

By: Representative Lancaster

To: Public Health and Human
Services

HOUSE BILL NO. 1152

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FOR ANY HEALTH CARE FACILITY THAT RELINQUISHED ITS
3 CERTIFICATE OF NEED OR LICENSE FOR INPATIENT PSYCHIATRIC SERVICES
4 BECAUSE THE FACILITY CONVERTED FROM AN ACUTE CARE HOSPITAL OR
5 CRITICAL ACCESS HOSPITAL TO A RURAL EMERGENCY HOSPITAL IN
6 ACCORDANCE WITH CERTAIN FEDERAL REGULATIONS, THE STATE DEPARTMENT
7 OF HEALTH MAY LICENSE THE PSYCHIATRIC INPATIENT BEDS AS A SEPARATE
8 ENTITY FROM THE RURAL EMERGENCY HOSPITAL SO LONG AS THE NEW
9 APPLICANT IS ASSOCIATED WITH THE RURAL EMERGENCY HOSPITAL; TO
10 REQUIRE THE DEPARTMENT OF HEALTH TO ISSUE A SEPARATE CERTIFICATE
11 OF NEED TO THE NEW ENTITY; TO PROVIDE THAT THE RURAL EMERGENCY
12 HOSPITAL AND THE PSYCHIATRIC FACILITY MUST MAINTAIN SEPARATION OF
13 FACILITIES, LICENSURE, OPERATIONS, FINANCES AND GOVERNANCE; AND
14 FOR RELATED PURPOSES.

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

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

18 41-7-191. (1) No person shall engage in any of the
19 following activities without obtaining the required certificate of
20 need:

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



25 (b) The relocation of a health care facility or portion
26 thereof, or major medical equipment, unless such relocation of a
27 health care facility or portion thereof, or major medical
28 equipment, which does not involve a capital expenditure by or on
29 behalf of a health care facility, is within five thousand two
30 hundred eighty (5,280) feet from the main entrance of the health
31 care facility;

32 (c) Any change in the existing bed complement of any
33 health care facility through the addition or conversion of any
34 beds or the alteration, modernizing or refurbishing of any unit or
35 department in which the beds may be located; however, if a health
36 care facility has voluntarily delicensed some of its existing bed
37 complement, it may later relicense some or all of its delicensed
38 beds without the necessity of having to acquire a certificate of
39 need. The State Department of Health shall maintain a record of
40 the delicensing health care facility and its voluntarily
41 delicensed beds and continue counting those beds as part of the
42 state's total bed count for health care planning purposes. If a
43 health care facility that has voluntarily delicensed some of its
44 beds later desires to relicense some or all of its voluntarily
45 delicensed beds, it shall notify the State Department of Health of
46 its intent to increase the number of its licensed beds. The State
47 Department of Health shall survey the health care facility within
48 thirty (30) days of that notice and, if appropriate, issue the
49 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 expenditure by or on behalf of a health care facility, (i) is to a physical facility or site within five thousand two hundred eighty (5,280) feet from the main entrance of the health care facility where the health care service is located, or (ii) is the result of an order of a court of appropriate jurisdiction or a result of pending litigation in such court, or by order of the State Department of Health, or by order of any other agency or legal entity of the state, the federal government, or any political subdivision of either, whose order is also approved by the State Department of Health;

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



100 (g) Changes of ownership of existing health care
101 facilities in which a notice of intent is not filed with the State
102 Department of Health at least thirty (30) days prior to the date
103 such change of ownership occurs, or a change in services or bed
104 capacity as prescribed in paragraph (c) or (d) of this subsection
105 as a result of the change of ownership; an acquisition for less
106 than fair market value must be reviewed, if the acquisition at
107 fair market value would be subject to review;

108 (h) The change of ownership of any health care facility
109 defined in subparagraphs (iv), (vi) and (viii) of Section
110 41-7-173(h), in which a notice of intent as described in paragraph
111 (g) has not been filed and if the Executive Director, Division of
112 Medicaid, Office of the Governor, has not certified in writing
113 that there will be no increase in allowable costs to Medicaid from
114 revaluation of the assets or from increased interest and
115 depreciation as a result of the proposed change of ownership;

