

By: Senator(s) Butler (36th), Polk, DeBar, Frazier, Michel, Parks, Williams, Jordan

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2820
(As Sent to Governor)

1 AN ACT TO ESTABLISH THE COVID-19 HOSPITAL EXPANDED CAPACITY
2 PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI DEPARTMENT OF HEALTH
3 TO PROVIDE FUNDS TO HOSPITALS TO INCREASE TREATMENT CAPACITY
4 RELATED TO THE COVID-19 PANDEMIC; TO AUTHORIZE THE MISSISSIPPI
5 DEPARTMENT OF HEALTH TO PROMULGATE RULES AND REGULATIONS TO GOVERN
6 THE ADMINISTRATION OF THE PROGRAM; TO ESTABLISH CERTAIN CONDITIONS
7 ON THE USE OF FUNDS UNDER THE PROGRAM; TO REQUIRE THE DEPARTMENT
8 OF HEALTH TO REPORT ON THE STATUS OF THE PROGRAM; TO AMEND SECTION
9 41-7-191, MISSISSIPPI CODE OF 1972, TO EXEMPT THE CONSTRUCTION OR
10 ADDITION OF INTENSIVE CARE UNITS OR NEGATIVE PRESSURE ROOMS FUNDED
11 BY THIS PROGRAM FROM THE PROVISIONS OF THE HEALTHCARE CERTIFICATE
12 OF NEED LAW; TO ESTABLISH THE COVID-19 MISSISSIPPI LOCAL PROVIDER
13 INNOVATION GRANT PROGRAM TO BE ADMINISTERED BY THE STATE
14 DEPARTMENT OF HEALTH; TO PROVIDE THAT THE PROGRAM AND ANY GRANT
15 AWARDED UNDER THE PROGRAM SHALL BE FOR THE PURPOSE OF
16 STRENGTHENING AND IMPROVING THE HEALTH CARE SYSTEM AND INCREASING
17 ACCESS TO HEALTH CARE SERVICES PROVIDERS TO HELP COMMUNITIES
18 ACHIEVE AND MAINTAIN OPTIMAL HEALTH BY PROVIDING TRANSITIONAL
19 ASSISTANCE TO PROVIDERS; TO SPECIFY THE INFORMATION THAT
20 APPLICANTS FOR GRANTS MUST SUBMIT TO THE DEPARTMENT; TO PROVIDE
21 THAT APPLICANTS ARE LIMITED TO ONE APPLICATION PER BUSINESS ENTITY
22 AND SUBSIDIARIES OF THE ENTITY ARE NOT ELIGIBLE TO SUBMIT SEPARATE
23 APPLICATIONS; TO PROVIDE THE MAXIMUM AMOUNT OF A GRANT THAT MAY BE
24 AWARDED TO AN APPLICANT; TO PROVIDE THAT THE PROGRAM SHALL BE
25 FUNDED BY APPROPRIATION OF THE LEGISLATURE FROM THE CORONAVIRUS
26 STATE FISCAL RECOVERY FUND; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** (1) The Mississippi Department of Health shall
29 establish and administer the Covid-19 Hospital Expanded Capacity
30 Program for the purpose of providing funds to hospitals that



31 increased treatment capacity related to the COVID-19 pandemic.
32 The program shall make grants to hospitals as a reimbursement for
33 expenses incurred during the period beginning on March 3, 2021,
34 through December 31, 2023, in the following manner:

35 (a) Funds shall first be expended for the reimbursement
36 to hospitals for the creation of ICU beds at a maximum amount of
37 Two Hundred Thousand Dollars (\$200,000.00) per bed. If the
38 reimbursement for allowable expenditures submitted by all
39 hospitals exceeds the amount of funds appropriated to this
40 program, then the Department of Health shall allocate the
41 reimbursement to each hospital per ICU bed created.

42 (b) After such reimbursement is made in paragraph (a)
43 of this subsection, any remaining funds shall be used to reimburse
44 hospitals for the creation of negative pressure beds at a maximum
45 amount of Fifty Thousand dollars (\$50,000.00) per bed. If the
46 reimbursement for allowable expenditures submitted by all
47 hospitals exceeds the amount of funds appropriated to this
48 program, then the Department of Health shall allocate the
49 reimbursement to each hospital per negative pressure bed created.

50 (2) The Department of Health shall:

51 (a) Promulgate rules and regulations necessary to
52 implement the purposes of this act.

53 (b) Require all applications for grants to be filed no
54 later than December 31, 2023.



55 (c) Require recipients of funds under this program to
56 certify that the reimbursement for the creation of the intensive
57 care units or negative pressure room is for allowable expenditures
58 under the American Rescue Plan Act (ARPA) of 2021, Public Law
59 117-2, which amends Title VI of the Social Security Act; and its
60 implementing guidelines, guidance, rules, regulations and/or other
61 criteria, as may be amended or supplemented from time to time, by
62 the United States Department of the Treasury.

63 (d) Certify to the Department of Finance and
64 Administration that each expenditure of the funds appropriated to
65 the office under this act is in compliance with the guidelines,
66 guidance, rules, regulations and/or other criteria, as may be
67 amended from time to time, of the United States Department of the
68 Treasury regarding the use of monies from the Coronavirus State
69 Fiscal Recovery Fund in Section 9901 of ARPA.

70 (3) The department shall not:

71 (a) Reimburse hospitals for funds expended by the
72 "Mississippi ICU Infrastructure Act," Sections 41-14-1 through
73 41-14-11.

74 (b) Reimburse hospitals for professional fees expended
75 in the creation of the beds.

76 (4) The Department of Health may retain up to One Hundred
77 Fifty Thousand Dollars (\$150,000.00) of the funds appropriated to
78 the program established in this act to pay reasonable expenses
79 incurred in the administration of the program.



80 (5) The department shall operate and administer the grant
81 program from funds appropriated by the Legislature from the
82 Coronavirus State Fiscal Recovery Funds.

83 (6) The Department of Health shall submit to the Joint
84 Legislative Budget Committee before October 1 of each year an
85 annual report containing, at a minimum, the number of submitted
86 applications, the amount of grant funds awarded to each hospital
87 for both ICU beds and negative pressure beds, and the number of
88 ICU beds and negative pressure beds that were provided a
89 reimbursement.

90 (7) This act shall stand repealed on July 1, 2026.

91 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is
92 amended as follows:

93 41-7-191. (1) No person shall engage in any of the
94 following activities without obtaining the required certificate of
95 need:

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

100 (b) The relocation of a health care facility or portion
101 thereof, or major medical equipment, unless such relocation of a
102 health care facility or portion thereof, or major medical
103 equipment, which does not involve a capital expenditure by or on
104 behalf of a health care facility, is within five thousand two



105 hundred eighty (5,280) feet from the main entrance of the health
106 care facility;

107 (c) Any change in the existing bed complement of any
108 health care facility through the addition or conversion of any
109 beds or the alteration, modernizing or refurbishing of any unit or
110 department in which the beds may be located; however, if a health
111 care facility has voluntarily delicensed some of its existing bed
112 complement, it may later relicense some or all of its delicensed
113 beds without the necessity of having to acquire a certificate of
114 need. The State Department of Health shall maintain a record of
115 the delicensing health care facility and its voluntarily
116 delicensed beds and continue counting those beds as part of the
117 state's total bed count for health care planning purposes. If a
118 health care facility that has voluntarily delicensed some of its
119 beds later desires to relicense some or all of its voluntarily
120 delicensed beds, it shall notify the State Department of Health of
121 its intent to increase the number of its licensed beds. The State
122 Department of Health shall survey the health care facility within
123 thirty (30) days of that notice and, if appropriate, issue the
124 health care facility a new license reflecting the new contingent
125 of beds. However, in no event may a health care facility that has
126 voluntarily delicensed some of its beds be reissued a license to
127 operate beds in excess of its bed count before the voluntary
128 delicensure of some of its beds without seeking certificate of
129 need approval;



