

By: Senator(s) Bryan

To: Public Health and
Welfare

SENATE BILL NO. 2681

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REQUIREMENT THAT CERTIFICATED FACILITIES BE
3 PROHIBITED FROM PARTICIPATING IN THE MEDICAID PROGRAM OR FROM
4 ADMITTING OR KEEPING ANY PATIENTS WHO ARE PARTICIPATING IN THE
5 MEDICAID PROGRAM; TO DELETE THE REQUIREMENT THAT CERTIFICATED
6 FACILITIES BE SUBJECT TO RESTRICTIONS ON PARTICIPATION IN THE
7 MEDICAID PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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



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

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

52 (i) Open-heart surgery services;

53 (ii) Cardiac catheterization services;

54 (iii) Comprehensive inpatient rehabilitation
55 services;

56 (iv) Licensed psychiatric services;

57 (v) Licensed chemical dependency services;

58 (vi) Radiation therapy services;

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

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

63 (ix) Home health services;

64 (x) Swing-bed services;

65 (xi) Ambulatory surgical services;

66 (xii) Magnetic resonance imaging services;

67 (xiii) [Deleted]

68 (xiv) Long-term care hospital services;

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

155 (c) The department may issue a certificate of need for
156 the addition to or expansion of any skilled nursing facility that
157 is part of an existing continuing care retirement community
158 located in Madison County * * *. The total number of beds that
159 may be authorized under the authority of this paragraph (c) shall
160 not exceed sixty (60) beds.

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



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

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

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



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

202 (i) The department may issue a certificate of need for
203 the new construction of a skilled nursing facility in Leake
204 County * * *. The provision of Section 41-7-193(1) regarding
205 substantial compliance of the projection of need as reported in
206 the current State Health Plan is waived for the purposes of this
207 paragraph. The total number of nursing facility beds that may be
208 authorized by any certificate of need issued under this paragraph
209 (i) shall not exceed sixty (60) beds. If the skilled nursing
210 facility authorized by the certificate of need issued under this
211 paragraph is not constructed and fully operational within eighteen
212 (18) months after July 1, 1994, the State Department of Health,
213 after a hearing complying with due process, shall revoke the
214 certificate of need, if it is still outstanding, and shall not
215 issue a license for the skilled nursing facility at any time after
216 the expiration of the eighteen-month period.

217 (j) The department may issue certificates of need to
218 allow any existing freestanding long-term care facility in



219 Tishomingo County and Hancock County that on July 1, 1995, is
220 licensed with fewer than sixty (60) beds. For the purposes of
221 this paragraph (j), the provisions of Section 41-7-193(1)
222 requiring substantial compliance with the projection of need as
223 reported in the current State Health Plan are waived. From and
224 after July 1, 1999, there shall be no prohibition or restrictions
225 on participation in the Medicaid program (Section 43-13-101 et
226 seq.) for the beds in the long-term care facilities that were
227 authorized under this paragraph (j).

228 (k) The department may issue a certificate of need for
229 the construction of a nursing facility at a continuing care
230 retirement community in Lowndes County. The total number of beds
231 that may be authorized under the authority of this paragraph (k)
232 shall not exceed sixty (60) beds. * * *

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



243 (m) The State Department of Health may issue a
244 certificate of need to a county-owned hospital in the Second
245 Judicial District of Panola County for the conversion of not more
246 than seventy-two (72) hospital beds to nursing facility
247 beds * * *. If the certificate of need authorized under this
248 paragraph is not issued within twelve (12) months after July 1,
249 2001, the department shall deny the application for the
250 certificate of need and shall not issue the certificate of need at
251 any time after the twelve-month period, unless the issuance is
252 contested. If the certificate of need is issued and substantial
253 construction of the nursing facility beds has not commenced within
254 eighteen (18) months after July 1, 2001, the State Department of
255 Health, after a hearing complying with due process, shall revoke
256 the certificate of need if it is still outstanding, and the
257 department shall not issue a license for the nursing facility at
258 any time after the eighteen-month period. However, if the
259 issuance of the certificate of need is contested, the department
260 shall require substantial construction of the nursing facility
261 beds within six (6) months after final adjudication on the
262 issuance of the certificate of need.

