

By: Senator(s) Horhn

To: Public Health and
Welfare

SENATE BILL NO. 2686

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 THE CONSTRUCTION OF A 60-BED NURSING FACILITY IN ANY UNDERSERVED
4 MINORITY ZIP CODE AREA IN THE STATE THAT MEETS CERTAIN
5 QUALIFICATIONS; AND FOR RELATED PURPOSES.

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

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

9 41-7-191. (1) No person shall engage in any of the
10 following activities without obtaining the required certificate of
11 need:

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

16 (b) The relocation of a health care facility or portion
17 thereof, or major medical equipment, unless such relocation of a
18 health care facility or portion thereof, or major medical
19 equipment, which does not involve a capital expenditure by or on



20 behalf of a health care facility, is within five thousand two
21 hundred eighty (5,280) feet from the main entrance of the health
22 care facility;

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



44 delicensure of some of its beds without seeking certificate of
45 need approval;

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

50 (i) Open-heart surgery services;

51 (ii) Cardiac catheterization services;

52 (iii) Comprehensive inpatient rehabilitation
53 services;

54 (iv) Licensed psychiatric services;

55 (v) Licensed chemical dependency services;

56 (vi) Radiation therapy services;

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

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

61 (ix) Home health services;

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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



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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



beds in either Hancock, Harrison or Jackson County, not to exceed sixty (60) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the facility that were authorized under this paragraph (h).

(i) The department may issue a certificate of need for the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (i), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or



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

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



268 reported in the current State Health Plan are waived. From and
269 after July 1, 1999, there shall be no prohibition or restrictions
270 on participation in the Medicaid program (Section 43-13-101 et
271 seq.) for the beds in the long-term care facilities that were
272 authorized under this paragraph (j).

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



293 2001. After this written agreement is executed, the Division of
294 Medicaid and the State Department of Health shall not certify more
295 than thirty (30) of the beds in the facility for participation in
296 the Medicaid program. If the facility violates the terms of the
297 written agreement by admitting or keeping in the facility on a
298 regular or continuing basis more than thirty (30) patients who are
299 participating in the Medicaid program, the State Department of
300 Health shall revoke the license of the facility, at the time that
301 the department determines, after a hearing complying with due
302 process, that the facility has violated the written agreement.

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

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



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



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

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



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



of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (o), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating



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



442 (6) months after final adjudication on the issuance of the
443 certificate of need.

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

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



process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(q) (i) Beginning on July 1, 1999, the State Department of Health shall issue certificates of need during each of the next four (4) fiscal years for the construction or



expansion of nursing facility beds or the conversion of other beds to nursing facility beds in each county in the state having a need for fifty (50) or more additional nursing facility beds, as shown in the fiscal year 1999 State Health Plan, in the manner provided in this paragraph (q). The total number of nursing facility beds that may be authorized by any certificate of need authorized under this paragraph (q) shall not exceed sixty (60) beds.

(ii) Subject to the provisions of subparagraph (v), during each of the next four (4) fiscal years, the department shall issue six (6) certificates of need for new nursing facility beds, as follows: During fiscal years 2000, 2001 and 2002, one (1) certificate of need shall be issued for new nursing facility beds in the county in each of the four (4) Long-Term Care Planning Districts designated in the fiscal year 1999 State Health Plan that has the highest need in the district for those beds; and two (2) certificates of need shall be issued for new nursing facility beds in the two (2) counties from the state at large that have the highest need in the state for those beds, when considering the need on a statewide basis and without regard to the Long-Term Care Planning Districts in which the counties are located. During fiscal year 2003, one (1) certificate of need shall be issued for new nursing facility beds in any county having a need for fifty (50) or more additional nursing facility beds, as shown in the fiscal year 1999 State Health Plan, that has not received a certificate of need under this paragraph (q) during the three (3)