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

- 134 (i) Open-heart surgery services;
- 135 (ii) Cardiac catheterization services;
- 136 (iii) Comprehensive inpatient rehabilitation
137 services;
- 138 (iv) Licensed psychiatric services;
- 139 (v) Licensed chemical dependency services;
- 140 (vi) Radiation therapy services;
- 141 (vii) Diagnostic imaging services of an invasive
142 nature, i.e. invasive digital angiography;
- 143 (viii) Nursing home care as defined in
144 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 145 (ix) Home health services;
- 146 (x) Swing-bed services;
- 147 (xi) Ambulatory surgical services;
- 148 (xii) Magnetic resonance imaging services;
- 149 (xiii) [Deleted]
- 150 (xiv) Long-term care hospital services;
- 151 (xv) Positron emission tomography (PET) services;

152 (e) The relocation of one or more health services from
153 one physical facility or site to another physical facility or
154 site, unless such relocation, which does not involve a capital



155 expenditure by or on behalf of a health care facility, (i) is to a
156 physical facility or site within five thousand two hundred eighty
157 (5,280) feet from the main entrance of the health care facility
158 where the health care service is located, or (ii) is the result of
159 an order of a court of appropriate jurisdiction or a result of
160 pending litigation in such court, or by order of the State
161 Department of Health, or by order of any other agency or legal
162 entity of the state, the federal government, or any political
163 subdivision of either, whose order is also approved by the State
164 Department of Health;

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

175 (g) Changes of ownership of existing health care
176 facilities in which a notice of intent is not filed with the State
177 Department of Health at least thirty (30) days prior to the date
178 such change of ownership occurs, or a change in services or bed
179 capacity as prescribed in paragraph (c) or (d) of this subsection



180 as a result of the change of ownership; an acquisition for less
181 than fair market value must be reviewed, if the acquisition at
182 fair market value would be subject to review;

183 (h) The change of ownership of any health care facility
184 defined in subparagraphs (iv), (vi) and (viii) of Section
185 41-7-173(h), in which a notice of intent as described in paragraph
186 (g) has not been filed and if the Executive Director, Division of
187 Medicaid, Office of the Governor, has not certified in writing
188 that there will be no increase in allowable costs to Medicaid from
189 revaluation of the assets or from increased interest and
190 depreciation as a result of the proposed change of ownership;

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

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

198 (k) The contracting of a health care facility as
199 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
200 to establish a home office, subunit, or branch office in the space
201 operated as a health care facility through a formal arrangement
202 with an existing health care facility as defined in subparagraph
203 (ix) of Section 41-7-173(h);



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

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

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

220 (a) The department may issue a certificate of need to
221 any person proposing the new construction of any health care
222 facility defined in subparagraphs (iv) and (vi) of Section
223 41-7-173(h) as part of a life care retirement facility, in any
224 county bordering on the Gulf of Mexico in which is located a
225 National Aeronautics and Space Administration facility, not to
226 exceed forty (40) beds. From and after July 1, 1999, there shall
227 be no prohibition or restrictions on participation in the Medicaid



228 program (Section 43-13-101 et seq.) for the beds in the health
229 care facility that were authorized under this paragraph (a).

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

237 (c) The department may issue a certificate of need for
238 the addition to or expansion of any skilled nursing facility that
239 is part of an existing continuing care retirement community
240 located in Madison County, provided that the recipient of the
241 certificate of need agrees in writing that the skilled nursing
242 facility will not at any time participate in the Medicaid program
243 (Section 43-13-101 et seq.) or admit or keep any patients in the
244 skilled nursing facility who are participating in the Medicaid
245 program. This written agreement by the recipient of the
246 certificate of need shall be fully binding on any subsequent owner
247 of the skilled nursing facility, if the ownership of the facility
248 is transferred at any time after the issuance of the certificate
249 of need. Agreement that the skilled nursing facility will not
250 participate in the Medicaid program shall be a condition of the
251 issuance of a certificate of need to any person under this
252 paragraph (c), and if such skilled nursing facility at any time



253 after the issuance of the certificate of need, regardless of the
254 ownership of the facility, participates in the Medicaid program or
255 admits or keeps any patients in the facility who are participating
256 in the Medicaid program, the State Department of Health shall
257 revoke the certificate of need, if it is still outstanding, and
258 shall deny or revoke the license of the skilled nursing facility,
259 at the time that the department determines, after a hearing
260 complying with due process, that the facility has failed to comply
261 with any of the conditions upon which the certificate of need was
262 issued, as provided in this paragraph and in the written agreement
263 by the recipient of the certificate of need. The total number of
264 beds that may be authorized under the authority of this paragraph
265 (c) shall not exceed sixty (60) beds.

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

274 (e) The State Department of Health may issue a
275 certificate of need for the construction of a nursing facility or
276 the conversion of beds to nursing facility beds at a personal care
277 facility for the elderly in Lowndes County that is owned and



278 operated by a Mississippi nonprofit corporation, not to exceed
279 sixty (60) beds. From and after July 1, 1999, there shall be no
280 prohibition or restrictions on participation in the Medicaid
281 program (Section 43-13-101 et seq.) for the beds in the nursing
282 facility that were authorized under this paragraph (e).

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

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

299 (h) The State Department of Health may issue a
300 certificate of need for the construction or expansion of nursing
301 facility beds or the conversion of other beds to nursing facility
302 beds in either Hancock, Harrison or Jackson County, not to exceed



303 sixty (60) beds. From and after July 1, 1999, there shall be no
304 prohibition or restrictions on participation in the Medicaid
305 program (Section 43-13-101 et seq.) for the beds in the facility
306 that were authorized under this paragraph (h).

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



328 that the department determines, after a hearing complying with due
329 process, that the facility has failed to comply with any of the
330 conditions upon which the certificate of need was issued, as
331 provided in this paragraph and in the written agreement by the
332 recipient of the certificate of need. The provision of Section
333 41-7-193(1) regarding substantial compliance of the projection of
334 need as reported in the current State Health Plan is waived for
335 the purposes of this paragraph. The total number of nursing
336 facility beds that may be authorized by any certificate of need
337 issued under this paragraph (i) shall not exceed sixty (60) beds.
338 If the skilled nursing facility authorized by the certificate of
339 need issued under this paragraph is not constructed and fully
340 operational within eighteen (18) months after July 1, 1994, the
341 State Department of Health, after a hearing complying with due
342 process, shall revoke the certificate of need, if it is still
343 outstanding, and shall not issue a license for the skilled nursing
344 facility at any time after the expiration of the eighteen-month
345 period.

346 (j) The department may issue certificates of need to
347 allow any existing freestanding long-term care facility in
348 Tishomingo County and Hancock County that on July 1, 1995, is
349 licensed with fewer than sixty (60) beds. For the purposes of
350 this paragraph (j), the provisions of Section 41-7-193(1)
351 requiring substantial compliance with the projection of need as
352 reported in the current State Health Plan are waived. From and



353 after July 1, 1999, there shall be no prohibition or restrictions
354 on participation in the Medicaid program (Section 43-13-101 et
355 seq.) for the beds in the long-term care facilities that were
356 authorized under this paragraph (j).

