherwise would require out-of-state placement. The Division of Medicaid, in conjunction with the Department of Human Services, shall furnish the facility a list of all out-of-state patients on a quarterly basis. Furthermore, notice shall also be provided to the parent, custodial parent or guardian of each out-of-state patient notifying them of the priority status granted by this paragraph. For purposes of this paragraph, 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 child/adolescent psychiatric residential treatment facility beds that may be authorized under the authority of this paragraph shall be sixty (60) 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 paragraph or for the beds converted pursuant to the authority of that certificate of need.

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



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

862 (i) [Deleted]

863 (ii) The department may issue a certificate of  
864 need for the conversion of existing beds in a county hospital in  
865 Choctaw County from acute care beds to child/adolescent chemical  
866 dependency beds. For purposes of this subparagraph (ii), the  
867 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



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



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

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

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



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

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





991 certificate of need, if it is still outstanding, and shall deny or  
992 revoke the license of the long-term care hospital, at the time  
993 that the department determines, after a hearing complying with due  
994 process, that the facility has failed to comply with any of the  
995 conditions upon which the certificate of need was issued, as  
996 provided in this subsection and in the written agreement by the  
997 recipient of the certificate of need. For purposes of this  
998 subsection, the provisions of Section 41-7-193(1) requiring  
999 substantial compliance with the projection of need as reported in  
1000 the current State Health Plan are waived.

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



1016 eligible for both Medicaid and Medicare or eligible only for  
1017 Medicaid to stay in the swing beds of the hospital for more than  
1018 thirty (30) days per admission unless the hospital receives prior  
1019 approval for such patient from the Division of Medicaid, Office of  
1020 the Governor. Any hospital having more licensed beds or a higher  
1021 average daily census (ADC) than the maximum number specified in  
1022 federal regulations for participation in the swing-bed program  
1023 which receives such certificate of need shall develop a procedure  
1024 to ensure that before a patient is allowed to stay in the swing  
1025 beds of the hospital, there are no vacant nursing home beds  
1026 available for that patient located within a fifty-mile radius of  
1027 the hospital. When any such hospital has a patient staying in the  
1028 swing beds of the hospital and the hospital receives notice from a  
1029 nursing home located within such radius that there is a vacant bed  
1030 available for that patient, the hospital shall transfer the  
1031 patient to the nursing home within a reasonable time after receipt  
1032 of the notice. Any hospital which is subject to the requirements  
1033 of the two (2) preceding sentences of this subsection may be  
1034 suspended from participation in the swing-bed program for a  
1035 reasonable period of time by the State Department of Health if the  
1036 department, after a hearing complying with due process, determines  
1037 that the hospital has failed to comply with any of those  
1038 requirements.

1039 (8) The Department of Health shall not grant approval for or  
1040 issue a certificate of need to any person proposing the new



1041 construction of, addition to or expansion of a health care  
1042 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1043 except as hereinafter provided: The department may issue a  
1044 certificate of need to a nonprofit corporation located in Madison  
1045 County, Mississippi, for the construction, expansion or conversion  
1046 of not more than twenty (20) beds in a community living program  
1047 for developmentally disabled adults in a facility as defined in  
1048 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1049 subsection (8), the provisions of Section 41-7-193(1) requiring  
1050 substantial compliance with the projection of need as reported in  
1051 the current State Health Plan and the provisions of Section  
1052 41-7-197 requiring a formal certificate of need hearing process  
1053 are waived. There shall be no prohibition or restrictions on  
1054 participation in the Medicaid program for the person receiving the  
1055 certificate of need authorized under this subsection (8).

1056 (9) The Department of Health shall not grant approval for or  
1057 issue a certificate of need to any person proposing the  
1058 establishment of, or expansion of the currently approved territory  
1059 of, or the contracting to establish a home office, subunit or  
1060 branch office within the space operated as a health care facility  
1061 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1062 care facility as defined in subparagraph (ix) of Section  
1063 41-7-173(h).

1064 (10) Health care facilities owned and/or operated by the  
1065 state or its agencies are exempt from the restraints in this



1066 section against issuance of a certificate of need if such addition  
1067 or expansion consists of repairing or renovation necessary to  
1068 comply with the state licensure law. This exception shall not  
1069 apply to the new construction of any building by such state  
1070 facility. This exception shall not apply to any health care  
1071 facilities owned and/or operated by counties, municipalities,  
1072 districts, unincorporated areas, other defined persons, or any  
1073 combination thereof.

