

By: Representative Barton

To: Medicaid

## HOUSE BILL NO. 1378

1 AN ACT TO BRING FORWARD SECTIONS 41-85-5, 43-11-1, 43-11-13,  
2 47-5-28, 47-7-4 AND 41-7-191, MISSISSIPPI CODE OF 1972, WHICH ARE  
3 VARIOUS PROVISIONS RELATED TO MEDICAID, CORRECTIONS, CERTIFICATES  
4 OF NEED AND A SPECIAL CARE FACILITY FOR PAROLED INMATES, FOR THE  
5 PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTION 43-13-117.6  
6 MISSISSIPPI CODE OF 1972, TO DIRECT THE DIVISION OF MEDICAID TO  
7 APPLY TO THE FEDERAL CENTER FOR MEDICAID SERVICES (CMS) FOR  
8 NECESSARY WAIVERS TO PROVIDE FEDERAL FUNDING UNDER THE MEDICAID  
9 PROGRAM FOR PROVIDING REIMBURSEMENT FOR AUTHORIZED SERVICES TO  
10 PRISON INMATES WHO ARE 100% MEDICAID ELIGIBLE IN THE PERIOD  
11 COVERING 30 DAYS PRIOR TO THEIR RELEASE ON PAROLE; AND FOR RELATED  
12 PURPOSES.

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

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

16 41-85-5. (1) It is unlawful for a person to operate or  
17 maintain a hospice, use the title "hospice," or represent that the  
18 person provides a hospice program of care, without first obtaining  
19 a license therefor from the department.

20 (2) The license shall be displayed in a conspicuous place  
21 inside the hospice program office; shall be valid only in the  
22 possession of the person to which it is issued; shall not be  
23 subject to sale, assignment or other transfer, voluntary or



involuntary; and shall not be valid for any hospice other than the hospice for which originally issued.

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

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

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

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

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

(a) "Institutions for the aged or infirm" means a place either governmental or private that provides group living arrangements for four (4) or more persons who are unrelated to the operator and who are being provided food, shelter and personal



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

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

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



73                   (d) "Psychiatric residential treatment facility" means  
74 any nonhospital establishment with permanent facilities which  
75 provides a twenty-four-hour program of care by qualified  
76 therapists, including, but not limited to, duly licensed mental  
77 health professionals, psychiatrists, psychologists,  
78 psychotherapists and licensed certified social workers, for  
79 emotionally disturbed children and adolescents referred to such  
80 facility by a court, local school district or by the Department of  
81 Human Services, who are not in an acute phase of illness requiring  
82 the services of a psychiatric hospital, and are in need of such  
83 restorative treatment services. For purposes of this paragraph,  
84 the term "emotionally disturbed" means a condition exhibiting one  
85 or more of the following characteristics over a long period of  
86 time and to a marked degree, which adversely affects educational  
87 performance:

88                   1. An inability to learn which cannot be explained  
89 by intellectual, sensory or health factors;

90                   2. An inability to build or maintain satisfactory  
91 relationships with peers and teachers;

92                   3. Inappropriate types of behavior or feelings  
93 under normal circumstances;

94                   4. A general pervasive mood of unhappiness or  
95 depression; or

96                   5. A tendency to develop physical symptoms or  
97 fears associated with personal or school problems. An



establishment furnishing primarily domiciliary care is not within this definition.

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

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

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

(h) "Adult foster care facility" means a home setting for vulnerable adults in the community who are unable to live independently due to physical, emotional, developmental or mental impairments, or in need of emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult. Adult foster care programs shall be designed to meet the needs of vulnerable adults with



123 impairments through individual plans of care, which provide a  
124 variety of health, social and related support services in a  
125 protective setting, enabling participants to live in the  
126 community. Adult foster care programs may be (i) traditional,  
127 where the foster care provider lives in the residence and is the  
128 primary caregiver to clients in the home; (ii) corporate, where  
129 the foster care home is operated by a corporation with shift staff  
130 delivering services to clients; or (iii) shelter, where the foster  
131 care home accepts clients on an emergency short-term basis for up  
132 to thirty (30) days.

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



medication, durable medical equipment, personalized meal plans by a licensed dietician and security services. There may be up to three (3) facilities located in each Supreme Court district, to be designated by the Chairman of the State Parole Board or his designee.

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

43-11-13. (1) The licensing agency shall adopt, amend, promulgate and enforce such rules, regulations and standards, including classifications, with respect to all institutions for the aged or infirm to be licensed under this chapter as may be designed to further the accomplishment of the purpose of this chapter in promoting adequate care of individuals in those institutions in the interest of public health, safety and welfare. Those rules, regulations and standards shall be adopted and promulgated by the licensing agency and shall be recorded and indexed in a book to be maintained by the licensing agency in its main office in the State of Mississippi, entitled "Rules, Regulations and Minimum Standards for Institutions for the Aged or Infirm" and the book shall be open and available to all institutions for the aged or infirm and the public generally at all reasonable times. Upon the adoption of those rules, regulations and standards, the licensing agency shall mail copies thereof to all those institutions in the state that have filed with the agency their names and addresses for this purpose, but



the failure to mail the same or the failure of the institutions to receive the same shall in no way affect the validity thereof. The rules, regulations and standards may be amended by the licensing agency, from time to time, as necessary to promote the health, safety and welfare of persons living in those institutions.

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

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





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

215           (b)   The State Board of Health shall promulgate rules  
216 and regulations restricting the handling of a resident's personal  
217 deposits by the director of a personal care home. Any funds given  
218 or provided for the purpose of supplying extra comforts,  
219 conveniences or services to any resident in any personal care  
220 home, and any funds otherwise received and held from, for or on  
221 behalf of any such resident, shall be deposited by the director or



222 other proper officer of the personal care home to the credit of  
223 that resident in an account that shall be known as the Resident's  
224 Personal Deposit Fund. No more than one (1) month's charge for  
225 the care, support, maintenance and medical attention of the  
226 resident shall be applied from the account at any one time. After  
227 the death, discharge or transfer of any resident for whose benefit  
228 any such fund has been provided, any unexpended balance remaining  
229 in his personal deposit fund shall be applied for the payment of  
230 care, cost of support, maintenance and medical attention that is  
231 accrued. If any unexpended balance remains in that resident's  
232 personal deposit fund after complete reimbursement has been made  
233 for payment of care, support, maintenance and medical attention,  
234 and the director or other proper officer of the personal care home  
235 has been or shall be unable to locate the person or persons  
236 entitled to the unexpended balance, the director or other proper  
237 officer may, after the lapse of one (1) year from the date of that  
238 death, discharge or transfer, deposit the unexpended balance to  
239 the credit of the personal care home's operating fund.

240 (c) The State Board of Health shall promulgate rules  
241 and regulations requiring personal care homes to maintain records  
242 relating to health condition, medicine dispensed and administered,  
243 and any reaction to that medicine. The director of the personal  
244 care home shall be responsible for explaining the availability of  
245 those records to the family of the resident at any time upon  
246 reasonable request.



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

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

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

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

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

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

2. The student has signed an affidavit that is on file at the student's school stating that he or she has not



272 been convicted of or pleaded guilty or nolo contendere to a felony  
273 listed in paragraph (d) of this subsection (6), or that any such  
274 conviction or plea was reversed on appeal or a pardon was granted  
275 for the conviction or plea. Before any student may sign such an  
276 affidavit, the student's school shall provide information to the  
277 student explaining what a felony is and the nature of the felonies  
278 listed in paragraph (d) of this subsection (6).