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

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

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



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

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



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

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

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

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

587 (r) (i) Beginning on July 1, 1999, the State
588 Department of Health shall issue certificates of need during each
589 of the next two (2) fiscal years for the construction or expansion
590 of nursing facility beds or the conversion of other beds to
591 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



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

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

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



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



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

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

(v) (i) The State Department of Health may issue a certificate of need for the construction of a nursing facility in an underserved minority zip code area, not to exceed sixty (60) beds. For the purpose of this paragraph (v), the term "minority" means Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan native; and an "underserved minority zip code area" means a United States Postal Service zip code area that:

1. Has a population of not less than thirty thousand (30,000), according to the 2000 federal decennial census, of which not less than seventy-five percent (75%) of the population in the zip code area are racial minorities;

2. Is wholly or partially located in a county that has a 2018 projected need for not less than four hundred (400) additional nursing facility beds, according to the 2018 State Health Plan; and



715 3. Has no existing or approved nonpublic
716 nursing facility located in the zip code area.

717 (ii) If a certificate of need issued under this
718 paragraph (v) authorizes a nursing facility to be constructed in a
719 United States Postal Service zip code area that is located in more
720 than one (1) county, the nursing facility must be constructed in
721 that portion of the zip code area located in the county that has a
722 2018 projected need for not less than four hundred (400)
723 additional nursing facility beds, according to the 2018 State
724 Health Plan.

725 (iii) In the certificate of need review process
726 under this paragraph (v), the department shall give first priority
727 for the certificate of need to applicants that:

728 1. Currently own and operate one (1) nursing
729 facility in the State of Mississippi;

730 2. Have demonstrated a history of quality of
731 care within the preceding twenty-four (24) months and have not
732 received any of the following sanctions:

733 a. Termination of Medicaid and/or
734 Medicare certification;

735 b. Denial, suspension or revocation of
736 nursing facility license;

737 c. Cumulative Medicaid and/or Medicare
738 civil monetary penalties totaling more than Five Thousand Dollars
739 (\$5,000.00); or



d. Denial of payment for new admissions;

3. The Mississippi Department of Health finds
no clear pattern of substantial or repeated state licensure and
Medicaid certification sanctions, including administrative
penalties and/or other sanctions;

4. As of January 1, 2025, have implemented
all certificates of need that they, or any partner or co-owner,
have previously received; and

5. Are nonprofit corporations.

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

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



Mississippi residents who are presently being treated in
out-of-state facilities.

(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of



790 Medicaid and the State Department of Health shall not certify more
791 than thirty (30) of the beds in the psychiatric residential
792 treatment facility for participation in the Medicaid program for
793 the use of any patients other than those who are participating
794 only in the Medicaid program of another state. If the psychiatric
795 residential treatment facility violates the terms of the written
796 agreement by admitting or keeping in the facility on a regular or
797 continuing basis more than thirty (30) patients who are
798 participating in the Mississippi Medicaid program, the State
799 Department of Health shall revoke the license of the facility, at
800 the time that the department determines, after a hearing complying
801 with due process, that the facility has violated the condition
802 upon which the certificate of need was issued, as provided in this
803 paragraph and in the written agreement.

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

808 (c) Of the total number of beds authorized under this
809 subsection, the department shall issue a certificate of need to a
810 hospital currently operating Medicaid-certified acute psychiatric
811 beds for adolescents in DeSoto County, for the establishment of a
812 forty-bed psychiatric residential treatment facility in DeSoto
813 County, provided that the hospital agrees in writing (i) that the
814 hospital shall give priority for the use of those forty (40) beds