263 (n) The department may issue a certificate of need for
264 the new construction, addition or conversion of skilled nursing
265 facility beds in Madison County * * *. The total number of
266 nursing facility beds that may be authorized by any certificate of
267 need issued under this paragraph (n) 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, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Leake County * * *. The total number of nursing facility beds that may be authorized by any certificate of 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 * * *. The provision of Section 41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within



18 eighteen (18) months after July 1, 1998, the State Department of
19 Health, after a hearing complying with due process, shall revoke
20 the certificate of need if it is still outstanding, and the
21 department shall not issue a license for the nursing facility at
22 any time after the eighteen-month period. However, if the
23 issuance of the certificate of need is contested, the department
24 shall require substantial construction of the nursing facility
25 beds within six (6) months after final adjudication on the
26 issuance of the certificate of need.

27 (q) (i) Beginning on July 1, 1999, the State
28 Department of Health shall issue certificates of need during each
29 of the next four (4) fiscal years for the construction or
30 expansion of nursing facility beds or the conversion of other beds
31 to nursing facility beds in each county in the state having a need
32 for fifty (50) or more additional nursing facility beds, as shown
33 in the fiscal year 1999 State Health Plan, in the manner provided
34 in this paragraph (q). The total number of nursing facility beds
35 that may be authorized by any certificate of need authorized under
36 this paragraph (q) shall not exceed sixty (60) beds.

37 (ii) Subject to the provisions of subparagraph
38 (v), during each of the next four (4) fiscal years, the department
39 shall issue six (6) certificates of need for new nursing facility
40 beds, as follows: During fiscal years 2000, 2001 and 2002, one
41 (1) certificate of need shall be issued for new nursing facility
42 beds in the county in each of the four (4) Long-Term Care Planning



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

(iii) Subject to the provisions of subparagraph (v), the certificate of need issued under subparagraph (ii) for nursing facility beds in each Long-Term Care Planning District during each fiscal year shall first be available for nursing facility beds in the county in the district having the highest need for those beds, as shown in the fiscal year 1999 State Health Plan. If there are no applications for a certificate of need for nursing facility beds in the county having the highest need for



those beds by the date specified by the department, then the certificate of need shall be available for nursing facility beds in other counties in the district in descending order of the need for those beds, from the county with the second highest need to the county with the lowest need, until an application is received for nursing facility beds in an eligible county in the district.

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



392 (v) If a certificate of need is authorized to be
393 issued under this paragraph (q) for nursing facility beds in a
394 county on the basis of the need in the Long-Term Care Planning
395 District during any fiscal year of the four-year period, a
396 certificate of need shall not also be available under this
397 paragraph (q) for additional nursing facility beds in that county
398 on the basis of the need in the state at large, and that county
399 shall be excluded in determining which counties have the highest
400 need for nursing facility beds in the state at large for that
401 fiscal year. After a certificate of need has been issued under
402 this paragraph (q) for nursing facility beds in a county during
403 any fiscal year of the four-year period, a certificate of need
404 shall not be available again under this paragraph (q) for
405 additional nursing facility beds in that county during the
406 four-year period, and that county shall be excluded in determining
407 which counties have the highest need for nursing facility beds in
408 succeeding fiscal years.

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



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

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

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

(ii) Not more than twenty (20) beds may be authorized by any certificate of need issued under this paragraph (r), and not more than a total of sixty (60) beds may be authorized in any Long-Term Care Planning District by all certificates of need issued under this paragraph (r). However, the total number of beds that may be authorized by all certificates of need issued under this paragraph (r) during any fiscal year shall not exceed one hundred twenty (120) beds, and the total number of beds that may be authorized in any Long-Term



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

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

(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 certificate of need hearing process are waived. There shall be no prohibition or restrictions on participation in the Medicaid



program for the person receiving the certificate of need authorized under this paragraph (s).

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

(u) The State Department of Health shall issue a certificate of need to a nonprofit venture for the establishment, construction and operation of a skilled nursing facility of not more than sixty (60) beds to provide skilled nursing care for ventilator dependent or otherwise medically dependent pediatric patients who require medical and nursing care or rehabilitation services to be located in a county in which an academic medical center and a children's hospital are located, and for any construction and for the acquisition of equipment related to those beds. The facility shall be authorized to keep such ventilator dependent or otherwise medically dependent pediatric patients



beyond age twenty-one (21) in accordance with regulations of the State Board of Health. For purposes of this paragraph (u), 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, and the provisions of Section 41-7-197 requiring a formal certificate of need hearing process are waived. The beds authorized by this paragraph shall be counted as pediatric skilled nursing facility beds for health planning purposes under Section 41-7-171 et seq. There shall be no prohibition of or restrictions on participation in the Medicaid program for the person receiving the certificate of need authorized by this paragraph.