116 (i) Any activity described in paragraphs (a) through
117 (h) if undertaken by any person if that same activity would
118 require certificate of need approval if undertaken by a health
119 care facility;

120 (j) Any capital expenditure or deferred capital
121 expenditure by or on behalf of a health care facility not covered
122 by paragraphs (a) through (h);

123 (k) The contracting of a health care facility as
124 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)



to establish a home office, subunit, or branch office in the space 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



150 National Aeronautics and Space Administration facility, not to
151 exceed forty (40) beds. From and after July 1, 1999, there shall
152 be no prohibition or restrictions on participation in the Medicaid
153 program (Section 43-13-101 et seq.) for the beds in the health
154 care facility that were authorized under this paragraph (a).

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

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



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

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



199 (e) The State Department of Health may issue a
200 certificate of need for the construction of a nursing facility or
201 the conversion of beds to nursing facility beds at a personal care
202 facility for the elderly in Lowndes County that is owned and
203 operated by a Mississippi nonprofit corporation, not to exceed
204 sixty (60) beds. From and after July 1, 1999, there shall be no
205 prohibition or restrictions on participation in the Medicaid
206 program (Section 43-13-101 et seq.) for the beds in the nursing
207 facility that were authorized under this paragraph (e).

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

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



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

232 (i) The department may issue a certificate of need for
233 the new construction of a skilled nursing facility in Leake
234 County, provided that the recipient of the certificate of need
235 agrees in writing that the skilled nursing facility will not at
236 any time participate in the Medicaid program (Section 43-13-101 et
237 seq.) or admit or keep any patients in the skilled nursing
238 facility who are participating in the Medicaid program. This
239 written agreement by the recipient of the certificate of need
240 shall be fully binding on any subsequent owner of the skilled
241 nursing facility, if the ownership of the facility is transferred
242 at any time after the issuance of the certificate of need.
243 Agreement that the skilled nursing facility will not participate
244 in the Medicaid program shall be a condition of the issuance of a
245 certificate of need to any person under this paragraph (i), and if
246 such skilled nursing facility at any time after the issuance of
247 the certificate of need, regardless of the ownership of the
248 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. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (i) shall not exceed sixty (60) beds. If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the skilled nursing facility at any time after the expiration of the eighteen-month period.

(j) The department may issue certificates of need to allow any existing freestanding long-term care facility in Tishomingo County and Hancock County that on July 1, 1995, is



274 licensed with fewer than sixty (60) beds. For the purposes of
275 this paragraph (j), the provisions of Section 41-7-193(1)
276 requiring substantial compliance with the projection of need as
277 reported in the current State Health Plan are waived. From and
278 after July 1, 1999, there shall be no prohibition or restrictions
279 on participation in the Medicaid program (Section 43-13-101 et
280 seq.) for the beds in the long-term care facilities that were
281 authorized under this paragraph (j).

282 (k) The department may issue a certificate of need for
283 the construction of a nursing facility at a continuing care
284 retirement community in Lowndes County. The total number of beds
285 that may be authorized under the authority of this paragraph (k)
286 shall not exceed sixty (60) beds. From and after July 1, 2001,
287 the prohibition on the facility participating in the Medicaid
288 program (Section 43-13-101 et seq.) that was a condition of
289 issuance of the certificate of need under this paragraph (k) shall
290 be revised as follows: The nursing facility may participate in
291 the Medicaid program from and after July 1, 2001, if the owner of
292 the facility on July 1, 2001, agrees in writing that no more than
293 thirty (30) of the beds at the facility will be certified for
294 participation in the Medicaid program, and that no claim will be
295 submitted for Medicaid reimbursement for more than thirty (30)
296 patients in the facility in any month or for any patient in the
297 facility who is in a bed that is not Medicaid-certified. This
298 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, 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 certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement in the nursing facility in any day or for any patient in the nursing facility. 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 nursing facility if the ownership of the nursing 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 any of the beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by admitting or keeping in the nursing facility on a regular or continuing basis any patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the



349 certificate of need authorized under this paragraph is not issued
350 within twelve (12) months after July 1, 2001, the department shall
351 deny the application for the certificate of need and shall not
352 issue the certificate of need at any time after the twelve-month
353 period, unless the issuance is contested. If the certificate of
354 need is issued and substantial construction of the nursing
355 facility beds has not commenced within eighteen (18) months after
356 July 1, 2001, the State Department of Health, after a hearing
357 complying with due process, shall revoke the certificate of need
358 if it is still outstanding, and the department shall not issue a
359 license for the nursing facility at any time after the
360 eighteen-month period. However, if the issuance of the
361 certificate of need is contested, the department shall require
362 substantial construction of the nursing facility beds within six
363 (6) months after final adjudication on the issuance of the
364 certificate of need.