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

288       (b) Under regulations promulgated by the State Board of  
289 Health, the licensing agency shall require to be performed a  
290 criminal history record check on (i) every new employee of a  
291 covered entity who provides direct patient care or services and  
292 who is employed on or after July 1, 2003, and (ii) every employee  
293 of a covered entity employed before July 1, 2003, who has a  
294 documented disciplinary action by his or her present employer. In  
295 addition, the licensing agency shall require the covered entity to  
296 perform a disciplinary check with the professional licensing



agency of each employee, if any, to determine if any disciplinary action has been taken against the employee by that agency.

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



322 (c) Any such new employee applicant may, however, be  
323 employed on a temporary basis pending the results of the criminal  
324 history record check, but any employment contract with the new  
325 employee shall be voidable if the new employee receives a  
326 disqualifying criminal history record check and no waiver is  
327 granted as provided in this subsection (6).

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



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

(e) The covered entity may, in its discretion, allow any employee who is unable to sign the affidavit required by paragraph (d) of this subsection (6) or any employee applicant aggrieved by an employment decision under this subsection (6) to appear before the covered entity's hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow the employee or employee applicant to be employed by the covered entity. The covered entity, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (i) age at which the crime was committed; (ii) circumstances surrounding the crime; (iii) length of time since the conviction



and criminal history since the conviction; (iv) work history; (v) current employment and character references; and (vi) other evidence demonstrating the ability of the individual to perform the employment responsibilities competently and that the individual does not pose a threat to the health or safety of the patients of the covered entity.

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

(g) If the results of an employee applicant's criminal history record check reveals no disqualifying event, then the covered entity shall, within two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his or her authorized designee, confirming the employee applicant's suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment with any covered entity without the





necessity of an additional criminal history record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant's criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history record check as required in this subsection (6).

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

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

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

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



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

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

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

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

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

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

(c) To promulgate and publish such rules, regulations and policies of the department as are needed for the efficient government and maintenance of all facilities and programs in



accord insofar as possible with currently accepted standards of adult offender care and treatment;

(d) To provide the Parole Board with suitable and sufficient office space and support resources and staff necessary to conduct Parole Board business under the guidance of the Chairman of the Parole Board;

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

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



For the purpose of administration and enforcement of this chapter, deputy commissioners of the Mississippi Department of Corrections, who are certified by the Mississippi Board on Law Enforcement Officer Standards and Training, have the powers of a law enforcement officer of this state. Such powers shall include to make arrests and to serve and execute search warrants and other valid legal process anywhere within the State of Mississippi while performing their officially assigned duties relating to the custody, control, transportation, recapture or arrest of any offender within the jurisdiction of the department or any offender of any jail, penitentiary, public workhouse or overnight lockup of the state or any political subdivision thereof not within the jurisdiction of the department in any matter relating to the custody, control, transportation or recapture of such offender;

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

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

(i) To contract with licensed special care facilities for paroled inmates to provide authorized medical services and support services for medically frail inmates who have been paroled and who have voluntarily submitted to the Department of Corrections



an address to one of the licensed care facilities to receive such services; and

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

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

47-7-4. (1) The commissioner and the medical director of the department may place an offender who has served not less than one (1) year of his or her sentence, except an offender convicted of a sex crime, on conditional medical release. However, a nonviolent offender who is bedridden may be placed on conditional medical release regardless of the time served on his or her sentence. Upon the release of a nonviolent offender who is bedridden, the state shall not be responsible or liable for any medical costs that may be incurred if such costs are acquired after the offender is no longer incarcerated due to his or her placement on conditional medical release. The commissioner shall not place an offender on conditional medical release unless the medical director of the department certifies to the commissioner that (a) the offender is suffering from a significant permanent physical medical condition with no possibility of recovery; (b) that his or her further incarceration will serve no rehabilitative purposes; and (c) that the state would incur unreasonable expenses as a result of his or her continued incarceration. Any offender



placed on conditional medical release shall be supervised by the Division of Community Corrections of the department for the remainder of his or her sentence. An offender's conditional medical release may be revoked and the offender returned and placed in actual custody of the department if the offender violates an order or condition of his or her conditional medical release. An offender who is no longer bedridden shall be returned and placed in the actual custody of the department.

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

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

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

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

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



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

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

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

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

(vii) The parolee shall adhere to the terms of his or her parole for the length of his or her parole term, and the



parole shall be for a term not less than the time necessary to reach the prisoner's earliest release date;

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

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

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

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

(d) The Mississippi Department of Corrections may enter into contracts to facilitate the housing of paroled inmates under this subsection (2). The Mississippi Department of Corrections shall appoint a specialist in the appropriate field of medicine, who is not employed by the department, to evaluate the condition of the inmate considered for parole under this subsection (2) and to report on that condition to the department and the State Parole Board. The State Parole Board shall determine whether the inmate





is medically frail in consultation with the Mississippi Department of Health.

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

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

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

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

(c) Any change in the existing bed complement of any health care facility through the addition or conversion of any beds or the alteration, modernizing or refurbishing of any unit or department in which the beds may be located; however, if a health care facility has voluntarily delicensed some of its existing bed complement, it may later relicense some or all of its delicensed beds without the necessity of having to acquire a certificate of



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

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

- 639 (i) Open-heart surgery services;  
640 (ii) Cardiac catheterization services;  
641 (iii) Comprehensive inpatient rehabilitation  
642 services;  
643 (iv) Licensed psychiatric services;



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



668 subdivision of either, whose order is also approved by the State  
669 Department of Health;

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

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

688 (h) The change of ownership of any health care facility  
689 defined in subparagraphs (iv), (vi) and (viii) of Section  
690 41-7-173(h), in which a notice of intent as described in paragraph  
691 (g) has not been filed and if the Executive Director, Division of  
692 Medicaid, Office of the Governor, has not certified in writing



that there will be no increase in allowable costs to Medicaid from revaluation of the assets or from increased interest and depreciation as a result of the proposed change of ownership;

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

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

(k) The contracting of a health care facility as 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.



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

725           (a) The department may issue a certificate of need to  
726 any person proposing the new construction of any health care  
727 facility defined in subparagraphs (iv) and (vi) of Section  
728 41-7-173(h) as part of a life care retirement facility, in any  
729 county bordering on the Gulf of Mexico in which is located a  
730 National Aeronautics and Space Administration facility, not to  
731 exceed forty (40) beds. From and after July 1, 1999, there shall  
732 be no prohibition or restrictions on participation in the Medicaid  
733 program (Section 43-13-101 et seq.) for the beds in the health  
734 care facility that were authorized under this paragraph (a).

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



(c) The department may issue a certificate of need for the addition to or expansion of any skilled nursing facility that is part of an existing continuing care retirement community located in Madison 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 (c), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was



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

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

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

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





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

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

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

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



817 seq.) or admit or keep any patients in the skilled nursing  
818 facility who are participating in the Medicaid program. This  
819 written agreement by the recipient of the certificate of need  
820 shall be fully binding on any subsequent owner of the skilled  
821 nursing facility, if the ownership of the facility is transferred  
822 at any time after the issuance of the certificate of need.  
823 Agreement that the skilled nursing facility will not participate  
824 in the Medicaid program shall be a condition of the issuance of a  
825 certificate of need to any person under this paragraph (i), and if  
826 such skilled nursing facility at any time after the issuance of  
827 the certificate of need, regardless of the ownership of the  
828 facility, participates in the Medicaid program or admits or keeps  
829 any patients in the facility who are participating in the Medicaid  
830 program, the State Department of Health shall revoke the  
831 certificate of need, if it is still outstanding, and shall deny or  
832 revoke the license of the skilled nursing facility, at the time  
833 that the department determines, after a hearing complying with due  
834 process, that the facility has failed to comply with any of the  
835 conditions upon which the certificate of need was issued, as  
836 provided in this paragraph and in the written agreement by the  
837 recipient of the certificate of need. The provision of Section  
838 41-7-193(1) regarding substantial compliance of the projection of  
839 need as reported in the current State Health Plan is waived for  
840 the purposes of this paragraph. The total number of nursing  
841 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 licensed with fewer than sixty (60) beds. For the purposes of this paragraph (j), 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. 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,



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



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

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



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



942 substantial construction of the nursing facility beds within six  
943 (6) months after final adjudication on the issuance of the  
944 certificate of need.

