

By: Representative Yancey

To: Public Health and Human Services

HOUSE BILL NO. 322

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI
2 CODE OF 1972, TO REMOVE PSYCHIATRIC HOSPITALS, CHEMICAL DEPENDENCY
3 HOSPITALS, INTERMEDIATE CARE FACILITIES, INTERMEDIATE CARE
4 FACILITIES FOR THE MENTALLY RETARDED, PSYCHIATRIC RESIDENTIAL
5 TREATMENT FACILITIES, PSYCHIATRIC SERVICES AND CHEMICAL DEPENDENCY
6 SERVICES FROM THE HEALTH CARE CERTIFICATE OF NEED LAW; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
10 amended as follows:

11 41-7-173. For the purposes of Section 41-7-171 et seq., the
12 following words shall have the meanings ascribed herein, unless
13 the context otherwise requires:

14 (a) "Affected person" means (i) the applicant; (ii) a
15 person residing within the geographic area to be served by the
16 applicant's proposal; (iii) a person who regularly uses health
17 care facilities or HMOs located in the geographic area of the
18 proposal which provide similar service to that which is proposed;
19 (iv) health care facilities and HMOs which have, prior to receipt
20 of the application under review, formally indicated an intention



21 to provide service similar to that of the proposal being
22 considered at a future date; (v) third-party payers who reimburse
23 health care facilities located in the geographical area of the
24 proposal; or (vi) any agency that establishes rates for health
25 care services or HMOs located in the geographic area of the
26 proposal.

27 (b) "Certificate of need" means a written order of the
28 State Department of Health setting forth the affirmative finding
29 that a proposal in prescribed application form, sufficiently
30 satisfies the plans, standards and criteria prescribed for such
31 service or other project by Section 41-7-171 et seq., and by rules
32 and regulations promulgated thereunder by the State Department of
33 Health.

34 (c) (i) "Capital expenditure," when pertaining to
35 defined major medical equipment, shall mean an expenditure which,
36 under generally accepted accounting principles consistently
37 applied, is not properly chargeable as an expense of operation and
38 maintenance and which exceeds One Million Five Hundred Thousand
39 Dollars (\$1,500,000.00).

40 (ii) "Capital expenditure," when pertaining to
41 other than major medical equipment, shall mean any expenditure
42 which under generally accepted accounting principles consistently
43 applied is not properly chargeable as an expense of operation and
44 maintenance and which exceeds, for clinical health services, as
45 defined in * * * paragraph (k) below, Five Million Dollars



46 (\$5,000,000.00), adjusted for inflation as published by the State
47 Department of Health or which exceeds, for nonclinical health
48 services, as defined in * * * paragraph (k) below, Ten Million
49 Dollars (\$10,000,000.00), adjusted for inflation as published by
50 the State Department of Health.

51 (iii) A "capital expenditure" shall include the
52 acquisition, whether by lease, sufferance, gift, devise, legacy,
53 settlement of a trust or other means, of any facility or part
54 thereof, or equipment for a facility, the expenditure for which
55 would have been considered a capital expenditure if acquired by
56 purchase. Transactions which are separated in time but are
57 planned to be undertaken within twelve (12) months of each other
58 and are components of an overall plan for meeting patient care
59 objectives shall, for purposes of this definition, be viewed in
60 their entirety without regard to their timing.

61 (iv) In those instances where a health care
62 facility or other provider of health services proposes to provide
63 a service in which the capital expenditure for major medical
64 equipment or other than major medical equipment or a combination
65 of the two (2) may have been split between separate parties, the
66 total capital expenditure required to provide the proposed service
67 shall be considered in determining the necessity of certificate of
68 need review and in determining the appropriate certificate of need
69 review fee to be paid. The capital expenditure associated with
70 facilities and equipment to provide services in Mississippi shall



71 be considered regardless of where the capital expenditure was
72 made, in state or out of state, and regardless of the domicile of
73 the party making the capital expenditure, in state or out of
74 state.

75 (d) "Change of ownership" includes, but is not limited
76 to, inter vivos gifts, purchases, transfers, lease arrangements,
77 cash and/or stock transactions or other comparable arrangements
78 whenever any person or entity acquires or controls a majority
79 interest of an existing health care facility, and/or the change of
80 ownership of major medical equipment, a health service, or an
81 institutional health service. Changes of ownership from
82 partnerships, single proprietorships or corporations to another
83 form of ownership are specifically included. However, "change of
84 ownership" shall not include any inherited interest acquired as a
85 result of a testamentary instrument or under the laws of descent
86 and distribution of the State of Mississippi.