365 (n) The department may issue a certificate of need for
366 the new construction, addition or conversion of skilled nursing
367 facility beds in Madison County, provided that the recipient of
368 the certificate of need agrees in writing that the skilled nursing
369 facility will not at any time participate in the Medicaid program
370 (Section 43-13-101 et seq.) or admit or keep any patients in the
371 skilled nursing facility who are participating in the Medicaid
372 program. This written agreement by the recipient of the
373 certificate of need shall be fully binding on any subsequent owner



374 of the skilled nursing facility, if the ownership of the facility
375 is transferred at any time after the issuance of the certificate
376 of need. Agreement that the skilled nursing facility will not
377 participate in the Medicaid program shall be a condition of the
378 issuance of a certificate of need to any person under this
379 paragraph (n), and if such skilled nursing facility at any time
380 after the issuance of the certificate of need, regardless of the
381 ownership of the facility, participates in the Medicaid program or
382 admits or keeps any patients in the facility who are participating
383 in the Medicaid program, the State Department of Health shall
384 revoke the certificate of need, if it is still outstanding, and
385 shall deny or revoke the license of the skilled nursing facility,
386 at the time that the department determines, after a hearing
387 complying with due process, that the facility has failed to comply
388 with any of the conditions upon which the certificate of need was
389 issued, as provided in this paragraph and in the written agreement
390 by the recipient of the certificate of need. The total number of
391 nursing facility beds that may be authorized by any certificate of
392 need issued under this paragraph (n) shall not exceed sixty (60)
393 beds. If the certificate of need authorized under this paragraph
394 is not issued within twelve (12) months after July 1, 1998, the
395 department shall deny the application for the certificate of need
396 and shall not issue the certificate of need at any time after the
397 twelve-month period, unless the issuance is contested. If the
398 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.

(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



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



449 certificate of need is contested, the department shall require
450 substantial construction of the nursing facility beds within six
451 (6) months after final adjudication on the issuance of the
452 certificate of need.

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

465 Agreement that the skilled nursing facility will not participate
466 in the Medicaid program shall be a condition of the issuance of a
467 certificate of need to any person under this paragraph (p), and if
468 such skilled nursing facility at any time after the issuance of
469 the certificate of need, regardless of the ownership of the
470 facility, participates in the Medicaid program or admits or keeps
471 any patients in the facility who are participating in the Medicaid
472 program, the State Department of Health shall revoke the
473 certificate of need, if it is still outstanding, and shall deny or



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



498 (q) (i) Beginning on July 1, 1999, the State
499 Department of Health shall issue certificates of need during each
500 of the next four (4) fiscal years for the construction or
501 expansion of nursing facility beds or the conversion of other beds
502 to nursing facility beds in each county in the state having a need
503 for fifty (50) or more additional nursing facility beds, as shown
504 in the fiscal year 1999 State Health Plan, in the manner provided
505 in this paragraph (q). The total number of nursing facility beds
506 that may be authorized by any certificate of need authorized under
507 this paragraph (q) shall not exceed sixty (60) beds.

508 (ii) Subject to the provisions of subparagraph
509 (v), during each of the next four (4) fiscal years, the department
510 shall issue six (6) certificates of need for new nursing facility
511 beds, as follows: During fiscal years 2000, 2001 and 2002, one
512 (1) certificate of need shall be issued for new nursing facility
513 beds in the county in each of the four (4) Long-Term Care Planning
514 Districts designated in the fiscal year 1999 State Health Plan
515 that has the highest need in the district for those beds; and two
516 (2) certificates of need shall be issued for new nursing facility
517 beds in the two (2) counties from the state at large that have the
518 highest need in the state for those beds, when considering the
519 need on a statewide basis and without regard to the Long-Term Care
520 Planning Districts in which the counties are located. During
521 fiscal year 2003, one (1) certificate of need shall be issued for
522 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 which the counties are located. If there are no applications for a certificate of need for nursing facility beds in either of the two (2) counties having the highest need for those beds on a statewide basis by the date specified by the department, then the certificate of need shall be available for nursing facility beds in other counties from the state at large in descending order of the need for those beds on a statewide basis, 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 from the state at large.