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

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



517 (ICF-IID) beds to psychiatric residential treatment facility beds,
518 provided that facility agrees in writing that the facility shall
519 give priority for the use of those sixteen (16) beds to
520 Mississippi residents who are presently being treated in
521 out-of-state facilities.

522 (b) Of the total number of beds authorized under this
523 subsection, the department may issue a certificate or certificates
524 of need for the construction or expansion of psychiatric
525 residential treatment facility beds or the conversion of other
526 beds to psychiatric residential treatment facility beds in Warren
527 County, not to exceed sixty (60) psychiatric residential treatment
528 facility beds * * *.

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

533 (c) Of the total number of beds authorized under this
534 subsection, the department shall issue a certificate of need to a
535 hospital currently operating Medicaid-certified acute psychiatric
536 beds for adolescents in DeSoto County, for the establishment of a
537 forty-bed psychiatric residential treatment facility in DeSoto
538 County, provided that the hospital agrees in writing * * * that
539 the hospital shall give priority for the use of those forty (40)
540 beds to Mississippi residents who are presently being treated in
541 out-of-state facilities * * *.



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

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

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



567 residential treatment facility beds authorized under this
568 paragraph to patients who otherwise would require out-of-state
569 placement. The Division of Medicaid, in conjunction with the
570 Department of Human Services, shall furnish the facility a list of
571 all out-of-state patients on a quarterly basis. Furthermore,
572 notice shall also be provided to the parent, custodial parent or
573 guardian of each out-of-state patient notifying them of the
574 priority status granted by this paragraph. For purposes of this
575 paragraph, the provisions of Section 41-7-193(1) requiring
576 substantial compliance with the projection of need as reported in
577 the current State Health Plan are waived. The total number of
578 child/adolescent psychiatric residential treatment facility beds
579 that may be authorized under the authority of this paragraph shall
580 be sixty (60) beds. There shall be no prohibition or restrictions
581 on participation in the Medicaid program (Section 43-13-101 et
582 seq.) for the person receiving the certificate of need authorized
583 under this paragraph or for the beds converted pursuant to the
584 authority of that certificate of need.

585 (4) (a) From and after March 25, 2021, the department may
586 issue a certificate of need to any person for the new construction
587 of any hospital, psychiatric hospital or chemical dependency
588 hospital that will contain any child/adolescent psychiatric or
589 child/adolescent chemical dependency beds, or for the conversion
590 of any other health care facility to a hospital, psychiatric
591 hospital or chemical dependency hospital that will contain any



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

608 (i) [Deleted]

609 (ii) The department may issue a certificate of
610 need for the conversion of existing beds in a county hospital in
611 Choctaw County from acute care beds to child/adolescent chemical
612 dependency beds. For purposes of this subparagraph (ii), the
613 provisions of Section 41-7-193(1) requiring substantial compliance
614 with the projection of need as reported in the current State
615 Health Plan are waived. The total number of beds that may be
616 authorized under authority of this subparagraph shall not exceed



617 twenty (20) beds. There shall be no prohibition or restrictions
618 on participation in the Medicaid program (Section 43-13-101 et
619 seq.) for the hospital receiving the certificate of need
620 authorized under this subparagraph or for the beds converted
621 pursuant to the authority of that certificate of need.

622 (iii) The department may issue a certificate or
623 certificates of need for the construction or expansion of
624 child/adolescent psychiatric beds or the conversion of other beds
625 to child/adolescent psychiatric beds in Warren County. For
626 purposes of this subparagraph (iii), the provisions of Section
627 41-7-193(1) requiring substantial compliance with the projection
628 of need as reported in the current State Health Plan are waived.
629 The total number of beds that may be authorized under the
630 authority of this subparagraph shall not exceed twenty (20) beds.
631 There shall be no prohibition or restrictions on participation in
632 the Medicaid program (Section 43-13-101 et seq.) for the person
633 receiving the certificate of need authorized under this
634 subparagraph or for the beds converted pursuant to the authority
635 of that certificate of need.