1074 (11) The new construction, renovation or expansion of or  
1075 addition to any health care facility defined in subparagraph (ii)  
1076 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1077 facility), subparagraph (vi) (intermediate care facility),  
1078 subparagraph (viii) (intermediate care facility for individuals  
1079 with intellectual disabilities) and subparagraph (x) (psychiatric  
1080 residential treatment facility) of Section 41-7-173(h) which is  
1081 owned by the State of Mississippi and under the direction and  
1082 control of the State Department of Mental Health, and the addition  
1083 of new beds or the conversion of beds from one category to another  
1084 in any such defined health care facility which is owned by the  
1085 State of Mississippi and under the direction and control of the  
1086 State Department of Mental Health, shall not require the issuance  
1087 of a certificate of need under Section 41-7-171 et seq.,  
1088 notwithstanding any provision in Section 41-7-171 et seq. to the  
1089 contrary.



1090           (12) The new construction, renovation or expansion of or  
1091 addition to any veterans homes or domiciliaries for eligible  
1092 veterans of the State of Mississippi as authorized under Section  
1093 35-1-19 shall not require the issuance of a certificate of need,  
1094 notwithstanding any provision in Section 41-7-171 et seq. to the  
1095 contrary.

1096           (13) The repair or the rebuilding of an existing, operating  
1097 health care facility that sustained significant damage from a  
1098 natural disaster that occurred after April 15, 2014, in an area  
1099 that is proclaimed a disaster area or subject to a state of  
1100 emergency by the Governor or by the President of the United States  
1101 shall be exempt from all of the requirements of the Mississippi  
1102 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1103 rules and regulations promulgated under that law, subject to the  
1104 following conditions:

1105                 (a) The repair or the rebuilding of any such damaged  
1106 health care facility must be within one (1) mile of the  
1107 pre-disaster location of the campus of the damaged health care  
1108 facility, except that any temporary post-disaster health care  
1109 facility operating location may be within five (5) miles of the  
1110 pre-disaster location of the damaged health care facility;

1111                 (b) The repair or the rebuilding of the damaged health  
1112 care facility (i) does not increase or change the complement of  
1113 its bed capacity that it had before the Governor's or the  
1114 President's proclamation, (ii) does not increase or change its



1115 levels and types of health care services that it provided before  
1116 the Governor's or the President's proclamation, and (iii) does not  
1117 rebuild in a different county; however, this paragraph does not  
1118 restrict or prevent a health care facility from decreasing its bed  
1119 capacity that it had before the Governor's or the President's  
1120 proclamation, or from decreasing the levels of or decreasing or  
1121 eliminating the types of health care services that it provided  
1122 before the Governor's or the President's proclamation, when the  
1123 damaged health care facility is repaired or rebuilt;

1124 (c) The exemption from Certificate of Need Law provided  
1125 under this subsection (13) is valid for only five (5) years from  
1126 the date of the Governor's or the President's proclamation. If  
1127 actual construction has not begun within that five-year period,  
1128 the exemption provided under this subsection is inapplicable; and

1129 (d) The Division of Health Facilities Licensure and  
1130 Certification of the State Department of Health shall provide the  
1131 same oversight for the repair or the rebuilding of the damaged  
1132 health care facility that it provides to all health care facility  
1133 construction projects in the state.

1134 For the purposes of this subsection (13), "significant  
1135 damage" to a health care facility means damage to the health care  
1136 facility requiring an expenditure of at least One Million Dollars  
1137 (\$1,000,000.00).

1138 (14) The State Department of Health shall issue a  
1139 certificate of need to any hospital which is currently licensed



1140 for two hundred fifty (250) or more acute care beds and is located  
1141 in any general hospital service area not having a comprehensive  
1142 cancer center, for the establishment and equipping of such a  
1143 center which provides facilities and services for outpatient  
1144 radiation oncology therapy, outpatient medical oncology therapy,  
1145 and appropriate support services including the provision of  
1146 radiation therapy services. The provisions of Section 41-7-193(1)  
1147 regarding substantial compliance with the projection of need as  
1148 reported in the current State Health Plan are waived for the  
1149 purpose of this subsection.

1150 (15) The State Department of Health may authorize the  
1151 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1152 North Panola Community Hospital to the South Panola Community  
1153 Hospital. The authorization for the transfer of those beds shall  
1154 be exempt from the certificate of need review process.