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



this paragraph (q) for nursing facility beds in a county during any fiscal year of the four-year period, a certificate of need shall not be available again under this paragraph (q) for additional nursing facility beds in that county during the 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,



623 space requirements and other standards and requirements that must
624 be met with regard to the nursing facility beds authorized under
625 this paragraph (r) to provide care exclusively to patients with
626 Alzheimer's disease.

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

640 (t) The State Department of Health shall issue
641 certificates of need to the owner of a nursing facility in
642 operation at the time of Hurricane Katrina in Hancock County that
643 was not operational on December 31, 2005, because of damage
644 sustained from Hurricane Katrina to authorize the following: (i)
645 the construction of a new nursing facility in Harrison County;
646 (ii) the relocation of forty-nine (49) nursing facility beds from
647 the Hancock County facility to the new Harrison County facility;



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



673 (49) of the beds at the Harrison County facility for participation
674 in the Medicaid program. If the Hancock County facility violates
675 the terms of the written agreement by admitting or keeping in the
676 facility on a regular or continuing basis more than fifty (50)
677 patients who are participating in the Medicaid program, or if the
678 Harrison County facility violates the terms of the written
679 agreement by admitting or keeping in the facility on a regular or
680 continuing basis more than forty-nine (49) patients who are
681 participating in the Medicaid program, the State Department of
682 Health shall revoke the license of the facility that is in
683 violation of the agreement, at the time that the department
684 determines, after a hearing complying with due process, that the
685 facility has violated the agreement.

686 (u) The State Department of Health shall issue a
687 certificate of need to a nonprofit venture for the establishment,
688 construction and operation of a skilled nursing facility of not
689 more than sixty (60) beds to provide skilled nursing care for
690 ventilator dependent or otherwise medically dependent pediatric
691 patients who require medical and nursing care or rehabilitation
692 services to be located in a county in which an academic medical
693 center and a children's hospital are located, and for any
694 construction and for the acquisition of equipment related to those
695 beds. The facility shall be authorized to keep such ventilator
696 dependent or otherwise medically dependent pediatric patients
697 beyond age twenty-one (21) in accordance with regulations of the



698 State Board of Health. For purposes of this paragraph (u), the
699 provisions of Section 41-7-193(1) requiring substantial compliance
700 with the projection of need as reported in the current State
701 Health Plan are waived, and the provisions of Section 41-7-197
702 requiring a formal certificate of need hearing process are waived.
703 The beds authorized by this paragraph shall be counted as
704 pediatric skilled nursing facility beds for health planning
705 purposes under Section 41-7-171 et seq. There shall be no
706 prohibition of or restrictions on participation in the Medicaid
707 program for the person receiving the certificate of need
708 authorized by this paragraph.

709 (3) The State Department of Health may grant approval for
710 and issue certificates of need to any person proposing the new
711 construction of, addition to, conversion of beds of or expansion
712 of any health care facility defined in subparagraph (x)
713 (psychiatric residential treatment facility) of Section
714 41-7-173(h). The total number of beds which may be authorized by
715 such certificates of need shall not exceed three hundred
716 thirty-four (334) beds for the entire state.

717 (a) Of the total number of beds authorized under this
718 subsection, the department shall issue a certificate of need to a
719 privately owned psychiatric residential treatment facility in
720 Simpson County for the conversion of sixteen (16) intermediate
721 care facility for individuals with intellectual disabilities
722 (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



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

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

768 (c) Of the total number of beds authorized under this
769 subsection, the department shall issue a certificate of need to a
770 hospital currently operating Medicaid-certified acute psychiatric
771 beds for adolescents in DeSoto County, for the establishment of a
772 forty-bed psychiatric residential treatment facility in DeSoto



County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than fifteen (15) 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 fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) 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 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 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