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



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

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





992 certificate of need agrees in writing that the skilled nursing  
993 facility will not at any time participate in the Medicaid program  
994 (Section 43-13-101 et seq.) or admit or keep any patients in the  
995 skilled nursing facility who are participating in the Medicaid  
996 program. This written agreement by the recipient of the  
997 certificate of need shall be fully binding on any subsequent owner  
998 of the skilled nursing facility, if the ownership of the facility  
999 is transferred at any time after the issuance of the certificate  
1000 of need. Agreement that the skilled nursing facility will not  
1001 participate in the Medicaid program shall be a condition of the  
1002 issuance of a certificate of need to any person under this  
1003 paragraph (o), and if such skilled nursing facility at any time  
1004 after the issuance of the certificate of need, regardless of the  
1005 ownership of the facility, participates in the Medicaid program or  
1006 admits or keeps any patients in the facility who are participating  
1007 in the Medicaid program, the State Department of Health shall  
1008 revoke the certificate of need, if it is still outstanding, and  
1009 shall deny or revoke the license of the skilled nursing facility,  
1010 at the time that the department determines, after a hearing  
1011 complying with due process, that the facility has failed to comply  
1012 with any of the conditions upon which the certificate of need was  
1013 issued, as provided in this paragraph and in the written agreement  
1014 by the recipient of the certificate of need. The total number of  
1015 nursing facility beds that may be authorized by any certificate of  
1016 need issued under this paragraph (o) shall not exceed sixty (60)



beds. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 2001, 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, 2001, 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.

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



1042 shall be fully binding on any subsequent owner of the skilled  
1043 nursing facility, if the ownership of the facility is transferred  
1044 at any time after the issuance of the certificate of need.  
1045 Agreement that the skilled nursing facility will not participate  
1046 in the Medicaid program shall be a condition of the issuance of a  
1047 certificate of need to any person under this paragraph (p), and if  
1048 such skilled nursing facility at any time after the issuance of  
1049 the certificate of need, regardless of the ownership of the  
1050 facility, participates in the Medicaid program or admits or keeps  
1051 any patients in the facility who are participating in the Medicaid  
1052 program, the State Department of Health shall revoke the  
1053 certificate of need, if it is still outstanding, and shall deny or  
1054 revoke the license of the skilled nursing facility, at the time  
1055 that the department determines, after a hearing complying with due  
1056 process, that the facility has failed to comply with any of the  
1057 conditions upon which the certificate of need was issued, as  
1058 provided in this paragraph and in the written agreement by the  
1059 recipient of the certificate of need. The provision of Section  
1060 41-7-193(1) regarding substantial compliance of the projection of  
1061 need as reported in the current State Health Plan is waived for  
1062 the purposes of this paragraph. If the certificate of need  
1063 authorized under this paragraph is not issued within twelve (12)  
1064 months after July 1, 1998, the department shall deny the  
1065 application for the certificate of need and shall not issue the  
1066 certificate of need at any time after the twelve-month period,



1067 unless the issuance is contested. If the certificate of need is  
1068 issued and substantial construction of the nursing facility beds  
1069 has not commenced within eighteen (18) months after July 1, 1998,  
1070 the State Department of Health, after a hearing complying with due  
1071 process, shall revoke the certificate of need if it is still  
1072 outstanding, and the department shall not issue a license for the  
1073 nursing facility at any time after the eighteen-month period.  
1074 However, if the issuance of the certificate of need is contested,  
1075 the department shall require substantial construction of the  
1076 nursing facility beds within six (6) months after final  
1077 adjudication on the issuance of the certificate of need.

1078 (q) (i) Beginning on July 1, 1999, the State  
1079 Department of Health shall issue certificates of need during each  
1080 of the next four (4) fiscal years for the construction or  
1081 expansion of nursing facility beds or the conversion of other beds  
1082 to nursing facility beds in each county in the state having a need  
1083 for fifty (50) or more additional nursing facility beds, as shown  
1084 in the fiscal year 1999 State Health Plan, in the manner provided  
1085 in this paragraph (q). The total number of nursing facility beds  
1086 that may be authorized by any certificate of need authorized under  
1087 this paragraph (q) shall not exceed sixty (60) beds.

1088 (ii) Subject to the provisions of subparagraph  
1089 (v), during each of the next four (4) fiscal years, the department  
1090 shall issue six (6) certificates of need for new nursing facility  
1091 beds, as follows: During fiscal years 2000, 2001 and 2002, one



1092 (1) certificate of need shall be issued for new nursing facility  
1093 beds in the county in each of the four (4) Long-Term Care Planning  
1094 Districts designated in the fiscal year 1999 State Health Plan  
1095 that has the highest need in the district for those beds; and two  
1096 (2) certificates of need shall be issued for new nursing facility  
1097 beds in the two (2) counties from the state at large that have the  
1098 highest need in the state for those beds, when considering the  
1099 need on a statewide basis and without regard to the Long-Term Care  
1100 Planning Districts in which the counties are located. During  
1101 fiscal year 2003, one (1) certificate of need shall be issued for  
1102 new nursing facility beds in any county having a need for fifty  
1103 (50) or more additional nursing facility beds, as shown in the  
1104 fiscal year 1999 State Health Plan, that has not received a  
1105 certificate of need under this paragraph (q) during the three (3)  
1106 previous fiscal years. During fiscal year 2000, in addition to  
1107 the six (6) certificates of need authorized in this subparagraph,  
1108 the department also shall issue a certificate of need for new  
1109 nursing facility beds in Amite County and a certificate of need  
1110 for new nursing facility beds in Carroll County.

1111 (iii) Subject to the provisions of subparagraph  
1112 (v), the certificate of need issued under subparagraph (ii) for  
1113 nursing facility beds in each Long-Term Care Planning District  
1114 during each fiscal year shall first be available for nursing  
1115 facility beds in the county in the district having the highest  
1116 need for those beds, as shown in the fiscal year 1999 State Health



1117 Plan. If there are no applications for a certificate of need for  
1118 nursing facility beds in the county having the highest need for  
1119 those beds by the date specified by the department, then the  
1120 certificate of need shall be available for nursing facility beds  
1121 in other counties in the district in descending order of the need  
1122 for those beds, from the county with the second highest need to  
1123 the county with the lowest need, until an application is received  
1124 for nursing facility beds in an eligible county in the district.

1125 (iv) Subject to the provisions of subparagraph  
1126 (v), the certificate of need issued under subparagraph (ii) for  
1127 nursing facility beds in the two (2) counties from the state at  
1128 large during each fiscal year shall first be available for nursing  
1129 facility beds in the two (2) counties that have the highest need  
1130 in the state for those beds, as shown in the fiscal year 1999  
1131 State Health Plan, when considering the need on a statewide basis  
1132 and without regard to the Long-Term Care Planning Districts in  
1133 which the counties are located. If there are no applications for  
1134 a certificate of need for nursing facility beds in either of the  
1135 two (2) counties having the highest need for those beds on a  
1136 statewide basis by the date specified by the department, then the  
1137 certificate of need shall be available for nursing facility beds  
1138 in other counties from the state at large in descending order of  
1139 the need for those beds on a statewide basis, from the county with  
1140 the second highest need to the county with the lowest need, until



1141 an application is received for nursing facility beds in an  
1142 eligible county from the state at large.