87 (e) "Commencement of construction" means that all of
88 the following have been completed with respect to a proposal or
89 project proposing construction, renovating, remodeling or
90 alteration:

91 (i) A legally binding written contract has been
92 consummated by the proponent and a lawfully licensed contractor to
93 construct and/or complete the intent of the proposal within a
94 specified period of time in accordance with final architectural



95 plans which have been approved by the licensing authority of the
96 State Department of Health;

97 (ii) Any and all permits and/or approvals deemed
98 lawfully necessary by all authorities with responsibility for such
99 have been secured; and

100 (iii) Actual bona fide undertaking of the subject
101 proposal has commenced, and a progress payment of at least one
102 percent (1%) of the total cost price of the contract has been paid
103 to the contractor by the proponent, and the requirements of this
104 paragraph (e) have been certified to in writing by the State
105 Department of Health.

106 Force account expenditures, such as deposits, securities,
107 bonds, et cetera, may, in the discretion of the State Department
108 of Health, be excluded from any or all of the provisions of
109 defined commencement of construction.

110 (f) "Consumer" means an individual who is not a
111 provider of health care as defined in paragraph (q) of this
112 section.

113 (g) "Develop," when used in connection with health
114 services, means to undertake those activities which, on their
115 completion, will result in the offering of a new institutional
116 health service or the incurring of a financial obligation as
117 defined under applicable state law in relation to the offering of
118 such services.



119 (h) "Health care facility" includes hospitals, * * *
120 skilled nursing facilities, end-stage renal disease (ESRD)
121 facilities, including freestanding hemodialysis units, * * *
122 ambulatory surgical facilities, * * * home health agencies, * * *
123 pediatric skilled nursing facilities, long-term care hospitals,
124 comprehensive medical rehabilitation facilities, including
125 facilities owned or operated by the state or a political
126 subdivision or instrumentality of the state, but does not include
127 Christian Science sanatoriums operated or listed and certified by
128 the First Church of Christ, Scientist, Boston, Massachusetts.
129 This definition shall not apply to facilities for the private
130 practice, either independently or by incorporated medical groups,
131 of physicians, dentists or health care professionals except where
132 such facilities are an integral part of an institutional health
133 service. The various health care facilities listed in this
134 paragraph shall be defined as follows:

135 (i) "Hospital" means an institution which is
136 primarily engaged in providing to inpatients, by or under the
137 supervision of physicians, diagnostic services and therapeutic
138 services for medical diagnosis, treatment and care of injured,
139 disabled or sick persons, or rehabilitation services for the
140 rehabilitation of injured, disabled or sick persons. Such term
141 does not include psychiatric hospitals.

142 (ii) * * * [Deleted]

143 (iii) * * * [Deleted]



144 (iv) "Skilled nursing facility" means an
145 institution or a distinct part of an institution which is
146 primarily engaged in providing to inpatients skilled nursing care
147 and related services for patients who require medical or nursing
148 care or rehabilitation services for the rehabilitation of injured,
149 disabled or sick persons.

150 (v) "End-stage renal disease (ESRD) facilities"
151 means kidney disease treatment centers, which includes
152 freestanding hemodialysis units and limited care facilities. The
153 term "limited care facility" generally refers to an
154 off-hospital-premises facility, regardless of whether it is
155 provider or nonprovider operated, which is engaged primarily in
156 furnishing maintenance hemodialysis services to stabilized
157 patients.

158 (vi) * * * [Deleted]

159 (vii) "Ambulatory surgical facility" means a
160 facility primarily organized or established for the purpose of
161 performing surgery for outpatients and is a separate identifiable
162 legal entity from any other health care facility. Such term does
163 not include the offices of private physicians or dentists, whether
164 for individual or group practice, and does not include any
165 abortion facility as defined in Section 41-75-1(f).

166 (viii) * * * [Deleted]

167 (ix) "Home health agency" means a public or
168 privately owned agency or organization, or a subdivision of such



169 an agency or organization, properly authorized to conduct business
170 in Mississippi, which is primarily engaged in providing to
171 individuals at the written direction of a licensed physician, in
172 the individual's place of residence, skilled nursing services
173 provided by or under the supervision of a registered nurse
174 licensed to practice in Mississippi, and one or more of the
175 following services or items:

- 176 1. Physical, occupational or speech therapy;
- 177 2. Medical social services;
- 178 3. Part-time or intermittent services of a
179 home health aide;
- 180 4. Other services as approved by the
181 licensing agency for home health agencies;
- 182 5. Medical supplies, other than drugs and
183 biologicals, and the use of medical appliances; or
- 184 6. Medical services provided by an intern or
185 resident-in-training at a hospital under a teaching program of
186 such hospital.

187 Further, all skilled nursing services and those services
188 listed in items 1 through 4 of this subparagraph (ix) must be
189 provided directly by the licensed home health agency. For
190 purposes of this subparagraph, "directly" means either through an
191 agency employee or by an arrangement with another individual not
192 defined as a health care facility.