1155 (16) The State Department of Health shall issue any  
1156 certificates of need necessary for Mississippi State University  
1157 and a public or private health care provider to jointly acquire  
1158 and operate a linear accelerator and a magnetic resonance imaging  
1159 unit. Those certificates of need shall cover all capital  
1160 expenditures related to the project between Mississippi State  
1161 University and the health care provider, including, but not  
1162 limited to, the acquisition of the linear accelerator, the  
1163 magnetic resonance imaging unit and other radiological modalities;  
1164 the offering of linear accelerator and magnetic resonance imaging



1165 services; and the cost of construction of facilities in which to  
1166 locate these services. The linear accelerator and the magnetic  
1167 resonance imaging unit shall be (a) located in the City of  
1168 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1169 Mississippi State University and the public or private health care  
1170 provider selected by Mississippi State University through a  
1171 request for proposals (RFP) process in which Mississippi State  
1172 University selects, and the Board of Trustees of State  
1173 Institutions of Higher Learning approves, the health care provider  
1174 that makes the best overall proposal; (c) available to Mississippi  
1175 State University for research purposes two-thirds (2/3) of the  
1176 time that the linear accelerator and magnetic resonance imaging  
1177 unit are operational; and (d) available to the public or private  
1178 health care provider selected by Mississippi State University and  
1179 approved by the Board of Trustees of State Institutions of Higher  
1180 Learning one-third (1/3) of the time for clinical, diagnostic and  
1181 treatment purposes. For purposes of this subsection, the  
1182 provisions of Section 41-7-193(1) requiring substantial compliance  
1183 with the projection of need as reported in the current State  
1184 Health Plan are waived.

1185 (17) The State Department of Health shall issue a  
1186 certificate of need for the construction of an acute care hospital  
1187 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1188 be named the "John C. Stennis Memorial Hospital." In issuing the  
1189 certificate of need under this subsection, the department shall





1190 give priority to a hospital located in Lauderdale County that has  
1191 two hundred fifteen (215) beds. For purposes of this subsection,  
1192 the provisions of Section 41-7-193(1) requiring substantial  
1193 compliance with the projection of need as reported in the current  
1194 State Health Plan and the provisions of Section 41-7-197 requiring  
1195 a formal certificate of need hearing process are waived. There  
1196 shall be no prohibition or restrictions on participation in the  
1197 Medicaid program (Section 43-13-101 et seq.) for the person or  
1198 entity receiving the certificate of need authorized under this  
1199 subsection or for the beds constructed under the authority of that  
1200 certificate of need.

1201 (18) The planning, design, construction, renovation,  
1202 addition, furnishing and equipping of a clinical research unit at  
1203 any health care facility defined in Section 41-7-173(h) that is  
1204 under the direction and control of the University of Mississippi  
1205 Medical Center and located in Jackson, Mississippi, and the  
1206 addition of new beds or the conversion of beds from one (1)  
1207 category to another in any such clinical research unit, shall not  
1208 require the issuance of a certificate of need under Section  
1209 41-7-171 et seq., notwithstanding any provision in Section  
1210 41-7-171 et seq. to the contrary.

1211 (19) [Repealed]

1212 (20) Nothing in this section or in any other provision of  
1213 Section 41-7-171 et seq. shall prevent any nursing facility from  
1214 designating an appropriate number of existing beds in the facility



1215 as beds for providing care exclusively to patients with  
1216 Alzheimer's disease.

1217 (21) Nothing in this section or any other provision of  
1218 Section 41-7-171 et seq. shall prevent any health care facility  
1219 from the new construction, renovation, conversion or expansion of  
1220 new beds in the facility designated as intensive care units,  
1221 negative pressure rooms, or isolation rooms pursuant to the  
1222 provisions of Sections 41-14-1 through 41-14-11, or Section  
1223 41-14-31. For purposes of this subsection, the provisions of  
1224 Section 41-7-193(1) requiring substantial compliance with the  
1225 projection of need as reported in the current State Health Plan  
1226 and the provisions of Section 41-7-197 requiring a formal  
1227 certificate of need hearing process are waived.

1228 (22) The Tunica County Health Care Authority, Tunica County  
1229 Board of Supervisors, or other authorized managing entity may  
1230 apply for, and the State Department of Health shall issue, a  
1231 certificate of need for the construction of an acute care hospital  
1232 in Tunica County upon demonstration of the feasible viability of  
1233 such.

1234 For purposes of this subsection, the provisions of Section  
1235 47-7-193(1) requiring substantial compliance with the projection  
1236 of need as reported in the current State Health Plan and the  
1237 provisions of Section 41-7-197 requiring a formal certificate of  
1238 need hearing process are waived.



1239           **SECTION 2.** This act shall take effect and be in force from  
1240 and after July 1, 2025.