357 (k) The department may issue a certificate of need for
358 the construction of a nursing facility at a continuing care
359 retirement community in Lowndes County. The total number of beds
360 that may be authorized under the authority of this paragraph (k)
361 shall not exceed sixty (60) beds. From and after July 1, 2001,
362 the prohibition on the facility participating in the Medicaid
363 program (Section 43-13-101 et seq.) that was a condition of
364 issuance of the certificate of need under this paragraph (k) shall
365 be revised as follows: The nursing facility may participate in
366 the Medicaid program from and after July 1, 2001, if the owner of
367 the facility on July 1, 2001, agrees in writing that no more than
368 thirty (30) of the beds at the facility will be certified for
369 participation in the Medicaid program, and that no claim will be
370 submitted for Medicaid reimbursement for more than thirty (30)
371 patients in the facility in any month or for any patient in the
372 facility who is in a bed that is not Medicaid-certified. This
373 written agreement by the owner of the facility shall be a
374 condition of licensure of the facility, and the agreement shall be
375 fully binding on any subsequent owner of the facility if the
376 ownership of the facility is transferred at any time after July 1,
377 2001. After this written agreement is executed, the Division of



378 Medicaid and the State Department of Health shall not certify more
379 than thirty (30) of the beds in the facility for participation in
380 the Medicaid program. If the facility violates the terms of the
381 written agreement by admitting or keeping in the facility on a
382 regular or continuing basis more than thirty (30) patients who are
383 participating in the Medicaid program, the State Department of
384 Health shall revoke the license of the facility, at the time that
385 the department determines, after a hearing complying with due
386 process, that the facility has violated the written agreement.

387 (l) Provided that funds are specifically appropriated
388 therefor by the Legislature, the department may issue a
389 certificate of need to a rehabilitation hospital in Hinds County
390 for the construction of a sixty-bed long-term care nursing
391 facility dedicated to the care and treatment of persons with
392 severe disabilities including persons with spinal cord and
393 closed-head injuries and ventilator dependent patients. The
394 provisions of Section 41-7-193(1) regarding substantial compliance
395 with projection of need as reported in the current State Health
396 Plan are waived for the purpose of this paragraph.

397 (m) The State Department of Health may issue a
398 certificate of need to a county-owned hospital in the Second
399 Judicial District of Panola County for the conversion of not more
400 than seventy-two (72) hospital beds to nursing facility beds,
401 provided that the recipient of the certificate of need agrees in
402 writing that none of the beds at the nursing facility will be



403 certified for participation in the Medicaid program (Section
404 43-13-101 et seq.), and that no claim will be submitted for
405 Medicaid reimbursement in the nursing facility in any day or for
406 any patient in the nursing facility. This written agreement by
407 the recipient of the certificate of need shall be a condition of
408 the issuance of the certificate of need under this paragraph, and
409 the agreement shall be fully binding on any subsequent owner of
410 the nursing facility if the ownership of the nursing facility is
411 transferred at any time after the issuance of the certificate of
412 need. After this written agreement is executed, the Division of
413 Medicaid and the State Department of Health shall not certify any
414 of the beds in the nursing facility for participation in the
415 Medicaid program. If the nursing facility violates the terms of
416 the written agreement by admitting or keeping in the nursing
417 facility on a regular or continuing basis any patients who are
418 participating in the Medicaid program, the State Department of
419 Health shall revoke the license of the nursing facility, at the
420 time that the department determines, after a hearing complying
421 with due process, that the nursing facility has violated the
422 condition upon which the certificate of need was issued, as
423 provided in this paragraph and in the written agreement. If the
424 certificate of need authorized under this paragraph is not issued
425 within twelve (12) months after July 1, 2001, the department shall
426 deny the application for the certificate of need and shall not
427 issue the certificate of need at any time after the twelve-month



428 period, unless the issuance is contested. If the certificate of
429 need is issued and substantial construction of the nursing
430 facility beds has not commenced within eighteen (18) months after
431 July 1, 2001, the State Department of Health, after a hearing
432 complying with due process, shall revoke the certificate of need
433 if it is still outstanding, and the department shall not issue a
434 license for the nursing facility at any time after the
435 eighteen-month period. However, if the issuance of the
436 certificate of need is contested, the department shall require
437 substantial construction of the nursing facility beds within six
438 (6) months after final adjudication on the issuance of the
439 certificate of need.

440 (n) The department may issue a certificate of need for
441 the new construction, addition or conversion of skilled nursing
442 facility beds in Madison County, provided that the recipient of
443 the certificate of need agrees in writing that the skilled nursing
444 facility will not at any time participate in the Medicaid program
445 (Section 43-13-101 et seq.) or admit or keep any patients in the
446 skilled nursing facility who are participating in the Medicaid
447 program. This written agreement by the recipient of the
448 certificate of need shall be fully binding on any subsequent owner
449 of the skilled nursing facility, if the ownership of the facility
450 is transferred at any time after the issuance of the certificate
451 of need. Agreement that the skilled nursing facility will not
452 participate in the Medicaid program shall be a condition of the



453 issuance of a certificate of need to any person under this
454 paragraph (n), and if such skilled nursing facility at any time
455 after the issuance of the certificate of need, regardless of the
456 ownership of the facility, participates in the Medicaid program or
457 admits or keeps any patients in the facility who are participating
458 in the Medicaid program, the State Department of Health shall
459 revoke the certificate of need, if it is still outstanding, and
460 shall deny or revoke the license of the skilled nursing facility,
461 at the time that the department determines, after a hearing
462 complying with due process, that the facility has failed to comply
463 with any of the conditions upon which the certificate of need was
464 issued, as provided in this paragraph and in the written agreement
465 by the recipient of the certificate of need. The total number of
466 nursing facility beds that may be authorized by any certificate of
467 need issued under this paragraph (n) shall not exceed sixty (60)
468 beds. If the certificate of need authorized under this paragraph
469 is not issued within twelve (12) months after July 1, 1998, the
470 department shall deny the application for the certificate of need
471 and shall not issue the certificate of need at any time after the
472 twelve-month period, unless the issuance is contested. If the
473 certificate of need is issued and substantial construction of the
474 nursing facility beds has not commenced within eighteen (18)
475 months after July 1, 1998, the State Department of Health, after a
476 hearing complying with due process, shall revoke the certificate
477 of need if it is still outstanding, and the department shall not



478 issue a license for the nursing facility at any time after the
479 eighteen-month period. However, if the issuance of the
480 certificate of need is contested, the department shall require
481 substantial construction of the nursing facility beds within six
482 (6) months after final adjudication on the issuance of the
483 certificate of need.

484 (o) The department may issue a certificate of need for
485 the new construction, addition or conversion of skilled nursing
486 facility beds in Leake County, provided that the recipient of the
487 certificate of need agrees in writing that the skilled nursing
488 facility will not at any time participate in the Medicaid program
489 (Section 43-13-101 et seq.) or admit or keep any patients in the
490 skilled nursing facility who are participating in the Medicaid
491 program. This written agreement by the recipient of the
492 certificate of need shall be fully binding on any subsequent owner
493 of the skilled nursing facility, if the ownership of the facility
494 is transferred at any time after the issuance of the certificate
495 of need. Agreement that the skilled nursing facility will not
496 participate in the Medicaid program shall be a condition of the
497 issuance of a certificate of need to any person under this
498 paragraph (o), and if such skilled nursing facility at any time
499 after the issuance of the certificate of need, regardless of the
500 ownership of the facility, participates in the Medicaid program or
501 admits or keeps any patients in the facility who are participating
502 in the Medicaid program, the State Department of Health shall



503 revoke the certificate of need, if it is still outstanding, and
504 shall deny or revoke the license of the skilled nursing facility,
505 at the time that the department determines, after a hearing
506 complying with due process, that the facility has failed to comply
507 with any of the conditions upon which the certificate of need was
508 issued, as provided in this paragraph and in the written agreement
509 by the recipient of the certificate of need. The total number of
510 nursing facility beds that may be authorized by any certificate of
511 need issued under this paragraph (o) shall not exceed sixty (60)
512 beds. If the certificate of need authorized under this paragraph
513 is not issued within twelve (12) months after July 1, 2001, the
514 department shall deny the application for the certificate of need
515 and shall not issue the certificate of need at any time after the
516 twelve-month period, unless the issuance is contested. If the
517 certificate of need is issued and substantial construction of the
518 nursing facility beds has not commenced within eighteen (18)
519 months after July 1, 2001, the State Department of Health, after a
520 hearing complying with due process, shall revoke the certificate
521 of need if it is still outstanding, and the department shall not
522 issue a license for the nursing facility at any time after the
523 eighteen-month period. However, if the issuance of the
524 certificate of need is contested, the department shall require
525 substantial construction of the nursing facility beds within six
526 (6) months after final adjudication on the issuance of the
527 certificate of need.