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

869 (i) [Deleted]

870 (ii) The department may issue a certificate of
871 need for the conversion of existing beds in a county hospital in
872 Choctaw County from acute care beds to child/adolescent chemical



873 dependency beds. For purposes of this subparagraph (ii), the
874 provisions of Section 41-7-193(1) requiring substantial compliance
875 with the projection of need as reported in the current State
876 Health Plan are waived. The total number of beds that may be
877 authorized under authority of this subparagraph shall not exceed
878 twenty (20) beds. There shall be no prohibition or restrictions
879 on participation in the Medicaid program (Section 43-13-101 et
880 seq.) for the hospital receiving the certificate of need
881 authorized under this subparagraph or for the beds converted
882 pursuant to the authority of that certificate of need.

883 (iii) The department may issue a certificate or
884 certificates of need for the construction or expansion of
885 child/adolescent psychiatric beds or the conversion of other beds
886 to child/adolescent psychiatric beds in Warren County. For
887 purposes of this subparagraph (iii), the provisions of Section
888 41-7-193(1) requiring substantial compliance with the projection
889 of need as reported in the current State Health Plan are waived.
890 The total number of beds that may be authorized under the
891 authority of this subparagraph shall not exceed twenty (20) beds.
892 There shall be no prohibition or restrictions on participation in
893 the Medicaid program (Section 43-13-101 et seq.) for the person
894 receiving the certificate of need authorized under this
895 subparagraph or for the beds converted pursuant to the authority
896 of that certificate of need.



897 If by January 1, 2002, there has been no significant
898 commencement of construction of the beds authorized under this
899 subparagraph (iii), or no significant action taken to convert
900 existing beds to the beds authorized under this subparagraph, then
901 the certificate of need that was previously issued under this
902 subparagraph shall expire. If the previously issued certificate
903 of need expires, the department may accept applications for
904 issuance of another certificate of need for the beds authorized
905 under this subparagraph, and may issue a certificate of need to
906 authorize the construction, expansion or conversion of the beds
907 authorized under this subparagraph.

908 (iv) The department shall issue a certificate of
909 need to the Region 7 Mental Health/Retardation Commission for the
910 construction or expansion of child/adolescent psychiatric beds or
911 the conversion of other beds to child/adolescent psychiatric beds
912 in any of the counties served by the commission. For purposes of
913 this subparagraph (iv), the provisions of Section 41-7-193(1)
914 requiring substantial compliance with the projection of need as
915 reported in the current State Health Plan are waived. The total
916 number of beds that may be authorized under the authority of this
917 subparagraph shall not exceed twenty (20) beds. There shall be no
918 prohibition or restrictions on participation in the Medicaid
919 program (Section 43-13-101 et seq.) for the person receiving the
920 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 conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership of the hospital, has any of such adult psychiatric beds certified for participation in the Medicaid program or admits or keeps any Medicaid patients in such adult psychiatric beds, 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



946 hospital at the time that the department determines, after a
947 hearing complying with due process, that the hospital has failed
948 to comply with any of the conditions upon which the certificate of
949 need was issued, as provided in this subparagraph and in the
950 written agreement by the recipient of the certificate of need.

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

965 (b) From and after July 1, 1990, no hospital,
966 psychiatric hospital or chemical dependency hospital shall be
967 authorized to add any child/adolescent psychiatric or
968 child/adolescent chemical dependency beds or convert any beds of
969 another category to child/adolescent psychiatric or
970 child/adolescent chemical dependency beds without a certificate of



need under the authority of subsection (1)(c) and subsection (4)(a) of this section.

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

(6) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital 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 long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (6), and if such long-term care hospital 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



996 any patients in the facility who are participating in the Medicaid
997 program, the State Department of Health shall revoke the
998 certificate of need, if it is still outstanding, and shall deny or
999 revoke the license of the long-term care hospital, at the time
1000 that the department determines, after a hearing complying with due
1001 process, that the facility has failed to comply with any of the
1002 conditions upon which the certificate of need was issued, as
1003 provided in this subsection and in the written agreement by the
1004 recipient of the certificate of need. For purposes of this
1005 subsection, the provisions of Section 41-7-193(1) requiring
1006 substantial compliance with the projection of need as reported in
1007 the current State Health Plan are waived.