1143 (v) If a certificate of need is authorized to be  
1144 issued under this paragraph (q) for nursing facility beds in a  
1145 county on the basis of the need in the Long-Term Care Planning  
1146 District during any fiscal year of the four-year period, a  
1147 certificate of need shall not also be available under this  
1148 paragraph (q) for additional nursing facility beds in that county  
1149 on the basis of the need in the state at large, and that county  
1150 shall be excluded in determining which counties have the highest  
1151 need for nursing facility beds in the state at large for that  
1152 fiscal year. After a certificate of need has been issued under  
1153 this paragraph (q) for nursing facility beds in a county during  
1154 any fiscal year of the four-year period, a certificate of need  
1155 shall not be available again under this paragraph (q) for  
1156 additional nursing facility beds in that county during the  
1157 four-year period, and that county shall be excluded in determining  
1158 which counties have the highest need for nursing facility beds in  
1159 succeeding fiscal years.

1160 (vi) If more than one (1) application is made for  
1161 a certificate of need for nursing home facility beds available  
1162 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
1163 County, and one (1) of the applicants is a county-owned hospital  
1164 located in the county where the nursing facility beds are  
1165 available, the department shall give priority to the county-owned



1166 hospital in granting the certificate of need if the following  
1167 conditions are met:

1168                   1. The county-owned hospital fully meets all  
1169 applicable criteria and standards required to obtain a certificate  
1170 of need for the nursing facility beds; and

1171                   2. The county-owned hospital's qualifications  
1172 for the certificate of need, as shown in its application and as  
1173 determined by the department, are at least equal to the  
1174 qualifications of the other applicants for the certificate of  
1175 need.

1176                   (r) (i) Beginning on July 1, 1999, the State  
1177 Department of Health shall issue certificates of need during each  
1178 of the next two (2) fiscal years for the construction or expansion  
1179 of nursing facility beds or the conversion of other beds to  
1180 nursing facility beds in each of the four (4) Long-Term Care  
1181 Planning Districts designated in the fiscal year 1999 State Health  
1182 Plan, to provide care exclusively to patients with Alzheimer's  
1183 disease.

1184                   (ii) Not more than twenty (20) beds may be  
1185 authorized by any certificate of need issued under this paragraph  
1186 (r), and not more than a total of sixty (60) beds may be  
1187 authorized in any Long-Term Care Planning District by all  
1188 certificates of need issued under this paragraph (r). However,  
1189 the total number of beds that may be authorized by all  
1190 certificates of need issued under this paragraph (r) during any





1191 fiscal year shall not exceed one hundred twenty (120) beds, and  
1192 the total number of beds that may be authorized in any Long-Term  
1193 Care Planning District during any fiscal year shall not exceed  
1194 forty (40) beds. Of the certificates of need that are issued for  
1195 each Long-Term Care Planning District during the next two (2)  
1196 fiscal years, at least one (1) shall be issued for beds in the  
1197 northern part of the district, at least one (1) shall be issued  
1198 for beds in the central part of the district, and at least one (1)  
1199 shall be issued for beds in the southern part of the district.

1200 (iii) The State Department of Health, in  
1201 consultation with the Department of Mental Health and the Division  
1202 of Medicaid, shall develop and prescribe the staffing levels,  
1203 space requirements and other standards and requirements that must  
1204 be met with regard to the nursing facility beds authorized under  
1205 this paragraph (r) to provide care exclusively to patients with  
1206 Alzheimer's disease.

1207 (s) The State Department of Health may issue a  
1208 certificate of need to a nonprofit skilled nursing facility using  
1209 the Green House model of skilled nursing care and located in Yazoo  
1210 City, Yazoo County, Mississippi, for the construction, expansion  
1211 or conversion of not more than nineteen (19) nursing facility  
1212 beds. For purposes of this paragraph (s), the provisions of  
1213 Section 41-7-193(1) requiring substantial compliance with the  
1214 projection of need as reported in the current State Health Plan  
1215 and the provisions of Section 41-7-197 requiring a formal



1216 certificate of need hearing process are waived. There shall be no  
1217 prohibition or restrictions on participation in the Medicaid  
1218 program for the person receiving the certificate of need  
1219 authorized under this paragraph (s).

1220 (t) The State Department of Health shall issue  
1221 certificates of need to the owner of a nursing facility in  
1222 operation at the time of Hurricane Katrina in Hancock County that  
1223 was not operational on December 31, 2005, because of damage  
1224 sustained from Hurricane Katrina to authorize the following: (i)  
1225 the construction of a new nursing facility in Harrison County;  
1226 (ii) the relocation of forty-nine (49) nursing facility beds from  
1227 the Hancock County facility to the new Harrison County facility;  
1228 (iii) the establishment of not more than twenty (20) non-Medicaid  
1229 nursing facility beds at the Hancock County facility; and (iv) the  
1230 establishment of not more than twenty (20) non-Medicaid beds at  
1231 the new Harrison County facility. The certificates of need that  
1232 authorize the non-Medicaid nursing facility beds under  
1233 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1234 subject to the following conditions: The owner of the Hancock  
1235 County facility and the new Harrison County facility must agree in  
1236 writing that no more than fifty (50) of the beds at the Hancock  
1237 County facility and no more than forty-nine (49) of the beds at  
1238 the Harrison County facility will be certified for participation  
1239 in the Medicaid program, and that no claim will be submitted for  
1240 Medicaid reimbursement for more than fifty (50) patients in the



1241 Hancock County facility in any month, or for more than forty-nine  
1242 (49) patients in the Harrison County facility in any month, or for  
1243 any patient in either facility who is in a bed that is not  
1244 Medicaid-certified. This written agreement by the owner of the  
1245 nursing facilities shall be a condition of the issuance of the  
1246 certificates of need under this paragraph (t), and the agreement  
1247 shall be fully binding on any later owner or owners of either  
1248 facility if the ownership of either facility is transferred at any  
1249 time after the certificates of need are issued. After this  
1250 written agreement is executed, the Division of Medicaid and the  
1251 State Department of Health shall not certify more than fifty (50)  
1252 of the beds at the Hancock County facility or more than forty-nine  
1253 (49) of the beds at the Harrison County facility for participation  
1254 in the Medicaid program. If the Hancock County facility violates  
1255 the terms of the written agreement by admitting or keeping in the  
1256 facility on a regular or continuing basis more than fifty (50)  
1257 patients who are participating in the Medicaid program, or if the  
1258 Harrison County facility violates the terms of the written  
1259 agreement by admitting or keeping in the facility on a regular or  
1260 continuing basis more than forty-nine (49) patients who are  
1261 participating in the Medicaid program, the State Department of  
1262 Health shall revoke the license of the facility that is in  
1263 violation of the agreement, at the time that the department  
1264 determines, after a hearing complying with due process, that the  
1265 facility has violated the agreement.



1266           (u) The State Department of Health shall issue a  
1267 certificate of need to a nonprofit venture for the establishment,  
1268 construction and operation of a skilled nursing facility of not  
1269 more than sixty (60) beds to provide skilled nursing care for  
1270 ventilator dependent or otherwise medically dependent pediatric  
1271 patients who require medical and nursing care or rehabilitation  
1272 services to be located in a county in which an academic medical  
1273 center and a children's hospital are located, and for any  
1274 construction and for the acquisition of equipment related to those  
1275 beds. The facility shall be authorized to keep such ventilator  
1276 dependent or otherwise medically dependent pediatric patients  
1277 beyond age twenty-one (21) in accordance with regulations of the  
1278 State Board of Health. For purposes of this paragraph (u), the  
1279 provisions of Section 41-7-193(1) requiring substantial compliance  
1280 with the projection of need as reported in the current State  
1281 Health Plan are waived, and the provisions of Section 41-7-197  
1282 requiring a formal certificate of need hearing process are waived.  
1283 The beds authorized by this paragraph shall be counted as  
1284 pediatric skilled nursing facility beds for health planning  
1285 purposes under Section 41-7-171 et seq. There shall be no  
1286 prohibition of or restrictions on participation in the Medicaid  
1287 program for the person receiving the certificate of need  
1288 authorized by this paragraph.