815 to Mississippi residents who are presently being treated in
816 out-of-state facilities, and (ii) that no more than fifteen (15)
817 of the beds at the psychiatric residential treatment facility will
818 be certified for participation in the Medicaid program (Section
819 43-13-101 et seq.), and that no claim will be submitted for
820 Medicaid reimbursement for more than fifteen (15) patients in the
821 psychiatric residential treatment facility in any day or for any
822 patient in the psychiatric residential treatment facility who is
823 in a bed that is not Medicaid-certified. This written agreement
824 by the recipient of the certificate of need shall be a condition
825 of the issuance of the certificate of need under this paragraph,
826 and the agreement shall be fully binding on any subsequent owner
827 of the psychiatric residential treatment facility if the ownership
828 of the facility is transferred at any time after the issuance of
829 the certificate of need. After this written agreement is
830 executed, the Division of Medicaid and the State Department of
831 Health shall not certify more than fifteen (15) of the beds in the
832 psychiatric residential treatment facility for participation in
833 the Medicaid program. If the psychiatric residential treatment
834 facility violates the terms of the written agreement by admitting
835 or keeping in the facility on a regular or continuing basis more
836 than fifteen (15) patients who are participating in the Medicaid
837 program, the State Department of Health shall revoke the license
838 of the facility, at the time that the department determines, after
839 a hearing complying with due process, that the facility has



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

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

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

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



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

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



890 child/adolescent chemical dependency beds, or for the conversion
891 of any other health care facility to a hospital, psychiatric
892 hospital or chemical dependency hospital that will contain any
893 child/adolescent psychiatric or child/adolescent chemical
894 dependency beds. There shall be no prohibition or restrictions on
895 participation in the Medicaid program (Section 43-13-101 et seq.)
896 for the person(s) receiving the certificate(s) of need authorized
897 under this paragraph (a) or for the beds converted pursuant to the
898 authority of that certificate of need. In issuing any new
899 certificate of need for any child/adolescent psychiatric or
900 child/adolescent chemical dependency beds, either by new
901 construction or conversion of beds of another category, the
902 department shall give preference to beds which will be located in
903 an area of the state which does not have such beds located in it,
904 and to a location more than sixty-five (65) miles from existing
905 beds. Upon receiving 2020 census data, the department may amend
906 the State Health Plan regarding child/adolescent psychiatric and
907 child/adolescent chemical dependency beds to reflect the need
908 based on new census data.

909 (i) [Deleted]

910 (ii) The department may issue a certificate of
911 need for the conversion of existing beds in a county hospital in
912 Choctaw County from acute care beds to child/adolescent chemical
913 dependency beds. For purposes of this subparagraph (ii), the
914 provisions of Section 41-7-193(1) requiring substantial compliance



with the projection of need as reported in the current State Health Plan are waived. The total number of beds that may be authorized under authority of this subparagraph shall not exceed twenty (20) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph or for the beds converted pursuant to the authority of that certificate of need.

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

If by January 1, 2002, there has been no significant commencement of construction of the beds authorized under this subparagraph (iii), or no significant action taken to convert



existing beds to the beds authorized under this subparagraph, then the certificate of need that was previously issued under this subparagraph shall expire. If the previously issued certificate of need expires, the department may accept applications for issuance of another certificate of need for the beds authorized under this subparagraph, and may issue a certificate of need to authorize the construction, expansion or conversion of the beds authorized under this subparagraph.

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

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the



965 construction or expansion of adult psychiatric beds or the
966 conversion of other beds to adult psychiatric beds, not to exceed
967 twenty (20) beds, provided that the recipient of the certificate
968 of need agrees in writing that the adult psychiatric beds will not
969 at any time be certified for participation in the Medicaid program
970 and that the hospital will not admit or keep any patients who are
971 participating in the Medicaid program in any of such adult
972 psychiatric beds. This written agreement by the recipient of the
973 certificate of need shall be fully binding on any subsequent owner
974 of the hospital if the ownership of the hospital is transferred at
975 any time after the issuance of the certificate of need. Agreement
976 that the adult psychiatric beds will not be certified for
977 participation in the Medicaid program shall be a condition of the
978 issuance of a certificate of need to any person under this
979 subparagraph (v), and if such hospital at any time after the
980 issuance of the certificate of need, regardless of the ownership
981 of the hospital, has any of such adult psychiatric beds certified
982 for participation in the Medicaid program or admits or keeps any
983 Medicaid patients in such adult psychiatric beds, the State
984 Department of Health shall revoke the certificate of need, if it
985 is still outstanding, and shall deny or revoke the license of the
986 hospital at the time that the department determines, after a
987 hearing complying with due process, that the hospital has failed
988 to comply with any of the conditions upon which the certificate of