1008 (7) The State Department of Health may issue a certificate
1009 of need to any hospital in the state to utilize a portion of its
1010 beds for the "swing-bed" concept. Any such hospital must be in
1011 conformance with the federal regulations regarding such swing-bed
1012 concept at the time it submits its application for a certificate
1013 of need to the State Department of Health, except that such
1014 hospital may have more licensed beds or a higher average daily
1015 census (ADC) than the maximum number specified in federal
1016 regulations for participation in the swing-bed program. Any
1017 hospital meeting all federal requirements for participation in the
1018 swing-bed program which receives such certificate of need shall
1019 render services provided under the swing-bed concept to any
1020 patient eligible for Medicare (Title XVIII of the Social Security



1021 Act) who is certified by a physician to be in need of such
1022 services, and no such hospital shall permit any patient who is
1023 eligible for both Medicaid and Medicare or eligible only for
1024 Medicaid to stay in the swing beds of the hospital for more than
1025 thirty (30) days per admission unless the hospital receives prior
1026 approval for such patient from the Division of Medicaid, Office of
1027 the Governor. Any hospital having more licensed beds or a higher
1028 average daily census (ADC) than the maximum number specified in
1029 federal regulations for participation in the swing-bed program
1030 which receives such certificate of need shall develop a procedure
1031 to ensure that before a patient is allowed to stay in the swing
1032 beds of the hospital, there are no vacant nursing home beds
1033 available for that patient located within a fifty-mile radius of
1034 the hospital. When any such hospital has a patient staying in the
1035 swing beds of the hospital and the hospital receives notice from a
1036 nursing home located within such radius that there is a vacant bed
1037 available for that patient, the hospital shall transfer the
1038 patient to the nursing home within a reasonable time after receipt
1039 of the notice. Any hospital which is subject to the requirements
1040 of the two (2) preceding sentences of this subsection may be
1041 suspended from participation in the swing-bed program for a
1042 reasonable period of time by the State Department of Health if the
1043 department, after a hearing complying with due process, determines
1044 that the hospital has failed to comply with any of those
1045 requirements.



1046 (8) The Department of Health shall not grant approval for or
1047 issue a certificate of need to any person proposing the new
1048 construction of, addition to or expansion of a health care
1049 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1050 except as hereinafter provided: The department may issue a
1051 certificate of need to a nonprofit corporation located in Madison
1052 County, Mississippi, for the construction, expansion or conversion
1053 of not more than twenty (20) beds in a community living program
1054 for developmentally disabled adults in a facility as defined in
1055 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1056 subsection (8), the provisions of Section 41-7-193(1) requiring
1057 substantial compliance with the projection of need as reported in
1058 the current State Health Plan and the provisions of Section
1059 41-7-197 requiring a formal certificate of need hearing process
1060 are waived. There shall be no prohibition or restrictions on
1061 participation in the Medicaid program for the person receiving the
1062 certificate of need authorized under this subsection (8).

1063 (9) The Department of Health shall not grant approval for or
1064 issue a certificate of need to any person proposing the
1065 establishment of, or expansion of the currently approved territory
1066 of, or the contracting to establish a home office, subunit or
1067 branch office within the space operated as a health care facility
1068 as defined in Section 41-7-173(h)(i) through (viii) by a health
1069 care facility as defined in subparagraph (ix) of Section
1070 41-7-173(h).



1071 (10) Health care facilities owned and/or operated by the
1072 state or its agencies are exempt from the restraints in this
1073 section against issuance of a certificate of need if such addition
1074 or expansion consists of repairing or renovation necessary to
1075 comply with the state licensure law. This exception shall not
1076 apply to the new construction of any building by such state
1077 facility. This exception shall not apply to any health care
1078 facilities owned and/or operated by counties, municipalities,
1079 districts, unincorporated areas, other defined persons, or any
1080 combination thereof.