1289           (3) The State Department of Health may grant approval for  
1290 and issue certificates of need to any person proposing the new



1291 construction of, addition to, conversion of beds of or expansion  
1292 of any health care facility defined in subparagraph (x)  
1293 (psychiatric residential treatment facility) of Section  
1294 41-7-173(h). The total number of beds which may be authorized by  
1295 such certificates of need shall not exceed three hundred  
1296 thirty-four (334) beds for the entire state.

1297           (a) Of the total number of beds authorized under this  
1298 subsection, the department shall issue a certificate of need to a  
1299 privately owned psychiatric residential treatment facility in  
1300 Simpson County for the conversion of sixteen (16) intermediate  
1301 care facility for individuals with intellectual disabilities  
1302 (ICF-IID) beds to psychiatric residential treatment facility beds,  
1303 provided that facility agrees in writing that the facility shall  
1304 give priority for the use of those sixteen (16) beds to  
1305 Mississippi residents who are presently being treated in  
1306 out-of-state facilities.

1307           (b) Of the total number of beds authorized under this  
1308 subsection, the department may issue a certificate or certificates  
1309 of need for the construction or expansion of psychiatric  
1310 residential treatment facility beds or the conversion of other  
1311 beds to psychiatric residential treatment facility beds in Warren  
1312 County, not to exceed sixty (60) psychiatric residential treatment  
1313 facility beds, provided that the facility agrees in writing that  
1314 no more than thirty (30) of the beds at the psychiatric  
1315 residential treatment facility will be certified for participation



1316 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1317 any patients other than those who are participating only in the  
1318 Medicaid program of another state, and that no claim will be  
1319 submitted to the Division of Medicaid for Medicaid reimbursement  
1320 for more than thirty (30) patients in the psychiatric residential  
1321 treatment facility in any day or for any patient in the  
1322 psychiatric residential treatment facility who is in a bed that is  
1323 not Medicaid-certified. This written agreement by the recipient  
1324 of the certificate of need shall be a condition of the issuance of  
1325 the certificate of need under this paragraph, and the agreement  
1326 shall be fully binding on any subsequent owner of the psychiatric  
1327 residential treatment facility if the ownership of the facility is  
1328 transferred at any time after the issuance of the certificate of  
1329 need. After this written agreement is executed, the Division of  
1330 Medicaid and the State Department of Health shall not certify more  
1331 than thirty (30) of the beds in the psychiatric residential  
1332 treatment facility for participation in the Medicaid program for  
1333 the use of any patients other than those who are participating  
1334 only in the Medicaid program of another state. If the psychiatric  
1335 residential treatment facility violates the terms of the written  
1336 agreement by admitting or keeping in the facility on a regular or  
1337 continuing basis more than thirty (30) patients who are  
1338 participating in the Mississippi Medicaid program, the State  
1339 Department of Health shall revoke the license of the facility, at  
1340 the time that the department determines, after a hearing complying



1341 with due process, that the facility has violated the condition  
1342 upon which the certificate of need was issued, as provided in this  
1343 paragraph and in the written agreement.

1344       The State Department of Health, on or before July 1, 2002,  
1345 shall transfer the certificate of need authorized under the  
1346 authority of this paragraph (b), or reissue the certificate of  
1347 need if it has expired, to River Region Health System.

1348       (c) Of the total number of beds authorized under this  
1349 subsection, the department shall issue a certificate of need to a  
1350 hospital currently operating Medicaid-certified acute psychiatric  
1351 beds for adolescents in DeSoto County, for the establishment of a  
1352 forty-bed psychiatric residential treatment facility in DeSoto  
1353 County, provided that the hospital agrees in writing (i) that the  
1354 hospital shall give priority for the use of those forty (40) beds  
1355 to Mississippi residents who are presently being treated in  
1356 out-of-state facilities, and (ii) that no more than fifteen (15)  
1357 of the beds at the psychiatric residential treatment facility will  
1358 be certified for participation in the Medicaid program (Section  
1359 43-13-101 et seq.), and that no claim will be submitted for  
1360 Medicaid reimbursement for more than fifteen (15) patients in the  
1361 psychiatric residential treatment facility in any day or for any  
1362 patient in the psychiatric residential treatment facility who is  
1363 in a bed that is not Medicaid-certified. This written agreement  
1364 by the recipient of the certificate of need shall be a condition  
1365 of the issuance of the certificate of need under this paragraph,



1366 and the agreement shall be fully binding on any subsequent owner  
1367 of the psychiatric residential treatment facility if the ownership  
1368 of the facility is transferred at any time after the issuance of  
1369 the certificate of need. After this written agreement is  
1370 executed, the Division of Medicaid and the State Department of  
1371 Health shall not certify more than fifteen (15) of the beds in the  
1372 psychiatric residential treatment facility for participation in  
1373 the Medicaid program. If the psychiatric residential treatment  
1374 facility violates the terms of the written agreement by admitting  
1375 or keeping in the facility on a regular or continuing basis more  
1376 than fifteen (15) patients who are participating in the Medicaid  
1377 program, the State Department of Health shall revoke the license  
1378 of the facility, at the time that the department determines, after  
1379 a hearing complying with due process, that the facility has  
1380 violated the condition upon which the certificate of need was  
1381 issued, as provided in this paragraph and in the written  
1382 agreement.

1383 (d) Of the total number of beds authorized under this  
1384 subsection, the department may issue a certificate or certificates  
1385 of need for the construction or expansion of psychiatric  
1386 residential treatment facility beds or the conversion of other  
1387 beds to psychiatric treatment facility beds, not to exceed thirty  
1388 (30) psychiatric residential treatment facility beds, in either  
1389 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1390 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.





1391           (e) Of the total number of beds authorized under this  
1392 subsection (3) the department shall issue a certificate of need to  
1393 a privately owned, nonprofit psychiatric residential treatment  
1394 facility in Hinds County for an eight-bed expansion of the  
1395 facility, provided that the facility agrees in writing that the  
1396 facility shall give priority for the use of those eight (8) beds  
1397 to Mississippi residents who are presently being treated in  
1398 out-of-state facilities.

1399           (f) The department shall issue a certificate of need to  
1400 a one-hundred-thirty-four-bed specialty hospital located on  
1401 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1402 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1403 Mississippi, for the addition, construction or expansion of  
1404 child/adolescent psychiatric residential treatment facility beds  
1405 in Lauderdale County. As a condition of issuance of the  
1406 certificate of need under this paragraph, the facility shall give  
1407 priority in admissions to the child/adolescent psychiatric  
1408 residential treatment facility beds authorized under this  
1409 paragraph to patients who otherwise would require out-of-state  
1410 placement. The Division of Medicaid, in conjunction with the  
1411 Department of Human Services, shall furnish the facility a list of  
1412 all out-of-state patients on a quarterly basis. Furthermore,  
1413 notice shall also be provided to the parent, custodial parent or  
1414 guardian of each out-of-state patient notifying them of the  
1415 priority status granted by this paragraph. For purposes of this



1416 paragraph, the provisions of Section 41-7-193(1) requiring  
1417 substantial compliance with the projection of need as reported in  
1418 the current State Health Plan are waived. The total number of  
1419 child/adolescent psychiatric residential treatment facility beds  
1420 that may be authorized under the authority of this paragraph shall  
1421 be sixty (60) beds. There shall be no prohibition or restrictions  
1422 on participation in the Medicaid program (Section 43-13-101 et  
1423 seq.) for the person receiving the certificate of need authorized  
1424 under this paragraph or for the beds converted pursuant to the  
1425 authority of that certificate of need.