193 This subparagraph (ix) shall not apply to health care
194 facilities which had contracts for the above services with a home
195 health agency on January 1, 1990.

196 (x) * * * [Deleted]

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

203 (xii) "Long-term care hospital" means a
204 freestanding, Medicare-certified hospital that has an average
205 length of inpatient stay greater than twenty-five (25) days, which
206 is primarily engaged in providing chronic or long-term medical
207 care to patients who do not require more than three (3) hours of
208 rehabilitation or comprehensive rehabilitation per day, and has a
209 transfer agreement with an acute care medical center and a
210 comprehensive medical rehabilitation facility. Long-term care
211 hospitals shall not use rehabilitation, comprehensive medical
212 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
213 nursing home, skilled nursing facility or sub-acute care facility
214 in association with its name.

215 (xiii) "Comprehensive medical rehabilitation
216 facility" means a hospital or hospital unit that is licensed
217 and/or certified as a comprehensive medical rehabilitation



218 facility which provides specialized programs that are accredited
219 by the Commission on Accreditation of Rehabilitation Facilities
220 and supervised by a physician board certified or board eligible in
221 physiatry or other doctor of medicine or osteopathy with at least
222 two (2) years of training in the medical direction of a
223 comprehensive rehabilitation program that:

224 1. Includes evaluation and treatment of
225 individuals with physical disabilities;

226 2. Emphasizes education and training of
227 individuals with disabilities;

228 3. Incorporates at least the following core
229 disciplines:

230 * * *a. Physical Therapy;

231 * * *b. Occupational Therapy;

232 * * *c. Speech and Language Therapy;

233 * * *d. Rehabilitation Nursing; and

234 4. Incorporates at least three (3) of the
235 following disciplines:

236 * * *a. Psychology;

237 * * *b. Audiology;

238 * * *c. Respiratory Therapy;

239 * * *d. Therapeutic Recreation;

240 * * *e. Orthotics;

241 * * *f. Prosthetics;

242 * * *g. Special Education;



- 243 * * *h. Vocational Rehabilitation;
- 244 * * *i. Psychotherapy;
- 245 * * *j. Social Work;
- 246 * * *k. Rehabilitation Engineering.

247 These specialized programs include, but are not limited to:
248 spinal cord injury programs, head injury programs and infant and
249 early childhood development programs.

250 (i) "Health maintenance organization" or "HMO" means a
251 public or private organization organized under the laws of this
252 state or the federal government which:

253 (i) Provides or otherwise makes available to
254 enrolled participants health care services, including
255 substantially the following basic health care services: usual
256 physician services, hospitalization, laboratory, x-ray, emergency
257 and preventive services, and out-of-area coverage;

258 (ii) Is compensated (except for copayments) for
259 the provision of the basic health care services listed in
260 subparagraph (i) of this paragraph to enrolled participants on a
261 predetermined basis; and

262 (iii) Provides physician services primarily:

263 1. Directly through physicians who are either
264 employees or partners of such organization; or

265 2. Through arrangements with individual
266 physicians or one or more groups of physicians (organized on a
267 group practice or individual practice basis).



268 (j) "Health service area" means a geographic area of
269 the state designated in the State Health Plan as the area to be
270 used in planning for specified health facilities and services and
271 to be used when considering certificate of need applications to
272 provide health facilities and services.

273 (k) "Health services" means clinically related (i.e.,
274 diagnostic, treatment or rehabilitative) services and includes
275 alcohol, drug abuse, mental health and home health care services.
276 "Clinical health services" shall only include those activities
277 which contemplate any change in the existing bed complement of any
278 health care facility through the addition or conversion of any
279 beds, under Section 41-7-191(1)(c) or propose to offer any health
280 services if those services have not been provided on a regular
281 basis by the proposed provider of such services within the period
282 of twelve (12) months prior to the time such services would be
283 offered, under Section 41-7-191(1)(d). "Nonclinical health
284 services" shall be all other services which do not involve any
285 change in the existing bed complement or offering health services
286 as described above.

287 (l) "Institutional health services" shall mean health
288 services provided in or through health care facilities and shall
289 include the entities in or through which such services are
290 provided.

291 (m) "Major medical equipment" means medical equipment
292 designed for providing medical or any health-related service which



293 costs in excess of One Million Five Hundred Thousand Dollars
294 (\$1,500,000.00). However, this definition shall not be applicable
295 to clinical laboratories if they are determined by the State
296 Department of Health to be independent of any physician's office,
297 hospital or other health care facility or otherwise not so defined
298 by federal or state law, or rules and regulations promulgated
299 thereunder.

300 (n) "State Department of Health" or "department" shall
301 mean the state agency created under Section 41-3-15, which shall
302 be considered to be the State Health Planning and Development
303 Agency, as defined in paragraph (u) of this section.