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

991 (vi) The department may issue a certificate or
992 certificates of need for the expansion of child psychiatric beds
993 or the conversion of other beds to child psychiatric beds at the
994 University of Mississippi Medical Center. For purposes of this
995 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
996 substantial compliance with the projection of need as reported in
997 the current State Health Plan are waived. The total number of
998 beds that may be authorized under the authority of this
999 subparagraph shall not exceed fifteen (15) beds. There shall be
1000 no prohibition or restrictions on participation in the Medicaid
1001 program (Section 43-13-101 et seq.) for the hospital receiving the
1002 certificate of need authorized under this subparagraph or for the
1003 beds converted pursuant to the authority of that certificate of
1004 need.

1005 (b) From and after July 1, 1990, no hospital,
1006 psychiatric hospital or chemical dependency hospital shall be
1007 authorized to add any child/adolescent psychiatric or
1008 child/adolescent chemical dependency beds or convert any beds of
1009 another category to child/adolescent psychiatric or
1010 child/adolescent chemical dependency beds without a certificate of
1011 need under the authority of subsection (1)(c) and subsection
1012 (4)(a) of this section.



1013 (5) The department may issue a certificate of need to a
1014 county hospital in Winston County for the conversion of fifteen
1015 (15) acute care beds to geriatric psychiatric care beds.

1016 (6) The State Department of Health shall issue a certificate
1017 of need to a Mississippi corporation qualified to manage a
1018 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1019 Harrison County, not to exceed eighty (80) beds, including any
1020 necessary renovation or construction required for licensure and
1021 certification, provided that the recipient of the certificate of
1022 need agrees in writing that the long-term care hospital will not
1023 at any time participate in the Medicaid program (Section 43-13-101
1024 et seq.) or admit or keep any patients in the long-term care
1025 hospital who are participating in the Medicaid program. This
1026 written agreement by the recipient of the certificate of need
1027 shall be fully binding on any subsequent owner of the long-term
1028 care hospital, if the ownership of the facility is transferred at
1029 any time after the issuance of the certificate of need. Agreement
1030 that the long-term care hospital will not participate in the
1031 Medicaid program shall be a condition of the issuance of a
1032 certificate of need to any person under this subsection (6), and
1033 if such long-term care hospital at any time after the issuance of
1034 the certificate of need, regardless of the ownership of the
1035 facility, participates in the Medicaid program or admits or keeps
1036 any patients in the facility who are participating in the Medicaid
1037 program, the State Department of Health shall revoke the



1038 certificate of need, if it is still outstanding, and shall deny or
1039 revoke the license of the long-term care hospital, at the time
1040 that the department determines, after a hearing complying with due
1041 process, that the facility has failed to comply with any of the
1042 conditions upon which the certificate of need was issued, as
1043 provided in this subsection and in the written agreement by the
1044 recipient of the certificate of need. For purposes of this
1045 subsection, the provisions of Section 41-7-193(1) requiring
1046 substantial compliance with the projection of need as reported in
1047 the current State Health Plan are waived.