528 (p) The department may issue a certificate of need for
529 the construction of a municipally owned nursing facility within
530 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
531 beds, provided that the recipient of the certificate of need
532 agrees in writing that the skilled nursing facility will not at
533 any time participate in the Medicaid program (Section 43-13-101 et
534 seq.) or admit or keep any patients in the skilled nursing
535 facility who are participating in the Medicaid program. This
536 written agreement by the recipient of the certificate of need
537 shall be fully binding on any subsequent owner of the skilled
538 nursing facility, if the ownership of the facility is transferred
539 at any time after the issuance of the certificate of need.
540 Agreement that the skilled nursing facility will not participate
541 in the Medicaid program shall be a condition of the issuance of a
542 certificate of need to any person under this paragraph (p), and if
543 such skilled nursing facility at any time after the issuance of
544 the certificate of need, regardless of the ownership of the
545 facility, participates in the Medicaid program or admits or keeps
546 any patients in the facility who are participating in the Medicaid
547 program, the State Department of Health shall revoke the
548 certificate of need, if it is still outstanding, and shall deny or
549 revoke the license of the skilled nursing facility, at the time
550 that the department determines, after a hearing complying with due
551 process, that the facility has failed to comply with any of the
552 conditions upon which the certificate of need was issued, as



553 provided in this paragraph and in the written agreement by the
554 recipient of the certificate of need. The provision of Section
555 41-7-193(1) regarding substantial compliance of the projection of
556 need as reported in the current State Health Plan is waived for
557 the purposes of this paragraph. If the certificate of need
558 authorized under this paragraph is not issued within twelve (12)
559 months after July 1, 1998, the department shall deny the
560 application for the certificate of need and shall not issue the
561 certificate of need at any time after the twelve-month period,
562 unless the issuance is contested. If the certificate of need is
563 issued and substantial construction of the nursing facility beds
564 has not commenced within eighteen (18) months after July 1, 1998,
565 the State Department of Health, after a hearing complying with due
566 process, shall revoke the certificate of need if it is still
567 outstanding, and the department shall not issue a license for the
568 nursing facility at any time after the eighteen-month period.
569 However, if the issuance of the certificate of need is contested,
570 the department shall require substantial construction of the
571 nursing facility beds within six (6) months after final
572 adjudication on the issuance of the certificate of need.

573 (q) (i) Beginning on July 1, 1999, the State
574 Department of Health shall issue certificates of need during each
575 of the next four (4) fiscal years for the construction or
576 expansion of nursing facility beds or the conversion of other beds
577 to nursing facility beds in each county in the state having a need



578 for fifty (50) or more additional nursing facility beds, as shown
579 in the fiscal year 1999 State Health Plan, in the manner provided
580 in this paragraph (q). The total number of nursing facility beds
581 that may be authorized by any certificate of need authorized under
582 this paragraph (q) shall not exceed sixty (60) beds.

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



603 the department also shall issue a certificate of need for new
604 nursing facility beds in Amite County and a certificate of need
605 for new nursing facility beds in Carroll County.

606 (iii) Subject to the provisions of subparagraph
607 (v), the certificate of need issued under subparagraph (ii) for
608 nursing facility beds in each Long-Term Care Planning District
609 during each fiscal year shall first be available for nursing
610 facility beds in the county in the district having the highest
611 need for those beds, as shown in the fiscal year 1999 State Health
612 Plan. If there are no applications for a certificate of need for
613 nursing facility beds in the county having the highest need for
614 those beds by the date specified by the department, then the
615 certificate of need shall be available for nursing facility beds
616 in other counties in the district in descending order of the need
617 for those beds, from the county with the second highest need to
618 the county with the lowest need, until an application is received
619 for nursing facility beds in an eligible county in the district.

620 (iv) Subject to the provisions of subparagraph
621 (v), the certificate of need issued under subparagraph (ii) for
622 nursing facility beds in the two (2) counties from the state at
623 large during each fiscal year shall first be available for nursing
624 facility beds in the two (2) counties that have the highest need
625 in the state for those beds, as shown in the fiscal year 1999
626 State Health Plan, when considering the need on a statewide basis
627 and without regard to the Long-Term Care Planning Districts in



628 which the counties are located. If there are no applications for
629 a certificate of need for nursing facility beds in either of the
630 two (2) counties having the highest need for those beds on a
631 statewide basis by the date specified by the department, then the
632 certificate of need shall be available for nursing facility beds
633 in other counties from the state at large in descending order of
634 the need for those beds on a statewide basis, from the county with
635 the second highest need to the county with the lowest need, until
636 an application is received for nursing facility beds in an
637 eligible county from the state at large.

638 (v) If a certificate of need is authorized to be
639 issued under this paragraph (q) for nursing facility beds in a
640 county on the basis of the need in the Long-Term Care Planning
641 District during any fiscal year of the four-year period, a
642 certificate of need shall not also be available under this
643 paragraph (q) for additional nursing facility beds in that county
644 on the basis of the need in the state at large, and that county
645 shall be excluded in determining which counties have the highest
646 need for nursing facility beds in the state at large for that
647 fiscal year. After a certificate of need has been issued under
648 this paragraph (q) for nursing facility beds in a county during
649 any fiscal year of the four-year period, a certificate of need
650 shall not be available again under this paragraph (q) for
651 additional nursing facility beds in that county during the
652 four-year period, and that county shall be excluded in determining



653 which counties have the highest need for nursing facility beds in
654 succeeding fiscal years.

655 (vi) If more than one (1) application is made for
656 a certificate of need for nursing home facility beds available
657 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
658 County, and one (1) of the applicants is a county-owned hospital
659 located in the county where the nursing facility beds are
660 available, the department shall give priority to the county-owned
661 hospital in granting the certificate of need if the following
662 conditions are met:

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

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

671 (r) (i) Beginning on July 1, 1999, the State
672 Department of Health shall issue certificates of need during each
673 of the next two (2) fiscal years for the construction or expansion
674 of nursing facility beds or the conversion of other beds to
675 nursing facility beds in each of the four (4) Long-Term Care
676 Planning Districts designated in the fiscal year 1999 State Health



677 Plan, to provide care exclusively to patients with Alzheimer's
678 disease.

679 (ii) Not more than twenty (20) beds may be
680 authorized by any certificate of need issued under this paragraph
681 (r), and not more than a total of sixty (60) beds may be
682 authorized in any Long-Term Care Planning District by all
683 certificates of need issued under this paragraph (r). However,
684 the total number of beds that may be authorized by all
685 certificates of need issued under this paragraph (r) during any
686 fiscal year shall not exceed one hundred twenty (120) beds, and
687 the total number of beds that may be authorized in any Long-Term
688 Care Planning District during any fiscal year shall not exceed
689 forty (40) beds. Of the certificates of need that are issued for
690 each Long-Term Care Planning District during the next two (2)
691 fiscal years, at least one (1) shall be issued for beds in the
692 northern part of the district, at least one (1) shall be issued
693 for beds in the central part of the district, and at least one (1)
694 shall be issued for beds in the southern part of the district.