636 If by January 1, 2002, there has been no significant
637 commencement of construction of the beds authorized under this
638 subparagraph (iii), or no significant action taken to convert
639 existing beds to the beds authorized under this subparagraph, then
640 the certificate of need that was previously issued under this
641 subparagraph shall expire. If the previously issued certificate



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

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

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds * * *.



667 (vi) The department may issue a certificate or
668 certificates of need for the expansion of child psychiatric beds
669 or the conversion of other beds to child psychiatric beds at the
670 University of Mississippi Medical Center. For purposes of this
671 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
672 substantial compliance with the projection of need as reported in
673 the current State Health Plan are waived. The total number of
674 beds that may be authorized under the authority of this
675 subparagraph shall not exceed fifteen (15) beds. There shall be
676 no prohibition or restrictions on participation in the Medicaid
677 program (Section 43-13-101 et seq.) for the hospital receiving the
678 certificate of need authorized under this subparagraph or for the
679 beds converted pursuant to the authority of that certificate of
680 need.

681 (b) From and after July 1, 1990, no hospital,
682 psychiatric hospital or chemical dependency hospital shall be
683 authorized to add any child/adolescent psychiatric or
684 child/adolescent chemical dependency beds or convert any beds of
685 another category to child/adolescent psychiatric or
686 child/adolescent chemical dependency beds without a certificate of
687 need under the authority of subsection (1)(c) and subsection
688 (4)(a) of this section.

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



692 (6) The State Department of Health shall issue a certificate
693 of need to a Mississippi corporation qualified to manage a
694 long-term care hospital as defined in Section 41-7-173(h)(xii) in
695 Harrison County, not to exceed eighty (80) beds, including any
696 necessary renovation or construction required for licensure and
697 certification * * *. For purposes of this subsection, the
698 provisions of Section 41-7-193(1) requiring substantial compliance
699 with the projection of need as reported in the current State
700 Health Plan are waived.

701 (7) The State Department of Health may issue a certificate
702 of need to any hospital in the state to utilize a portion of its
703 beds for the "swing-bed" concept. Any such hospital must be in
704 conformance with the federal regulations regarding such swing-bed
705 concept at the time it submits its application for a certificate
706 of need to the State Department of Health, except that such
707 hospital may have more licensed beds or a higher average daily
708 census (ADC) than the maximum number specified in federal
709 regulations for participation in the swing-bed program. Any
710 hospital meeting all federal requirements for participation in the
711 swing-bed program which receives such certificate of need shall
712 render services provided under the swing-bed concept to any
713 patient eligible for Medicare (Title XVIII of the Social Security
714 Act) who is certified by a physician to be in need of such
715 services * * *. Any hospital having more licensed beds or a
716 higher average daily census (ADC) than the maximum number



717 specified in federal regulations for participation in the
718 swing-bed program which receives such certificate of need shall
719 develop a procedure to ensure that before a patient is allowed to
720 stay in the swing beds of the hospital, there are no vacant
721 nursing home beds available for that patient located within a
722 fifty-mile radius of the hospital. When any such hospital has a
723 patient staying in the swing beds of the hospital and the hospital
724 receives notice from a nursing home located within such radius
725 that there is a vacant bed available for that patient, the
726 hospital shall transfer the patient to the nursing home within a
727 reasonable time after receipt of the notice. Any hospital which
728 is subject to the requirements of the two (2) preceding sentences
729 of this subsection may be suspended from participation in the
730 swing-bed program for a reasonable period of time by the State
731 Department of Health if the department, after a hearing complying
732 with due process, determines that the hospital has failed to
733 comply with any of those requirements.

734 (8) The Department of Health shall not grant approval for or
735 issue a certificate of need to any person proposing the new
736 construction of, addition to or expansion of a health care
737 facility as defined in subparagraph (viii) of Section 41-7-173(h),
738 except as hereinafter provided: The department may issue a
739 certificate of need to a nonprofit corporation located in Madison
740 County, Mississippi, for the construction, expansion or conversion
741 of not more than twenty (20) beds in a community living program



for developmentally disabled adults in a facility as defined in subparagraph (viii) of Section 41-7-173(h). For purposes of this subsection (8), 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 certificate of need hearing process are waived. There shall be no prohibition or restrictions on participation in the Medicaid program for the person receiving the certificate of need authorized under this subsection (8).

