

By: Senator(s) Wiggins

To: Medicaid; Corrections

SENATE BILL NO. 2389

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



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

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

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

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

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

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

45 (a) "Institutions for the aged or infirm" means a place
46 either governmental or private that provides group living
47 arrangements for four (4) or more persons who are unrelated to the
48 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.



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

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

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

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

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

5. A tendency to develop physical symptoms or 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;



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

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

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

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

567 (vii) The parolee shall adhere to the terms of his
568 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



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

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

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

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



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



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

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

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



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



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

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

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



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

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



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 pre-release 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 pre-release 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 pre-release 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.