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



702 (s) The State Department of Health may issue a
703 certificate of need to a nonprofit skilled nursing facility using
704 the Green House model of skilled nursing care and located in Yazoo
705 City, Yazoo County, Mississippi, for the construction, expansion
706 or conversion of not more than nineteen (19) nursing facility
707 beds. For purposes of this paragraph (s), the provisions of
708 Section 41-7-193(1) requiring substantial compliance with the
709 projection of need as reported in the current State Health Plan
710 and the provisions of Section 41-7-197 requiring a formal
711 certificate of need hearing process are waived. There shall be no
712 prohibition or restrictions on participation in the Medicaid
713 program for the person receiving the certificate of need
714 authorized under this paragraph (s).

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



727 authorize the non-Medicaid nursing facility beds under
728 subparagraphs (iii) and (iv) of this paragraph (t) shall be
729 subject to the following conditions: The owner of the Hancock
730 County facility and the new Harrison County facility must agree in
731 writing that no more than fifty (50) of the beds at the Hancock
732 County facility and no more than forty-nine (49) of the beds at
733 the Harrison County facility will be certified for participation
734 in the Medicaid program, and that no claim will be submitted for
735 Medicaid reimbursement for more than fifty (50) patients in the
736 Hancock County facility in any month, or for more than forty-nine
737 (49) patients in the Harrison County facility in any month, or for
738 any patient in either facility who is in a bed that is not
739 Medicaid-certified. This written agreement by the owner of the
740 nursing facilities shall be a condition of the issuance of the
741 certificates of need under this paragraph (t), and the agreement
742 shall be fully binding on any later owner or owners of either
743 facility if the ownership of either facility is transferred at any
744 time after the certificates of need are issued. After this
745 written agreement is executed, the Division of Medicaid and the
746 State Department of Health shall not certify more than fifty (50)
747 of the beds at the Hancock County facility or more than forty-nine
748 (49) of the beds at the Harrison County facility for participation
749 in the Medicaid program. If the Hancock County facility violates
750 the terms of the written agreement by admitting or keeping in the
751 facility on a regular or continuing basis more than fifty (50)



752 patients who are participating in the Medicaid program, or if the
753 Harrison County facility violates the terms of the written
754 agreement by admitting or keeping in the facility on a regular or
755 continuing basis more than forty-nine (49) patients who are
756 participating in the Medicaid program, the State Department of
757 Health shall revoke the license of the facility that is in
758 violation of the agreement, at the time that the department
759 determines, after a hearing complying with due process, that the
760 facility has violated the agreement.

761 (u) The State Department of Health shall issue a
762 certificate of need to a nonprofit venture for the establishment,
763 construction and operation of a skilled nursing facility of not
764 more than sixty (60) beds to provide skilled nursing care for
765 ventilator dependent or otherwise medically dependent pediatric
766 patients who require medical and nursing care or rehabilitation
767 services to be located in a county in which an academic medical
768 center and a children's hospital are located, and for any
769 construction and for the acquisition of equipment related to those
770 beds. The facility shall be authorized to keep such ventilator
771 dependent or otherwise medically dependent pediatric patients
772 beyond age twenty-one (21) in accordance with regulations of the
773 State Board of Health. For purposes of this paragraph (u), the
774 provisions of Section 41-7-193(1) requiring substantial compliance
775 with the projection of need as reported in the current State
776 Health Plan are waived, and the provisions of Section 41-7-197



777 requiring a formal certificate of need hearing process are waived.
778 The beds authorized by this paragraph shall be counted as
779 pediatric skilled nursing facility beds for health planning
780 purposes under Section 41-7-171 et seq. There shall be no
781 prohibition of or restrictions on participation in the Medicaid
782 program for the person receiving the certificate of need
783 authorized by this paragraph.

784 (3) The State Department of Health may grant approval for
785 and issue certificates of need to any person proposing the new
786 construction of, addition to, conversion of beds of or expansion
787 of any health care facility defined in subparagraph (x)
788 (psychiatric residential treatment facility) of Section
789 41-7-173(h). The total number of beds which may be authorized by
790 such certificates of need shall not exceed three hundred
791 thirty-four (334) beds for the entire state.

792 (a) Of the total number of beds authorized under this
793 subsection, the department shall issue a certificate of need to a
794 privately owned psychiatric residential treatment facility in
795 Simpson County for the conversion of sixteen (16) intermediate
796 care facility for the mentally retarded (ICF-MR) beds to
797 psychiatric residential treatment facility beds, provided that
798 facility agrees in writing that the facility shall give priority
799 for the use of those sixteen (16) beds to Mississippi residents
800 who are presently being treated in out-of-state facilities.



801 (b) Of the total number of beds authorized under this
802 subsection, the department may issue a certificate or certificates
803 of need for the construction or expansion of psychiatric
804 residential treatment facility beds or the conversion of other
805 beds to psychiatric residential treatment facility beds in Warren
806 County, not to exceed sixty (60) psychiatric residential treatment
807 facility beds, provided that the facility agrees in writing that
808 no more than thirty (30) of the beds at the psychiatric
809 residential treatment facility will be certified for participation
810 in the Medicaid program (Section 43-13-101 et seq.) for the use of
811 any patients other than those who are participating only in the
812 Medicaid program of another state, and that no claim will be
813 submitted to the Division of Medicaid for Medicaid reimbursement
814 for more than thirty (30) patients in the psychiatric residential
815 treatment facility in any day or for any patient in the
816 psychiatric residential treatment facility who is in a bed that is
817 not Medicaid-certified. This written agreement by the recipient
818 of the certificate of need shall be a condition of the issuance of
819 the certificate of need under this paragraph, and the agreement
820 shall be fully binding on any subsequent owner of the psychiatric
821 residential treatment facility if the ownership of the facility is
822 transferred at any time after the issuance of the certificate of
823 need. After this written agreement is executed, the Division of
824 Medicaid and the State Department of Health shall not certify more
825 than thirty (30) of the beds in the psychiatric residential



826 treatment facility for participation in the Medicaid program for
827 the use of any patients other than those who are participating
828 only in the Medicaid program of another state. If the psychiatric
829 residential treatment facility violates the terms of the written
830 agreement by admitting or keeping in the facility on a regular or
831 continuing basis more than thirty (30) patients who are
832 participating in the Mississippi Medicaid program, the State
833 Department of Health shall revoke the license of the facility, at
834 the time that the department determines, after a hearing complying
835 with due process, that the facility has violated the condition
836 upon which the certificate of need was issued, as provided in this
837 paragraph and in the written agreement.

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

842 (c) Of the total number of beds authorized under this
843 subsection, the department shall issue a certificate of need to a
844 hospital currently operating Medicaid-certified acute psychiatric
845 beds for adolescents in DeSoto County, for the establishment of a
846 forty-bed psychiatric residential treatment facility in DeSoto
847 County, provided that the hospital agrees in writing (i) that the
848 hospital shall give priority for the use of those forty (40) beds
849 to Mississippi residents who are presently being treated in
850 out-of-state facilities, and (ii) that no more than fifteen (15)



851 of the beds at the psychiatric residential treatment facility will
852 be certified for participation in the Medicaid program (Section
853 43-13-101 et seq.), and that no claim will be submitted for
854 Medicaid reimbursement for more than fifteen (15) patients in the
855 psychiatric residential treatment facility in any day or for any
856 patient in the psychiatric residential treatment facility who is
857 in a bed that is not Medicaid-certified. This written agreement
858 by the recipient of the certificate of need shall be a condition
859 of the issuance of the certificate of need under this paragraph,
860 and the agreement shall be fully binding on any subsequent owner
861 of the psychiatric residential treatment facility if the ownership
862 of the facility is transferred at any time after the issuance of
863 the certificate of need. After this written agreement is
864 executed, the Division of Medicaid and the State Department of
865 Health shall not certify more than fifteen (15) of the beds in the
866 psychiatric residential treatment facility for participation in
867 the Medicaid program. If the psychiatric residential treatment
868 facility violates the terms of the written agreement by admitting
869 or keeping in the facility on a regular or continuing basis more
870 than fifteen (15) patients who are participating in the Medicaid
871 program, the State Department of Health shall revoke the license
872 of the facility, at the time that the department determines, after
873 a hearing complying with due process, that the facility has
874 violated the condition upon which the certificate of need was



875 issued, as provided in this paragraph and in the written
876 agreement.