1081 (11) The new construction, renovation or expansion of or
1082 addition to any health care facility defined in subparagraph (ii)
1083 (psychiatric hospital), subparagraph (iv) (skilled nursing
1084 facility), subparagraph (vi) (intermediate care facility),
1085 subparagraph (viii) (intermediate care facility for individuals
1086 with intellectual disabilities) and subparagraph (x) (psychiatric
1087 residential treatment facility) of Section 41-7-173(h) which is
1088 owned by the State of Mississippi and under the direction and
1089 control of the State Department of Mental Health, and the addition
1090 of new beds or the conversion of beds from one category to another
1091 in any such defined health care facility which is owned by the
1092 State of Mississippi and under the direction and control of the
1093 State Department of Mental Health, shall not require the issuance
1094 of a certificate of need under Section 41-7-171 et seq.,



1095 notwithstanding any provision in Section 41-7-171 et seq. to the
1096 contrary.

1097 (12) The new construction, renovation or expansion of or
1098 addition to any veterans homes or domiciliaries for eligible
1099 veterans of the State of Mississippi as authorized under Section
1100 35-1-19 shall not require the issuance of a certificate of need,
1101 notwithstanding any provision in Section 41-7-171 et seq. to the
1102 contrary.

1103 (13) The repair or the rebuilding of an existing, operating
1104 health care facility that sustained significant damage from a
1105 natural disaster that occurred after April 15, 2014, in an area
1106 that is proclaimed a disaster area or subject to a state of
1107 emergency by the Governor or by the President of the United States
1108 shall be exempt from all of the requirements of the Mississippi
1109 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1110 rules and regulations promulgated under that law, subject to the
1111 following conditions:

1112 (a) The repair or the rebuilding of any such damaged
1113 health care facility must be within one (1) mile of the
1114 pre-disaster location of the campus of the damaged health care
1115 facility, except that any temporary post-disaster health care
1116 facility operating location may be within five (5) miles of the
1117 pre-disaster location of the damaged health care facility;

1118 (b) The repair or the rebuilding of the damaged health
1119 care facility (i) does not increase or change the complement of



1120 its bed capacity that it had before the Governor's or the
1121 President's proclamation, (ii) does not increase or change its
1122 levels and types of health care services that it provided before
1123 the Governor's or the President's proclamation, and (iii) does not
1124 rebuild in a different county; however, this paragraph does not
1125 restrict or prevent a health care facility from decreasing its bed
1126 capacity that it had before the Governor's or the President's
1127 proclamation, or from decreasing the levels of or decreasing or
1128 eliminating the types of health care services that it provided
1129 before the Governor's or the President's proclamation, when the
1130 damaged health care facility is repaired or rebuilt;

1131 (c) The exemption from Certificate of Need Law provided
1132 under this subsection (13) is valid for only five (5) years from
1133 the date of the Governor's or the President's proclamation. If
1134 actual construction has not begun within that five-year period,
1135 the exemption provided under this subsection is inapplicable; and

1136 (d) The Division of Health Facilities Licensure and
1137 Certification of the State Department of Health shall provide the
1138 same oversight for the repair or the rebuilding of the damaged
1139 health care facility that it provides to all health care facility
1140 construction projects in the state.

1141 For the purposes of this subsection (13), "significant
1142 damage" to a health care facility means damage to the health care
1143 facility requiring an expenditure of at least One Million Dollars
1144 (\$1,000,000.00).



1145 (14) The State Department of Health shall issue a
1146 certificate of need to any hospital which is currently licensed
1147 for two hundred fifty (250) or more acute care beds and is located
1148 in any general hospital service area not having a comprehensive
1149 cancer center, for the establishment and equipping of such a
1150 center which provides facilities and services for outpatient
1151 radiation oncology therapy, outpatient medical oncology therapy,
1152 and appropriate support services including the provision of
1153 radiation therapy services. The provisions of Section 41-7-193(1)
1154 regarding substantial compliance with the projection of need as
1155 reported in the current State Health Plan are waived for the
1156 purpose of this subsection.

1157 (15) The State Department of Health may authorize the
1158 transfer of hospital beds, not to exceed sixty (60) beds, from the
1159 North Panola Community Hospital to the South Panola Community
1160 Hospital. The authorization for the transfer of those beds shall
1161 be exempt from the certificate of need review process.