1048 (7) The State Department of Health may issue a certificate
1049 of need to any hospital in the state to utilize a portion of its
1050 beds for the "swing-bed" concept. Any such hospital must be in
1051 conformance with the federal regulations regarding such swing-bed
1052 concept at the time it submits its application for a certificate
1053 of need to the State Department of Health, except that such
1054 hospital may have more licensed beds or a higher average daily
1055 census (ADC) than the maximum number specified in federal
1056 regulations for participation in the swing-bed program. Any
1057 hospital meeting all federal requirements for participation in the
1058 swing-bed program which receives such certificate of need shall
1059 render services provided under the swing-bed concept to any
1060 patient eligible for Medicare (Title XVIII of the Social Security
1061 Act) who is certified by a physician to be in need of such
1062 services, and no such hospital shall permit any patient who is



1063 eligible for both Medicaid and Medicare or eligible only for
1064 Medicaid to stay in the swing beds of the hospital for more than
1065 thirty (30) days per admission unless the hospital receives prior
1066 approval for such patient from the Division of Medicaid, Office of
1067 the Governor. Any hospital having more licensed beds or a higher
1068 average daily census (ADC) than the maximum number specified in
1069 federal regulations for participation in the swing-bed program
1070 which receives such certificate of need shall develop a procedure
1071 to ensure that before a patient is allowed to stay in the swing
1072 beds of the hospital, there are no vacant nursing home beds
1073 available for that patient located within a fifty-mile radius of
1074 the hospital. When any such hospital has a patient staying in the
1075 swing beds of the hospital and the hospital receives notice from a
1076 nursing home located within such radius that there is a vacant bed
1077 available for that patient, the hospital shall transfer the
1078 patient to the nursing home within a reasonable time after receipt
1079 of the notice. Any hospital which is subject to the requirements
1080 of the two (2) preceding sentences of this subsection may be
1081 suspended from participation in the swing-bed program for a
1082 reasonable period of time by the State Department of Health if the
1083 department, after a hearing complying with due process, determines
1084 that the hospital has failed to comply with any of those
1085 requirements.

1086 (8) The Department of Health shall not grant approval for or
1087 issue a certificate of need to any person proposing the new



1088 construction of, addition to or expansion of a health care
1089 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1090 except as hereinafter provided: The department may issue a
1091 certificate of need to a nonprofit corporation located in Madison
1092 County, Mississippi, for the construction, expansion or conversion
1093 of not more than twenty (20) beds in a community living program
1094 for developmentally disabled adults in a facility as defined in
1095 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1096 subsection (8), the provisions of Section 41-7-193(1) requiring
1097 substantial compliance with the projection of need as reported in
1098 the current State Health Plan and the provisions of Section
1099 41-7-197 requiring a formal certificate of need hearing process
1100 are waived. There shall be no prohibition or restrictions on
1101 participation in the Medicaid program for the person receiving the
1102 certificate of need authorized under this subsection (8).

1103 (9) The Department of Health shall not grant approval for or
1104 issue a certificate of need to any person proposing the
1105 establishment of, or expansion of the currently approved territory
1106 of, or the contracting to establish a home office, subunit or
1107 branch office within the space operated as a health care facility
1108 as defined in Section 41-7-173(h)(i) through (viii) by a health
1109 care facility as defined in subparagraph (ix) of Section
1110 41-7-173(h).

1111 (10) Health care facilities owned and/or operated by the
1112 state or its agencies are exempt from the restraints in this



1113 section against issuance of a certificate of need if such addition
1114 or expansion consists of repairing or renovation necessary to
1115 comply with the state licensure law. This exception shall not
1116 apply to the new construction of any building by such state
1117 facility. This exception shall not apply to any health care
1118 facilities owned and/or operated by counties, municipalities,
1119 districts, unincorporated areas, other defined persons, or any
1120 combination thereof.

1121 (11) The new construction, renovation or expansion of or
1122 addition to any health care facility defined in subparagraph (ii)
1123 (psychiatric hospital), subparagraph (iv) (skilled nursing
1124 facility), subparagraph (vi) (intermediate care facility),
1125 subparagraph (viii) (intermediate care facility for individuals
1126 with intellectual disabilities) and subparagraph (x) (psychiatric
1127 residential treatment facility) of Section 41-7-173(h) which is
1128 owned by the State of Mississippi and under the direction and
1129 control of the State Department of Mental Health, and the addition
1130 of new beds or the conversion of beds from one category to another
1131 in any such defined health care facility which is owned by the
1132 State of Mississippi and under the direction and control of the
1133 State Department of Mental Health, shall not require the issuance
1134 of a certificate of need under Section 41-7-171 et seq.,
1135 notwithstanding any provision in Section 41-7-171 et seq. to the
1136 contrary.