1426       (4) (a) From and after March 25, 2021, the department may  
1427 issue a certificate of need to any person for the new construction  
1428 of any hospital, psychiatric hospital or chemical dependency  
1429 hospital that will contain any child/adolescent psychiatric or  
1430 child/adolescent chemical dependency beds, or for the conversion  
1431 of any other health care facility to a hospital, psychiatric  
1432 hospital or chemical dependency hospital that will contain any  
1433 child/adolescent psychiatric or child/adolescent chemical  
1434 dependency beds. There shall be no prohibition or restrictions on  
1435 participation in the Medicaid program (Section 43-13-101 et seq.)  
1436 for the person(s) receiving the certificate(s) of need authorized  
1437 under this paragraph (a) or for the beds converted pursuant to the  
1438 authority of that certificate of need. In issuing any new  
1439 certificate of need for any child/adolescent psychiatric or  
1440 child/adolescent chemical dependency beds, either by new



1441 construction or conversion of beds of another category, the  
1442 department shall give preference to beds which will be located in  
1443 an area of the state which does not have such beds located in it,  
1444 and to a location more than sixty-five (65) miles from existing  
1445 beds. Upon receiving 2020 census data, the department may amend  
1446 the State Health Plan regarding child/adolescent psychiatric and  
1447 child/adolescent chemical dependency beds to reflect the need  
1448 based on new census data.

1449 (i) [Deleted]

1450 (ii) The department may issue a certificate of  
1451 need for the conversion of existing beds in a county hospital in  
1452 Choctaw County from acute care beds to child/adolescent chemical  
1453 dependency beds. For purposes of this subparagraph (ii), the  
1454 provisions of Section 41-7-193(1) requiring substantial compliance  
1455 with the projection of need as reported in the current State  
1456 Health Plan are waived. The total number of beds that may be  
1457 authorized under authority of this subparagraph shall not exceed  
1458 twenty (20) beds. There shall be no prohibition or restrictions  
1459 on participation in the Medicaid program (Section 43-13-101 et  
1460 seq.) for the hospital receiving the certificate of need  
1461 authorized under this subparagraph or for the beds converted  
1462 pursuant to the authority of that certificate of need.

1463 (iii) The department may issue a certificate or  
1464 certificates of need for the construction or expansion of  
1465 child/adolescent psychiatric beds or the conversion of other beds



1466 to child/adolescent psychiatric beds in Warren County. For  
1467 purposes of this subparagraph (iii), the provisions of Section  
1468 41-7-193(1) requiring substantial compliance with the projection  
1469 of need as reported in the current State Health Plan are waived.  
1470 The total number of beds that may be authorized under the  
1471 authority of this subparagraph shall not exceed twenty (20) beds.  
1472 There shall be no prohibition or restrictions on participation in  
1473 the Medicaid program (Section 43-13-101 et seq.) for the person  
1474 receiving the certificate of need authorized under this  
1475 subparagraph or for the beds converted pursuant to the authority  
1476 of that certificate of need.

1477       If by January 1, 2002, there has been no significant  
1478 commencement of construction of the beds authorized under this  
1479 subparagraph (iii), or no significant action taken to convert  
1480 existing beds to the beds authorized under this subparagraph, then  
1481 the certificate of need that was previously issued under this  
1482 subparagraph shall expire. If the previously issued certificate  
1483 of need expires, the department may accept applications for  
1484 issuance of another certificate of need for the beds authorized  
1485 under this subparagraph, and may issue a certificate of need to  
1486 authorize the construction, expansion or conversion of the beds  
1487 authorized under this subparagraph.

1488               (iv) The department shall issue a certificate of  
1489 need to the Region 7 Mental Health/Retardation Commission for the  
1490 construction or expansion of child/adolescent psychiatric beds or



1491 the conversion of other beds to child/adolescent psychiatric beds  
1492 in any of the counties served by the commission. For purposes of  
1493 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1494 requiring substantial compliance with the projection of need as  
1495 reported in the current State Health Plan are waived. The total  
1496 number of beds that may be authorized under the authority of this  
1497 subparagraph shall not exceed twenty (20) beds. There shall be no  
1498 prohibition or restrictions on participation in the Medicaid  
1499 program (Section 43-13-101 et seq.) for the person receiving the  
1500 certificate of need authorized under this subparagraph or for the  
1501 beds converted pursuant to the authority of that certificate of  
1502 need.

1503 (v) The department may issue a certificate of need  
1504 to any county hospital located in Leflore County for the  
1505 construction or expansion of adult psychiatric beds or the  
1506 conversion of other beds to adult psychiatric beds, not to exceed  
1507 twenty (20) beds, provided that the recipient of the certificate  
1508 of need agrees in writing that the adult psychiatric beds will not  
1509 at any time be certified for participation in the Medicaid program  
1510 and that the hospital will not admit or keep any patients who are  
1511 participating in the Medicaid program in any of such adult  
1512 psychiatric beds. This written agreement by the recipient of the  
1513 certificate of need shall be fully binding on any subsequent owner  
1514 of the hospital if the ownership of the hospital is transferred at  
1515 any time after the issuance of the certificate of need. Agreement



1516 that the adult psychiatric beds will not be certified for  
1517 participation in the Medicaid program shall be a condition of the  
1518 issuance of a certificate of need to any person under this  
1519 subparagraph (v), and if such hospital at any time after the  
1520 issuance of the certificate of need, regardless of the ownership  
1521 of the hospital, has any of such adult psychiatric beds certified  
1522 for participation in the Medicaid program or admits or keeps any  
1523 Medicaid patients in such adult psychiatric beds, the State  
1524 Department of Health shall revoke the certificate of need, if it  
1525 is still outstanding, and shall deny or revoke the license of the  
1526 hospital at the time that the department determines, after a  
1527 hearing complying with due process, that the hospital has failed  
1528 to comply with any of the conditions upon which the certificate of  
1529 need was issued, as provided in this subparagraph and in the  
1530 written agreement by the recipient of the certificate of need.

1531           (vi) The department may issue a certificate or  
1532 certificates of need for the expansion of child psychiatric beds  
1533 or the conversion of other beds to child psychiatric beds at the  
1534 University of Mississippi Medical Center. For purposes of this  
1535 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
1536 substantial compliance with the projection of need as reported in  
1537 the current State Health Plan are waived. The total number of  
1538 beds that may be authorized under the authority of this  
1539 subparagraph shall not exceed fifteen (15) beds. There shall be  
1540 no prohibition or restrictions on participation in the Medicaid



1541 program (Section 43-13-101 et seq.) for the hospital receiving the  
1542 certificate of need authorized under this subparagraph or for the  
1543 beds converted pursuant to the authority of that certificate of  
1544 need.

1545 (b) From and after July 1, 1990, no hospital,  
1546 psychiatric hospital or chemical dependency hospital shall be  
1547 authorized to add any child/adolescent psychiatric or  
1548 child/adolescent chemical dependency beds or convert any beds of  
1549 another category to child/adolescent psychiatric or  
1550 child/adolescent chemical dependency beds without a certificate of  
1551 need under the authority of subsection (1)(c) and subsection  
1552 (4)(a) of this section.

1553 (5) The department may issue a certificate of need to a  
1554 county hospital in Winston County for the conversion of fifteen  
1555 (15) acute care beds to geriatric psychiatric care beds.