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

(10) Health care facilities owned and/or operated by the state or its agencies are exempt from the restraints in this section against issuance of a certificate of need if such addition or expansion consists of repairing or renovation necessary to comply with the state licensure law. This exception shall not apply to the new construction of any building by such state facility. This exception shall not apply to any health care facilities owned and/or operated by counties, municipalities,



767 districts, unincorporated areas, other defined persons, or any
768 combination thereof.

769 (11) The new construction, renovation or expansion of or
770 addition to any health care facility defined in subparagraph (ii)
771 (psychiatric hospital), subparagraph (iv) (skilled nursing
772 facility), subparagraph (vi) (intermediate care facility),
773 subparagraph (viii) (intermediate care facility for individuals
774 with intellectual disabilities) and subparagraph (x) (psychiatric
775 residential treatment facility) of Section 41-7-173(h) which is
776 owned by the State of Mississippi and under the direction and
777 control of the State Department of Mental Health, and the addition
778 of new beds or the conversion of beds from one category to another
779 in any such defined health care facility which is owned by the
780 State of Mississippi and under the direction and control of the
781 State Department of Mental Health, shall not require the issuance
782 of a certificate of need under Section 41-7-171 et seq.,
783 notwithstanding any provision in Section 41-7-171 et seq. to the
784 contrary.

785 (12) The new construction, renovation or expansion of or
786 addition to any veterans homes or domiciliaries for eligible
787 veterans of the State of Mississippi as authorized under Section
788 35-1-19 shall not require the issuance of a certificate of need,
789 notwithstanding any provision in Section 41-7-171 et seq. to the
790 contrary.



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

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

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



eliminating the types of health care services that it provided before the Governor's or the President's proclamation, when the damaged health care facility is repaired or rebuilt;

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

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

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

(14) The State Department of Health shall issue a certificate of need to any hospital which is currently licensed for two hundred fifty (250) or more acute care beds and is located in any general hospital service area not having a comprehensive cancer center, for the establishment and equipping of such a center which provides facilities and services for outpatient radiation oncology therapy, outpatient medical oncology therapy, and appropriate support services including the provision of



radiation therapy services. The provisions of Section 41-7-193(1) regarding substantial compliance with the projection of need as reported in the current State Health Plan are waived for the purpose of this subsection.

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

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



866 request for proposals (RFP) process in which Mississippi State
867 University selects, and the Board of Trustees of State
868 Institutions of Higher Learning approves, the health care provider
869 that makes the best overall proposal; (c) available to Mississippi
870 State University for research purposes two-thirds (2/3) of the
871 time that the linear accelerator and magnetic resonance imaging
872 unit are operational; and (d) available to the public or private
873 health care provider selected by Mississippi State University and
874 approved by the Board of Trustees of State Institutions of Higher
875 Learning one-third (1/3) of the time for clinical, diagnostic and
876 treatment purposes. For purposes of this subsection, the
877 provisions of Section 41-7-193(1) requiring substantial compliance
878 with the projection of need as reported in the current State
879 Health Plan are waived.

880 (17) The State Department of Health shall issue a
881 certificate of need for the construction of an acute care hospital
882 in Kemper County, not to exceed twenty-five (25) beds, which shall
883 be named the "John C. Stennis Memorial Hospital." In issuing the
884 certificate of need under this subsection, the department shall
885 give priority to a hospital located in Lauderdale County that has
886 two hundred fifteen (215) beds. For purposes of this subsection,
887 the provisions of Section 41-7-193(1) requiring substantial
888 compliance with the projection of need as reported in the current
889 State Health Plan and the provisions of Section 41-7-197 requiring
890 a formal certificate of need hearing process are waived. There



shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the person or entity receiving the certificate of need authorized under this subsection or for the beds constructed under the authority of that certificate of need.

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

(19) [Repealed]

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

(21) Nothing in this section or any other provision of Section 41-7-171 et seq. shall prevent any health care facility from the new construction, renovation, conversion or expansion of new beds in the facility designated as intensive care units,



916 negative pressure rooms, or isolation rooms pursuant to the
917 provisions of Sections 41-14-1 through 41-14-11, or Section
918 41-14-31. For purposes of this subsection, the provisions of
919 Section 41-7-193(1) requiring substantial compliance with the
920 projection of need as reported in the current State Health Plan
921 and the provisions of Section 41-7-197 requiring a formal
922 certificate of need hearing process are waived.

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