1137 (12) The new construction, renovation or expansion of or
1138 addition to any veterans homes or domiciliaries for eligible
1139 veterans of the State of Mississippi as authorized under Section
1140 35-1-19 shall not require the issuance of a certificate of need,
1141 notwithstanding any provision in Section 41-7-171 et seq. to the
1142 contrary.

1143 (13) The repair or the rebuilding of an existing, operating
1144 health care facility that sustained significant damage from a
1145 natural disaster that occurred after April 15, 2014, in an area
1146 that is proclaimed a disaster area or subject to a state of
1147 emergency by the Governor or by the President of the United States
1148 shall be exempt from all of the requirements of the Mississippi
1149 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1150 rules and regulations promulgated under that law, subject to the
1151 following conditions:

1152 (a) The repair or the rebuilding of any such damaged
1153 health care facility must be within one (1) mile of the
1154 pre-disaster location of the campus of the damaged health care
1155 facility, except that any temporary post-disaster health care
1156 facility operating location may be within five (5) miles of the
1157 pre-disaster location of the damaged health care facility;

1158 (b) The repair or the rebuilding of the damaged health
1159 care facility (i) does not increase or change the complement of
1160 its bed capacity that it had before the Governor's or the
1161 President's proclamation, (ii) does not increase or change its



1162 levels and types of health care services that it provided before
1163 the Governor's or the President's proclamation, and (iii) does not
1164 rebuild in a different county; however, this paragraph does not
1165 restrict or prevent a health care facility from decreasing its bed
1166 capacity that it had before the Governor's or the President's
1167 proclamation, or from decreasing the levels of or decreasing or
1168 eliminating the types of health care services that it provided
1169 before the Governor's or the President's proclamation, when the
1170 damaged health care facility is repaired or rebuilt;

1171 (c) The exemption from Certificate of Need Law provided
1172 under this subsection (13) is valid for only five (5) years from
1173 the date of the Governor's or the President's proclamation. If
1174 actual construction has not begun within that five-year period,
1175 the exemption provided under this subsection is inapplicable; and

1176 (d) The Division of Health Facilities Licensure and
1177 Certification of the State Department of Health shall provide the
1178 same oversight for the repair or the rebuilding of the damaged
1179 health care facility that it provides to all health care facility
1180 construction projects in the state.

1181 For the purposes of this subsection (13), "significant
1182 damage" to a health care facility means damage to the health care
1183 facility requiring an expenditure of at least One Million Dollars
1184 (\$1,000,000.00).

1185 (14) The State Department of Health shall issue a
1186 certificate of need to any hospital which is currently licensed



1187 for two hundred fifty (250) or more acute care beds and is located
1188 in any general hospital service area not having a comprehensive
1189 cancer center, for the establishment and equipping of such a
1190 center which provides facilities and services for outpatient
1191 radiation oncology therapy, outpatient medical oncology therapy,
1192 and appropriate support services including the provision of
1193 radiation therapy services. The provisions of Section 41-7-193(1)
1194 regarding substantial compliance with the projection of need as
1195 reported in the current State Health Plan are waived for the
1196 purpose of this subsection.

1197 (15) The State Department of Health may authorize the
1198 transfer of hospital beds, not to exceed sixty (60) beds, from the
1199 North Panola Community Hospital to the South Panola Community
1200 Hospital. The authorization for the transfer of those beds shall
1201 be exempt from the certificate of need review process.