1162 (16) The State Department of Health shall issue any
1163 certificates of need necessary for Mississippi State University
1164 and a public or private health care provider to jointly acquire
1165 and operate a linear accelerator and a magnetic resonance imaging
1166 unit. Those certificates of need shall cover all capital
1167 expenditures related to the project between Mississippi State
1168 University and the health care provider, including, but not
1169 limited to, the acquisition of the linear accelerator, the



magnetic resonance imaging unit and other radiological modalities; the offering of linear accelerator and magnetic resonance imaging services; and the cost of construction of facilities in which to locate these services. The linear accelerator and the magnetic resonance imaging unit shall be (a) located in the City of Starkville, Oktibbeha County, Mississippi; (b) operated jointly by Mississippi State University and the public or private health care provider selected by Mississippi State University through a request for proposals (RFP) process in which Mississippi State University selects, and the Board of Trustees of State Institutions of Higher Learning approves, the health care provider that makes the best overall proposal; (c) available to Mississippi State University for research purposes two-thirds (2/3) of the time that the linear accelerator and magnetic resonance imaging unit are operational; and (d) available to the public or private health care provider selected by Mississippi State University and approved by the Board of Trustees of State Institutions of Higher Learning one-third (1/3) of the time for clinical, diagnostic and treatment purposes. For purposes of this subsection, 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.

(17) The State Department of Health shall issue a certificate of need for the construction of an acute care hospital in Kemper County, not to exceed twenty-five (25) beds, which shall



1195 be named the "John C. Stennis Memorial Hospital." In issuing the
1196 certificate of need under this subsection, the department shall
1197 give priority to a hospital located in Lauderdale County that has
1198 two hundred fifteen (215) beds. For purposes of this subsection,
1199 the provisions of Section 41-7-193(1) requiring substantial
1200 compliance with the projection of need as reported in the current
1201 State Health Plan and the provisions of Section 41-7-197 requiring
1202 a formal certificate of need hearing process are waived. There
1203 shall be no prohibition or restrictions on participation in the
1204 Medicaid program (Section 43-13-101 et seq.) for the person or
1205 entity receiving the certificate of need authorized under this
1206 subsection or for the beds constructed under the authority of that
1207 certificate of need.

1208 (18) The planning, design, construction, renovation,
1209 addition, furnishing and equipping of a clinical research unit at
1210 any health care facility defined in Section 41-7-173(h) that is
1211 under the direction and control of the University of Mississippi
1212 Medical Center and located in Jackson, Mississippi, and the
1213 addition of new beds or the conversion of beds from one (1)
1214 category to another in any such clinical research unit, shall not
1215 require the issuance of a certificate of need under Section
1216 41-7-171 et seq., notwithstanding any provision in Section
1217 41-7-171 et seq. to the contrary.

1218 (19) [Repealed]



1219 (20) Nothing in this section or in any other provision of
1220 Section 41-7-171 et seq. shall prevent any nursing facility from
1221 designating an appropriate number of existing beds in the facility
1222 as beds for providing care exclusively to patients with
1223 Alzheimer's disease.

1224 (21) Nothing in this section or any other provision of
1225 Section 41-7-171 et seq. shall prevent any health care facility
1226 from the new construction, renovation, conversion or expansion of
1227 new beds in the facility designated as intensive care units,
1228 negative pressure rooms, or isolation rooms pursuant to the
1229 provisions of Sections 41-14-1 through 41-14-11, or Section
1230 41-14-31. For purposes of this subsection, the provisions of
1231 Section 41-7-193(1) requiring substantial compliance with the
1232 projection of need as reported in the current State Health Plan
1233 and the provisions of Section 41-7-197 requiring a formal
1234 certificate of need hearing process are waived.

1235 (22) If any health care facility relinquished its
1236 certificate of need or license for inpatient psychiatric services
1237 because the facility converted from an acute care hospital or
1238 critical access hospital to a rural emergency hospital in
1239 accordance with 42 CFR Section 485.502, the State Department of
1240 Health may license the psychiatric inpatient beds as a separate
1241 entity from the rural emergency hospital so long as the new
1242 applicant is associated with the rural emergency hospital. The
1243 department shall issue a separate certificate of need to the new



1244 entity. The rural emergency hospital and the psychiatric facility
1245 must maintain separation of facilities, licensure, operations,
1246 finances and governance.

1247 **SECTION 2.** This act shall take effect and be in force from
1248 and after July 1, 2025.