1556 (6) The State Department of Health shall issue a certificate  
1557 of need to a Mississippi corporation qualified to manage a  
1558 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1559 Harrison County, not to exceed eighty (80) beds, including any  
1560 necessary renovation or construction required for licensure and  
1561 certification, provided that the recipient of the certificate of  
1562 need agrees in writing that the long-term care hospital will not  
1563 at any time participate in the Medicaid program (Section 43-13-101  
1564 et seq.) or admit or keep any patients in the long-term care  
1565 hospital who are participating in the Medicaid program. This



1566 written agreement by the recipient of the certificate of need  
1567 shall be fully binding on any subsequent owner of the long-term  
1568 care hospital, if the ownership of the facility is transferred at  
1569 any time after the issuance of the certificate of need. Agreement  
1570 that the long-term care hospital will not participate in the  
1571 Medicaid program shall be a condition of the issuance of a  
1572 certificate of need to any person under this subsection (6), and  
1573 if such long-term care hospital at any time after the issuance of  
1574 the certificate of need, regardless of the ownership of the  
1575 facility, participates in the Medicaid program or admits or keeps  
1576 any patients in the facility who are participating in the Medicaid  
1577 program, the State Department of Health shall revoke the  
1578 certificate of need, if it is still outstanding, and shall deny or  
1579 revoke the license of the long-term care hospital, at the time  
1580 that the department determines, after a hearing complying with due  
1581 process, that the facility has failed to comply with any of the  
1582 conditions upon which the certificate of need was issued, as  
1583 provided in this subsection and in the written agreement by the  
1584 recipient of the certificate of need. For purposes of this  
1585 subsection, the provisions of Section 41-7-193(1) requiring  
1586 substantial compliance with the projection of need as reported in  
1587 the current State Health Plan are waived.

1588       (7) The State Department of Health may issue a certificate  
1589 of need to any hospital in the state to utilize a portion of its  
1590 beds for the "swing-bed" concept. Any such hospital must be in





1591 conformance with the federal regulations regarding such swing-bed  
1592 concept at the time it submits its application for a certificate  
1593 of need to the State Department of Health, except that such  
1594 hospital may have more licensed beds or a higher average daily  
1595 census (ADC) than the maximum number specified in federal  
1596 regulations for participation in the swing-bed program. Any  
1597 hospital meeting all federal requirements for participation in the  
1598 swing-bed program which receives such certificate of need shall  
1599 render services provided under the swing-bed concept to any  
1600 patient eligible for Medicare (Title XVIII of the Social Security  
1601 Act) who is certified by a physician to be in need of such  
1602 services, and no such hospital shall permit any patient who is  
1603 eligible for both Medicaid and Medicare or eligible only for  
1604 Medicaid to stay in the swing beds of the hospital for more than  
1605 thirty (30) days per admission unless the hospital receives prior  
1606 approval for such patient from the Division of Medicaid, Office of  
1607 the Governor. Any hospital having more licensed beds or a higher  
1608 average daily census (ADC) than the maximum number specified in  
1609 federal regulations for participation in the swing-bed program  
1610 which receives such certificate of need shall develop a procedure  
1611 to ensure that before a patient is allowed to stay in the swing  
1612 beds of the hospital, there are no vacant nursing home beds  
1613 available for that patient located within a fifty-mile radius of  
1614 the hospital. When any such hospital has a patient staying in the  
1615 swing beds of the hospital and the hospital receives notice from a



1616 nursing home located within such radius that there is a vacant bed  
1617 available for that patient, the hospital shall transfer the  
1618 patient to the nursing home within a reasonable time after receipt  
1619 of the notice. Any hospital which is subject to the requirements  
1620 of the two (2) preceding sentences of this subsection may be  
1621 suspended from participation in the swing-bed program for a  
1622 reasonable period of time by the State Department of Health if the  
1623 department, after a hearing complying with due process, determines  
1624 that the hospital has failed to comply with any of those  
1625 requirements.

1626 (8) The Department of Health shall not grant approval for or  
1627 issue a certificate of need to any person proposing the new  
1628 construction of, addition to or expansion of a health care  
1629 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1630 except as hereinafter provided: The department may issue a  
1631 certificate of need to a nonprofit corporation located in Madison  
1632 County, Mississippi, for the construction, expansion or conversion  
1633 of not more than twenty (20) beds in a community living program  
1634 for developmentally disabled adults in a facility as defined in  
1635 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1636 subsection (8), the provisions of Section 41-7-193(1) requiring  
1637 substantial compliance with the projection of need as reported in  
1638 the current State Health Plan and the provisions of Section  
1639 41-7-197 requiring a formal certificate of need hearing process  
1640 are waived. There shall be no prohibition or restrictions on



1641 participation in the Medicaid program for the person receiving the  
1642 certificate of need authorized under this subsection (8).

1643       (9) The Department of Health shall not grant approval for or  
1644 issue a certificate of need to any person proposing the  
1645 establishment of, or expansion of the currently approved territory  
1646 of, or the contracting to establish a home office, subunit or  
1647 branch office within the space operated as a health care facility  
1648 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1649 care facility as defined in subparagraph (ix) of Section  
1650 41-7-173(h).

1651       (10) Health care facilities owned and/or operated by the  
1652 state or its agencies are exempt from the restraints in this  
1653 section against issuance of a certificate of need if such addition  
1654 or expansion consists of repairing or renovation necessary to  
1655 comply with the state licensure law. This exception shall not  
1656 apply to the new construction of any building by such state  
1657 facility. This exception shall not apply to any health care  
1658 facilities owned and/or operated by counties, municipalities,  
1659 districts, unincorporated areas, other defined persons, or any  
1660 combination thereof.

1661       (11) The new construction, renovation or expansion of or  
1662 addition to any health care facility defined in subparagraph (ii)  
1663 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1664 facility), subparagraph (vi) (intermediate care facility),  
1665 subparagraph (viii) (intermediate care facility for individuals



1666 with intellectual disabilities) and subparagraph (x) (psychiatric  
1667 residential treatment facility) of Section 41-7-173(h) which is  
1668 owned by the State of Mississippi and under the direction and  
1669 control of the State Department of Mental Health, and the addition  
1670 of new beds or the conversion of beds from one category to another  
1671 in any such defined health care facility which is owned by the  
1672 State of Mississippi and under the direction and control of the  
1673 State Department of Mental Health, shall not require the issuance  
1674 of a certificate of need under Section 41-7-171 et seq.,  
1675 notwithstanding any provision in Section 41-7-171 et seq. to the  
1676 contrary.

1677       (12) The new construction, renovation or expansion of or  
1678 addition to any veterans homes or domiciliaries for eligible  
1679 veterans of the State of Mississippi as authorized under Section  
1680 35-1-19 shall not require the issuance of a certificate of need,  
1681 notwithstanding any provision in Section 41-7-171 et seq. to the  
1682 contrary.

1683       (13) The repair or the rebuilding of an existing, operating  
1684 health care facility that sustained significant damage from a  
1685 natural disaster that occurred after April 15, 2014, in an area  
1686 that is proclaimed a disaster area or subject to a state of  
1687 emergency by the Governor or by the President of the United States  
1688 shall be exempt from all of the requirements of the Mississippi  
1689 Certificate of Need Law (Section 41-7-171 et seq.) and any and all



1690 rules and regulations promulgated under that law, subject to the  
1691 following conditions:

1692 (a) The repair or the rebuilding of any such damaged  
1693 health care facility must be within one (1) mile of the  
1694 pre-disaster location of the campus of the damaged health care  
1695 facility, except that any temporary post-disaster health care  
1696 facility operating location may be within five (5) miles of the  
1697 pre-disaster location of the damaged health care facility;

1698 (b) The repair or the rebuilding of the damaged health  
1699 care facility (i) does not increase or change the complement of  
1700 its bed capacity that it had before the Governor's or the  
1701 President's proclamation, (ii) does not increase or change its  
1702 levels and types of health care services that it provided before  
1703 the Governor's or the President's proclamation, and (iii) does not  
1704 rebuild in a different county; however, this paragraph does not  
1705 restrict or prevent a health care facility from decreasing its bed  
1706 capacity that it had before the Governor's or the President's  
1707 proclamation, or from decreasing the levels of or decreasing or  
1708 eliminating the types of health care services that it provided  
1709 before the Governor's or the President's proclamation, when the  
1710 damaged health care facility is repaired or rebuilt;

1711 (c) The exemption from Certificate of Need Law provided  
1712 under this subsection (13) is valid for only five (5) years from  
1713 the date of the Governor's or the President's proclamation. If



1714 actual construction has not begun within that five-year period,  
1715 the exemption provided under this subsection is inapplicable; and

1716 (d) The Division of Health Facilities Licensure and  
1717 Certification of the State Department of Health shall provide the  
1718 same oversight for the repair or the rebuilding of the damaged  
1719 health care facility that it provides to all health care facility  
1720 construction projects in the state.