1202 (16) The State Department of Health shall issue any
1203 certificates of need necessary for Mississippi State University
1204 and a public or private health care provider to jointly acquire
1205 and operate a linear accelerator and a magnetic resonance imaging
1206 unit. Those certificates of need shall cover all capital
1207 expenditures related to the project between Mississippi State
1208 University and the health care provider, including, but not
1209 limited to, the acquisition of the linear accelerator, the
1210 magnetic resonance imaging unit and other radiological modalities;
1211 the offering of linear accelerator and magnetic resonance imaging



1212 services; and the cost of construction of facilities in which to
1213 locate these services. The linear accelerator and the magnetic
1214 resonance imaging unit shall be (a) located in the City of
1215 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1216 Mississippi State University and the public or private health care
1217 provider selected by Mississippi State University through a
1218 request for proposals (RFP) process in which Mississippi State
1219 University selects, and the Board of Trustees of State
1220 Institutions of Higher Learning approves, the health care provider
1221 that makes the best overall proposal; (c) available to Mississippi
1222 State University for research purposes two-thirds (2/3) of the
1223 time that the linear accelerator and magnetic resonance imaging
1224 unit are operational; and (d) available to the public or private
1225 health care provider selected by Mississippi State University and
1226 approved by the Board of Trustees of State Institutions of Higher
1227 Learning one-third (1/3) of the time for clinical, diagnostic and
1228 treatment purposes. For purposes of this subsection, the
1229 provisions of Section 41-7-193(1) requiring substantial compliance
1230 with the projection of need as reported in the current State
1231 Health Plan are waived.

1232 (17) The State Department of Health shall issue a
1233 certificate of need for the construction of an acute care hospital
1234 in Kemper County, not to exceed twenty-five (25) beds, which shall
1235 be named the "John C. Stennis Memorial Hospital." In issuing the
1236 certificate of need under this subsection, the department shall



1237 give priority to a hospital located in Lauderdale County that has
1238 two hundred fifteen (215) beds. For purposes of this subsection,
1239 the provisions of Section 41-7-193(1) requiring substantial
1240 compliance with the projection of need as reported in the current
1241 State Health Plan and the provisions of Section 41-7-197 requiring
1242 a formal certificate of need hearing process are waived. There
1243 shall be no prohibition or restrictions on participation in the
1244 Medicaid program (Section 43-13-101 et seq.) for the person or
1245 entity receiving the certificate of need authorized under this
1246 subsection or for the beds constructed under the authority of that
1247 certificate of need.

1248 (18) The planning, design, construction, renovation,
1249 addition, furnishing and equipping of a clinical research unit at
1250 any health care facility defined in Section 41-7-173(h) that is
1251 under the direction and control of the University of Mississippi
1252 Medical Center and located in Jackson, Mississippi, and the
1253 addition of new beds or the conversion of beds from one (1)
1254 category to another in any such clinical research unit, shall not
1255 require the issuance of a certificate of need under Section
1256 41-7-171 et seq., notwithstanding any provision in Section
1257 41-7-171 et seq. to the contrary.

1258 (19) [Repealed]

1259 (20) Nothing in this section or in any other provision of
1260 Section 41-7-171 et seq. shall prevent any nursing facility from
1261 designating an appropriate number of existing beds in the facility



1262 as beds for providing care exclusively to patients with
1263 Alzheimer's disease.

1264 (21) Nothing in this section or any other provision of
1265 Section 41-7-171 et seq. shall prevent any health care facility
1266 from the new construction, renovation, conversion or expansion of
1267 new beds in the facility designated as intensive care units,
1268 negative pressure rooms, or isolation rooms pursuant to the
1269 provisions of Sections 41-14-1 through 41-14-11, or Section
1270 41-14-31. For purposes of this subsection, the provisions of
1271 Section 41-7-193(1) requiring substantial compliance with the
1272 projection of need as reported in the current State Health Plan
1273 and the provisions of Section 41-7-197 requiring a formal
1274 certificate of need hearing process are waived.

1275 **SECTION 2.** This act shall take effect and be in force from
1276 and after July 1, 2025.