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

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

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



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

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



925 of any other health care facility to a hospital, psychiatric
926 hospital or chemical dependency hospital that will contain any
927 child/adolescent psychiatric or child/adolescent chemical
928 dependency beds. There shall be no prohibition or restrictions on
929 participation in the Medicaid program (Section 43-13-101 et seq.)
930 for the person(s) receiving the certificate(s) of need authorized
931 under this paragraph (a) or for the beds converted pursuant to the
932 authority of that certificate of need. In issuing any new
933 certificate of need for any child/adolescent psychiatric or
934 child/adolescent chemical dependency beds, either by new
935 construction or conversion of beds of another category, the
936 department shall give preference to beds which will be located in
937 an area of the state which does not have such beds located in it,
938 and to a location more than sixty-five (65) miles from existing
939 beds. Upon receiving 2020 census data, the department may amend
940 the State Health Plan regarding child/adolescent psychiatric and
941 child/adolescent chemical dependency beds to reflect the need
942 based on new census data.

943 (i) [Deleted]

944 (ii) The department may issue a certificate of
945 need for the conversion of existing beds in a county hospital in
946 Choctaw County from acute care beds to child/adolescent chemical
947 dependency beds. For purposes of this subparagraph (ii), the
948 provisions of Section 41-7-193(1) requiring substantial compliance
949 with the projection of need as reported in the current State



950 Health Plan are waived. The total number of beds that may be
951 authorized under authority of this subparagraph shall not exceed
952 twenty (20) beds. There shall be no prohibition or restrictions
953 on participation in the Medicaid program (Section 43-13-101 et
954 seq.) for the hospital receiving the certificate of need
955 authorized under this subparagraph or for the beds converted
956 pursuant to the authority of that certificate of need.

957 (iii) The department may issue a certificate or
958 certificates of need for the construction or expansion of
959 child/adolescent psychiatric beds or the conversion of other beds
960 to child/adolescent psychiatric beds in Warren County. For
961 purposes of this subparagraph (iii), the provisions of Section
962 41-7-193(1) requiring substantial compliance with the projection
963 of need as reported in the current State Health Plan are waived.
964 The total number of beds that may be authorized under the
965 authority of this subparagraph shall not exceed twenty (20) beds.
966 There shall be no prohibition or restrictions on participation in
967 the Medicaid program (Section 43-13-101 et seq.) for the person
968 receiving the certificate of need authorized under this
969 subparagraph or for the beds converted pursuant to the authority
970 of that certificate of need.

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



975 the certificate of need that was previously issued under this
976 subparagraph shall expire. If the previously issued certificate
977 of need expires, the department may accept applications for
978 issuance of another certificate of need for the beds authorized
979 under this subparagraph, and may issue a certificate of need to
980 authorize the construction, expansion or conversion of the beds
981 authorized under this subparagraph.

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

997 (v) The department may issue a certificate of need
998 to any county hospital located in Leflore County for the
999 construction or expansion of adult psychiatric beds or the



1000 conversion of other beds to adult psychiatric beds, not to exceed
1001 twenty (20) beds, provided that the recipient of the certificate
1002 of need agrees in writing that the adult psychiatric beds will not
1003 at any time be certified for participation in the Medicaid program
1004 and that the hospital will not admit or keep any patients who are
1005 participating in the Medicaid program in any of such adult
1006 psychiatric beds. This written agreement by the recipient of the
1007 certificate of need shall be fully binding on any subsequent owner
1008 of the hospital if the ownership of the hospital is transferred at
1009 any time after the issuance of the certificate of need. Agreement
1010 that the adult psychiatric beds will not be certified for
1011 participation in the Medicaid program shall be a condition of the
1012 issuance of a certificate of need to any person under this
1013 subparagraph (v), and if such hospital at any time after the
1014 issuance of the certificate of need, regardless of the ownership
1015 of the hospital, has any of such adult psychiatric beds certified
1016 for participation in the Medicaid program or admits or keeps any
1017 Medicaid patients in such adult psychiatric beds, the State
1018 Department of Health shall revoke the certificate of need, if it
1019 is still outstanding, and shall deny or revoke the license of the
1020 hospital at the time that the department determines, after a
1021 hearing complying with due process, that the hospital has failed
1022 to comply with any of the conditions upon which the certificate of
1023 need was issued, as provided in this subparagraph and in the
1024 written agreement by the recipient of the certificate of need.



1025 (vi) The department may issue a certificate or
1026 certificates of need for the expansion of child psychiatric beds
1027 or the conversion of other beds to child psychiatric beds at the
1028 University of Mississippi Medical Center. For purposes of this
1029 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1030 substantial compliance with the projection of need as reported in
1031 the current State Health Plan are waived. The total number of
1032 beds that may be authorized under the authority of this
1033 subparagraph shall not exceed fifteen (15) beds. There shall be
1034 no prohibition or restrictions on participation in the Medicaid
1035 program (Section 43-13-101 et seq.) for the hospital receiving the
1036 certificate of need authorized under this subparagraph or for the
1037 beds converted pursuant to the authority of that certificate of
1038 need.

1039 (b) From and after July 1, 1990, no hospital,
1040 psychiatric hospital or chemical dependency hospital shall be
1041 authorized to add any child/adolescent psychiatric or
1042 child/adolescent chemical dependency beds or convert any beds of
1043 another category to child/adolescent psychiatric or
1044 child/adolescent chemical dependency beds without a certificate of
1045 need under the authority of subsection (1)(c) and subsection
1046 (4)(a) of this section.

1047 (5) The department may issue a certificate of need to a
1048 county hospital in Winston County for the conversion of fifteen
1049 (15) acute care beds to geriatric psychiatric care beds.



1050 (6) The State Department of Health shall issue a certificate
1051 of need to a Mississippi corporation qualified to manage a
1052 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1053 Harrison County, not to exceed eighty (80) beds, including any
1054 necessary renovation or construction required for licensure and
1055 certification, provided that the recipient of the certificate of
1056 need agrees in writing that the long-term care hospital will not
1057 at any time participate in the Medicaid program (Section 43-13-101
1058 et seq.) or admit or keep any patients in the long-term care
1059 hospital who are participating in the Medicaid program. This
1060 written agreement by the recipient of the certificate of need
1061 shall be fully binding on any subsequent owner of the long-term
1062 care hospital, if the ownership of the facility is transferred at
1063 any time after the issuance of the certificate of need. Agreement
1064 that the long-term care hospital will not participate in the
1065 Medicaid program shall be a condition of the issuance of a
1066 certificate of need to any person under this subsection (6), and
1067 if such long-term care hospital at any time after the issuance of
1068 the certificate of need, regardless of the ownership of the
1069 facility, participates in the Medicaid program or admits or keeps
1070 any patients in the facility who are participating in the Medicaid
1071 program, the State Department of Health shall revoke the
1072 certificate of need, if it is still outstanding, and shall deny or
1073 revoke the license of the long-term care hospital, at the time
1074 that the department determines, after a hearing complying with due



1075 process, that the facility has failed to comply with any of the
1076 conditions upon which the certificate of need was issued, as
1077 provided in this subsection and in the written agreement by the
1078 recipient of the certificate of need. For purposes of this
1079 subsection, the provisions of Section 41-7-193(1) requiring
1080 substantial compliance with the projection of need as reported in
1081 the current State Health Plan are waived.