1721 For the purposes of this subsection (13), "significant  
1722 damage" to a health care facility means damage to the health care  
1723 facility requiring an expenditure of at least One Million Dollars  
1724 (\$1,000,000.00).

1725 (14) The State Department of Health shall issue a  
1726 certificate of need to any hospital which is currently licensed  
1727 for two hundred fifty (250) or more acute care beds and is located  
1728 in any general hospital service area not having a comprehensive  
1729 cancer center, for the establishment and equipping of such a  
1730 center which provides facilities and services for outpatient  
1731 radiation oncology therapy, outpatient medical oncology therapy,  
1732 and appropriate support services including the provision of  
1733 radiation therapy services. The provisions of Section 41-7-193(1)  
1734 regarding substantial compliance with the projection of need as  
1735 reported in the current State Health Plan are waived for the  
1736 purpose of this subsection.

1737 (15) The State Department of Health may authorize the  
1738 transfer of hospital beds, not to exceed sixty (60) beds, from the



1739 North Panola Community Hospital to the South Panola Community  
1740 Hospital. The authorization for the transfer of those beds shall  
1741 be exempt from the certificate of need review process.

1742 (16) The State Department of Health shall issue any  
1743 certificates of need necessary for Mississippi State University  
1744 and a public or private health care provider to jointly acquire  
1745 and operate a linear accelerator and a magnetic resonance imaging  
1746 unit. Those certificates of need shall cover all capital  
1747 expenditures related to the project between Mississippi State  
1748 University and the health care provider, including, but not  
1749 limited to, the acquisition of the linear accelerator, the  
1750 magnetic resonance imaging unit and other radiological modalities;  
1751 the offering of linear accelerator and magnetic resonance imaging  
1752 services; and the cost of construction of facilities in which to  
1753 locate these services. The linear accelerator and the magnetic  
1754 resonance imaging unit shall be (a) located in the City of  
1755 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1756 Mississippi State University and the public or private health care  
1757 provider selected by Mississippi State University through a  
1758 request for proposals (RFP) process in which Mississippi State  
1759 University selects, and the Board of Trustees of State  
1760 Institutions of Higher Learning approves, the health care provider  
1761 that makes the best overall proposal; (c) available to Mississippi  
1762 State University for research purposes two-thirds (2/3) of the  
1763 time that the linear accelerator and magnetic resonance imaging



1764 unit are operational; and (d) available to the public or private  
1765 health care provider selected by Mississippi State University and  
1766 approved by the Board of Trustees of State Institutions of Higher  
1767 Learning one-third (1/3) of the time for clinical, diagnostic and  
1768 treatment purposes. For purposes of this subsection, the  
1769 provisions of Section 41-7-193(1) requiring substantial compliance  
1770 with the projection of need as reported in the current State  
1771 Health Plan are waived.

1772       (17) The State Department of Health shall issue a  
1773 certificate of need for the construction of an acute care hospital  
1774 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1775 be named the "John C. Stennis Memorial Hospital." In issuing the  
1776 certificate of need under this subsection, the department shall  
1777 give priority to a hospital located in Lauderdale County that has  
1778 two hundred fifteen (215) beds. For purposes of this subsection,  
1779 the provisions of Section 41-7-193(1) requiring substantial  
1780 compliance with the projection of need as reported in the current  
1781 State Health Plan and the provisions of Section 41-7-197 requiring  
1782 a formal certificate of need hearing process are waived. There  
1783 shall be no prohibition or restrictions on participation in the  
1784 Medicaid program (Section 43-13-101 et seq.) for the person or  
1785 entity receiving the certificate of need authorized under this  
1786 subsection or for the beds constructed under the authority of that  
1787 certificate of need.





1788           (18) The planning, design, construction, renovation,  
1789 addition, furnishing and equipping of a clinical research unit at  
1790 any health care facility defined in Section 41-7-173(h) that is  
1791 under the direction and control of the University of Mississippi  
1792 Medical Center and located in Jackson, Mississippi, and the  
1793 addition of new beds or the conversion of beds from one (1)  
1794 category to another in any such clinical research unit, shall not  
1795 require the issuance of a certificate of need under Section  
1796 41-7-171 et seq., notwithstanding any provision in Section  
1797 41-7-171 et seq. to the contrary.

1798           (19) [Repealed]

1799           (20) Nothing in this section or in any other provision of  
1800 Section 41-7-171 et seq. shall prevent any nursing facility from  
1801 designating an appropriate number of existing beds in the facility  
1802 as beds for providing care exclusively to patients with  
1803 Alzheimer's disease.

1804           (21) Nothing in this section or any other provision of  
1805 Section 41-7-171 et seq. shall prevent any health care facility  
1806 from the new construction, renovation, conversion or expansion of  
1807 new beds in the facility designated as intensive care units,  
1808 negative pressure rooms, or isolation rooms pursuant to the  
1809 provisions of Sections 41-14-1 through 41-14-11, or Section  
1810 41-14-31. For purposes of this subsection, the provisions of  
1811 Section 41-7-193(1) requiring substantial compliance with the  
1812 projection of need as reported in the current State Health Plan



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

**SECTION 7.** Section 43-13-117.6, Mississippi Code of 1972, is amended as follows:

43-13-117.6. (1) The Division of Medicaid may apply to the federal Center for Medicaid Services (CMS) for necessary waivers to provide federal funding under the Medicaid program for providing reimbursement for authorized services to medically frail inmates who qualify for nursing home-level care and who the state deems are not public safety risks, provided through a Special Care Facility for Paroled Inmates licensed by the State Department of Health under contract with the Mississippi Department of Corrections, as specifically authorized under Chapter 496, Laws of 2022.

(2) Subject to CMS approval, the program for paroled inmates shall be funded from monies that are appropriated or otherwise made available to the division specifically to cover the cost of the paroled inmate program. This program shall be a separate program within the Division of Medicaid as the administering agent.

(3) The Division of Medicaid is authorized and directed to apply to the federal Center for Medicaid Services (CMS) for necessary waivers to provide federal funding under the Medicaid program for providing reimbursement for authorized services to prison inmates who are one hundred percent (100%) Medicaid



1838 eligible in the period covering thirty (30) days prior to their  
1839 release on parole. This waiver of the inmate payment exclusion  
1840 for prerelease inmates shall be applicable to an individual  
1841 detained in a local jail, regional correctional facility, state  
1842 correctional facility or private correctional facility. Subject  
1843 to CMS approval, the program for the said prerelease inmate  
1844 program shall be funded from monies that are appropriated or  
1845 otherwise made available to the division specifically to cover the  
1846 cost of the prerelease inmate program. This program shall be a  
1847 separate program within the Division of Medicaid as the  
1848 administering agent.

1849       **SECTION 8.** This act shall take effect and be in force from  
1850 and after July 1, 2025.