1082 (7) The State Department of Health may issue a certificate
1083 of need to any hospital in the state to utilize a portion of its
1084 beds for the "swing-bed" concept. Any such hospital must be in
1085 conformance with the federal regulations regarding such swing-bed
1086 concept at the time it submits its application for a certificate
1087 of need to the State Department of Health, except that such
1088 hospital may have more licensed beds or a higher average daily
1089 census (ADC) than the maximum number specified in federal
1090 regulations for participation in the swing-bed program. Any
1091 hospital meeting all federal requirements for participation in the
1092 swing-bed program which receives such certificate of need shall
1093 render services provided under the swing-bed concept to any
1094 patient eligible for Medicare (Title XVIII of the Social Security
1095 Act) who is certified by a physician to be in need of such
1096 services, and no such hospital shall permit any patient who is
1097 eligible for both Medicaid and Medicare or eligible only for
1098 Medicaid to stay in the swing beds of the hospital for more than
1099 thirty (30) days per admission unless the hospital receives prior



1100 approval for such patient from the Division of Medicaid, Office of
1101 the Governor. Any hospital having more licensed beds or a higher
1102 average daily census (ADC) than the maximum number specified in
1103 federal regulations for participation in the swing-bed program
1104 which receives such certificate of need shall develop a procedure
1105 to ensure that before a patient is allowed to stay in the swing
1106 beds of the hospital, there are no vacant nursing home beds
1107 available for that patient located within a fifty-mile radius of
1108 the hospital. When any such hospital has a patient staying in the
1109 swing beds of the hospital and the hospital receives notice from a
1110 nursing home located within such radius that there is a vacant bed
1111 available for that patient, the hospital shall transfer the
1112 patient to the nursing home within a reasonable time after receipt
1113 of the notice. Any hospital which is subject to the requirements
1114 of the two (2) preceding sentences of this subsection may be
1115 suspended from participation in the swing-bed program for a
1116 reasonable period of time by the State Department of Health if the
1117 department, after a hearing complying with due process, determines
1118 that the hospital has failed to comply with any of those
1119 requirements.

1120 (8) The Department of Health shall not grant approval for or
1121 issue a certificate of need to any person proposing the new
1122 construction of, addition to or expansion of a health care
1123 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1124 except as hereinafter provided: The department may issue a



1125 certificate of need to a nonprofit corporation located in Madison
1126 County, Mississippi, for the construction, expansion or conversion
1127 of not more than twenty (20) beds in a community living program
1128 for developmentally disabled adults in a facility as defined in
1129 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1130 subsection (8), the provisions of Section 41-7-193(1) requiring
1131 substantial compliance with the projection of need as reported in
1132 the current State Health Plan and the provisions of Section
1133 41-7-197 requiring a formal certificate of need hearing process
1134 are waived. There shall be no prohibition or restrictions on
1135 participation in the Medicaid program for the person receiving the
1136 certificate of need authorized under this subsection (8).

1137 (9) The Department of Health shall not grant approval for or
1138 issue a certificate of need to any person proposing the
1139 establishment of, or expansion of the currently approved territory
1140 of, or the contracting to establish a home office, subunit or
1141 branch office within the space operated as a health care facility
1142 as defined in Section 41-7-173(h) (i) through (viii) by a health
1143 care facility as defined in subparagraph (ix) of Section
1144 41-7-173(h).

1145 (10) Health care facilities owned and/or operated by the
1146 state or its agencies are exempt from the restraints in this
1147 section against issuance of a certificate of need if such addition
1148 or expansion consists of repairing or renovation necessary to
1149 comply with the state licensure law. This exception shall not



1150 apply to the new construction of any building by such state
1151 facility. This exception shall not apply to any health care
1152 facilities owned and/or operated by counties, municipalities,
1153 districts, unincorporated areas, other defined persons, or any
1154 combination thereof.

1155 (11) The new construction, renovation or expansion of or
1156 addition to any health care facility defined in subparagraph (ii)
1157 (psychiatric hospital), subparagraph (iv) (skilled nursing
1158 facility), subparagraph (vi) (intermediate care facility),
1159 subparagraph (viii) (intermediate care facility for the mentally
1160 retarded) and subparagraph (x) (psychiatric residential treatment
1161 facility) of Section 41-7-173(h) which is owned by the State of
1162 Mississippi and under the direction and control of the State
1163 Department of Mental Health, and the addition of new beds or the
1164 conversion of beds from one category to another in any such
1165 defined health care facility which is owned by the State of
1166 Mississippi and under the direction and control of the State
1167 Department of Mental Health, shall not require the issuance of a
1168 certificate of need under Section 41-7-171 et seq.,
1169 notwithstanding any provision in Section 41-7-171 et seq. to the
1170 contrary.

1171 (12) The new construction, renovation or expansion of or
1172 addition to any veterans homes or domiciliaries for eligible
1173 veterans of the State of Mississippi as authorized under Section
1174 35-1-19 shall not require the issuance of a certificate of need,



1175 notwithstanding any provision in Section 41-7-171 et seq. to the
1176 contrary.

1177 (13) The repair or the rebuilding of an existing, operating
1178 health care facility that sustained significant damage from a
1179 natural disaster that occurred after April 15, 2014, in an area
1180 that is proclaimed a disaster area or subject to a state of
1181 emergency by the Governor or by the President of the United States
1182 shall be exempt from all of the requirements of the Mississippi
1183 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1184 rules and regulations promulgated under that law, subject to the
1185 following conditions:

1186 (a) The repair or the rebuilding of any such damaged
1187 health care facility must be within one (1) mile of the
1188 pre-disaster location of the campus of the damaged health care
1189 facility, except that any temporary post-disaster health care
1190 facility operating location may be within five (5) miles of the
1191 pre-disaster location of the damaged health care facility;

1192 (b) The repair or the rebuilding of the damaged health
1193 care facility (i) does not increase or change the complement of
1194 its bed capacity that it had before the Governor's or the
1195 President's proclamation, (ii) does not increase or change its
1196 levels and types of health care services that it provided before
1197 the Governor's or the President's proclamation, and (iii) does not
1198 rebuild in a different county; however, this paragraph does not
1199 restrict or prevent a health care facility from decreasing its bed



1200 capacity that it had before the Governor's or the President's
1201 proclamation, or from decreasing the levels of or decreasing or
1202 eliminating the types of health care services that it provided
1203 before the Governor's or the President's proclamation, when the
1204 damaged health care facility is repaired or rebuilt;

1205 (c) The exemption from Certificate of Need Law provided
1206 under this subsection (13) is valid for only five (5) years from
1207 the date of the Governor's or the President's proclamation. If
1208 actual construction has not begun within that five-year period,
1209 the exemption provided under this subsection is inapplicable; and

1210 (d) The Division of Health Facilities Licensure and
1211 Certification of the State Department of Health shall provide the
1212 same oversight for the repair or the rebuilding of the damaged
1213 health care facility that it provides to all health care facility
1214 construction projects in the state.

1215 For the purposes of this subsection (13), "significant
1216 damage" to a health care facility means damage to the health care
1217 facility requiring an expenditure of at least One Million Dollars
1218 (\$1,000,000.00).

1219 (14) The State Department of Health shall issue a
1220 certificate of need to any hospital which is currently licensed
1221 for two hundred fifty (250) or more acute care beds and is located
1222 in any general hospital service area not having a comprehensive
1223 cancer center, for the establishment and equipping of such a
1224 center which provides facilities and services for outpatient



1225 radiation oncology therapy, outpatient medical oncology therapy,
1226 and appropriate support services including the provision of
1227 radiation therapy services. The provisions of Section 41-7-193(1)
1228 regarding substantial compliance with the projection of need as
1229 reported in the current State Health Plan are waived for the
1230 purpose of this subsection.

1231 (15) The State Department of Health may authorize the
1232 transfer of hospital beds, not to exceed sixty (60) beds, from the
1233 North Panola Community Hospital to the South Panola Community
1234 Hospital. The authorization for the transfer of those beds shall
1235 be exempt from the certificate of need review process.

1236 (16) The State Department of Health shall issue any
1237 certificates of need necessary for Mississippi State University
1238 and a public or private health care provider to jointly acquire
1239 and operate a linear accelerator and a magnetic resonance imaging
1240 unit. Those certificates of need shall cover all capital
1241 expenditures related to the project between Mississippi State
1242 University and the health care provider, including, but not
1243 limited to, the acquisition of the linear accelerator, the
1244 magnetic resonance imaging unit and other radiological modalities;
1245 the offering of linear accelerator and magnetic resonance imaging
1246 services; and the cost of construction of facilities in which to
1247 locate these services. The linear accelerator and the magnetic
1248 resonance imaging unit shall be (a) located in the City of
1249 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by



1250 Mississippi State University and the public or private health care
1251 provider selected by Mississippi State University through a
1252 request for proposals (RFP) process in which Mississippi State
1253 University selects, and the Board of Trustees of State
1254 Institutions of Higher Learning approves, the health care provider
1255 that makes the best overall proposal; (c) available to Mississippi
1256 State University for research purposes two-thirds (2/3) of the
1257 time that the linear accelerator and magnetic resonance imaging
1258 unit are operational; and (d) available to the public or private
1259 health care provider selected by Mississippi State University and
1260 approved by the Board of Trustees of State Institutions of Higher
1261 Learning one-third (1/3) of the time for clinical, diagnostic and
1262 treatment purposes. For purposes of this subsection, the
1263 provisions of Section 41-7-193(1) requiring substantial compliance
1264 with the projection of need as reported in the current State
1265 Health Plan are waived.

1266 (17) The State Department of Health shall issue a
1267 certificate of need for the construction of an acute care hospital
1268 in Kemper County, not to exceed twenty-five (25) beds, which shall
1269 be named the "John C. Stennis Memorial Hospital." In issuing the
1270 certificate of need under this subsection, the department shall
1271 give priority to a hospital located in Lauderdale County that has
1272 two hundred fifteen (215) beds. For purposes of this subsection,
1273 the provisions of Section 41-7-193(1) requiring substantial
1274 compliance with the projection of need as reported in the current



1275 State Health Plan and the provisions of Section 41-7-197 requiring
1276 a formal certificate of need hearing process are waived. There
1277 shall be no prohibition or restrictions on participation in the
1278 Medicaid program (Section 43-13-101 et seq.) for the person or
1279 entity receiving the certificate of need authorized under this
1280 subsection or for the beds constructed under the authority of that
1281 certificate of need.

1282 (18) The planning, design, construction, renovation,
1283 addition, furnishing and equipping of a clinical research unit at
1284 any health care facility defined in Section 41-7-173(h) that is
1285 under the direction and control of the University of Mississippi
1286 Medical Center and located in Jackson, Mississippi, and the
1287 addition of new beds or the conversion of beds from one (1)
1288 category to another in any such clinical research unit, shall not
1289 require the issuance of a certificate of need under Section
1290 41-7-171 et seq., notwithstanding any provision in Section
1291 41-7-171 et seq. to the contrary.

1292 (19) [Repealed]

1293 (20) Nothing in this section or in any other provision of
1294 Section 41-7-171 et seq. shall prevent any nursing facility from
1295 designating an appropriate number of existing beds in the facility
1296 as beds for providing care exclusively to patients with
1297 Alzheimer's disease.

1298 (21) Nothing in this section or any other provision of
1299 Section 41-7-171 et seq. shall prevent any health care facility



1300 from the new construction, renovation, conversion or expansion of
1301 new beds in the facility designated as intensive care units,
1302 negative pressure rooms, or isolation rooms pursuant to the
1303 provisions of Sections 41-14-1 through 41-14-11, or Section 1 of
1304 this act. For purposes of this subsection, the provisions of
1305 Section 41-7-193(1) requiring substantial compliance with the
1306 projection of need as reported in the current State Health Plan
1307 and the provisions of Section 41-7-197 requiring a formal
1308 certificate of need hearing process are waived.

1309 **SECTION 3.** (1) As used in this section, the following terms
1310 shall be defined as provided in this subsection:

1311 (a) "Local health care provider" or "provider" means a
1312 facility that is licensed, certified or otherwise authorized or
1313 permitted by law to provide health care in the ordinary course of
1314 business in the State of Mississippi, including, but not limited
1315 to, skilled nursing facilities, direct primary care clinics,
1316 provider owned clinics, rural health clinics, academic medical
1317 centers, community health centers and/or independent physician
1318 practices.

1319 (b) "Transitional assistance" means any assistance
1320 related to changing a provider's current health care delivery
1321 model to a model more appropriate for the community that the
1322 provider serves, including, but not limited to:

1323 (i) Conducting a market study of health care
1324 services needed and provided in the community;



1325 (ii) Acquiring and implementing new technological
1326 tools and infrastructure, including, but not limited to,
1327 telemedicine delivery methods, development of health information
1328 exchange platforms to electronically share medical records,
1329 electronic health record optimization, purchasing connected
1330 devices, upgrading digital devices, improving broadband
1331 connectivity, public health reporting, and implementing online or
1332 mobile patient appointment management applications; and

1333 (iii) Supporting the implementation of population
1334 health management.

1335 (2) There is established the COVID-19 Mississippi Local
1336 Provider Innovation Grant Program to be administered by the State
1337 Department of Health. The program and any grant awarded under the
1338 program shall be for the purpose of strengthening and improving
1339 the health care system and increasing access to health care
1340 services providers to help communities achieve and maintain
1341 optimal health by providing transitional assistance to providers.
1342 The department may award an innovation grant to a local health
1343 care provider that applies in accordance with this section.

1344 (3) Eligible local health care providers shall provide the
1345 following information to the department in their application for a
1346 grant:

1347 (a) A description of the location or locations for
1348 which the grant monies will be expended, including the name and
1349 locations of where the provider administers health care services;



1350 (b) A statement of the amount of grant monies
1351 requested;

1352 (c) A description of the needs of the provider, the
1353 transitional assistance for which the grant monies will be
1354 expended and how such transitional assistance will meet the stated
1355 needs;

1356 (d) Evidence that the provider has played an active
1357 role in the community to combat the spread of COVID-19, including,
1358 but not limited to, testing, vaccination and antibody treatment;
1359 and

1360 (e) Any other information that the department deems
1361 necessary to administer this section.

1362 (4) Applicants are limited to one (1) application per
1363 business entity as determined by the applicant's business filing
1364 status with the Secretary of State. Subsidiaries of the entity
1365 are not eligible to submit separate applications. Health systems
1366 that affiliate, own or control multiple clinics are only eligible
1367 to submit to one (1) application under the parent entity. The
1368 department shall determine the amount of the grant to be awarded
1369 to each applicant based on the factors detailed in the
1370 application, with the maximum amount of a grant that may be
1371 awarded to an applicant being Two Hundred Fifty Thousand Dollars
1372 (\$250,000.00).

1373 (5) The COVID-19 Mississippi Local Provider Innovation Grant
1374 Program created under this section shall be funded by



1375 appropriation of the Legislature from the Coronavirus State Fiscal
1376 Recovery Fund.

1377 **SECTION 4.** This act shall take effect and be in force from
1378 and after July 1, 2022.