304 (o) "Offer," when used in connection with health
305 services, means that it has been determined by the State
306 Department of Health that the health care facility is capable of
307 providing specified health services.

308 (p) "Person" means an individual, a trust or estate,
309 partnership, corporation (including associations, joint-stock
310 companies and insurance companies), the state or a political
311 subdivision or instrumentality of the state.

312 (q) "Provider" shall mean any person who is a provider
313 or representative of a provider of health care services requiring
314 a certificate of need under Section 41-7-171 et seq., or who has
315 any financial or indirect interest in any provider of services.

316 (r) "Radiation therapy services" means the treatment of
317 cancer and other diseases using ionizing radiation of either high



318 energy photons (x-rays or gamma rays) or charged particles
319 (electrons, protons or heavy nuclei). However, for purposes of a
320 certificate of need, radiation therapy services shall not include
321 low energy, superficial, external beam x-ray treatment of
322 superficial skin lesions.

323 (s) "Secretary" means the Secretary of Health and Human
324 Services, and any officer or employee of the Department of Health
325 and Human Services to whom the authority involved has been
326 delegated.

327 (t) "State Health Plan" means the sole and official
328 statewide health plan for Mississippi which identifies priority
329 state health needs and establishes standards and criteria for
330 health-related activities which require certificate of need review
331 in compliance with Section 41-7-191.

332 (u) "State Health Planning and Development Agency"
333 means the agency of state government designated to perform health
334 planning and resource development programs for the State of
335 Mississippi.

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

338 41-7-191. (1) No person shall engage in any of the
339 following activities without obtaining the required certificate of
340 need:

341 (a) The construction, development or other
342 establishment of a new health care facility, which establishment



343 shall include the reopening of a health care facility that has
344 ceased to operate for a period of sixty (60) months or more;

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

352 (c) Any change in the existing bed complement of any
353 health care facility through the addition or conversion of any
354 beds or the alteration, modernizing or refurbishing of any unit or
355 department in which the beds may be located; however, if a health
356 care facility has voluntarily delicensed some of its existing bed
357 complement, it may later relicense some or all of its delicensed
358 beds without the necessity of having to acquire a certificate of
359 need. The State Department of Health shall maintain a record of
360 the delicensing health care facility and its voluntarily
361 delicensed beds and continue counting those beds as part of the
362 state's total bed count for health care planning purposes. If a
363 health care facility that has voluntarily delicensed some of its
364 beds later desires to relicense some or all of its voluntarily
365 delicensed beds, it shall notify the State Department of Health of
366 its intent to increase the number of its licensed beds. The State
367 Department of Health shall survey the health care facility within



368 thirty (30) days of that notice and, if appropriate, issue the
369 health care facility a new license reflecting the new contingent
370 of beds. However, in no event may a health care facility that has
371 voluntarily delicensed some of its beds be reissued a license to
372 operate beds in excess of its bed count before the voluntary
373 delicensure of some of its beds without seeking certificate of
374 need approval;

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

- 379 (i) Open-heart surgery services;
- 380 (ii) Cardiac catheterization services;
- 381 (iii) Comprehensive inpatient rehabilitation
382 services;
- 383 (iv) * * * [Deleted]
- 384 (v) * * * [Deleted]
- 385 (vi) Radiation therapy services;
- 386 (vii) Diagnostic imaging services of an invasive
387 nature, i.e. invasive digital angiography;
- 388 (viii) Nursing home care as defined in
389 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 390 (ix) Home health services;
- 391 (x) Swing-bed services;
- 392 (xi) Ambulatory surgical services;



393 (xii) Magnetic resonance imaging services;
394 (xiii) [Deleted]
395 (xiv) Long-term care hospital services;
396 (xv) Positron emission tomography (PET) services;
397 (e) The relocation of one or more health services from
398 one physical facility or site to another physical facility or
399 site, unless such relocation, which does not involve a capital
400 expenditure by or on behalf of a health care facility, (i) is to a
401 physical facility or site within five thousand two hundred eighty
402 (5,280) feet from the main entrance of the health care facility
403 where the health care service is located, or (ii) is the result of
404 an order of a court of appropriate jurisdiction or a result of
405 pending litigation in such court, or by order of the State
406 Department of Health, or by order of any other agency or legal
407 entity of the state, the federal government, or any political
408 subdivision of either, whose order is also approved by the State
409 Department of Health;
410 (f) The acquisition or otherwise control of any major
411 medical equipment for the provision of medical services; however,
412 (i) the acquisition of any major medical equipment used only for
413 research purposes, and (ii) the acquisition of major medical
414 equipment to replace medical equipment for which a facility is
415 already providing medical services and for which the State
416 Department of Health has been notified before the date of such
417 acquisition shall be exempt from this paragraph; an acquisition



418 for less than fair market value must be reviewed, if the
419 acquisition at fair market value would be subject to review;

420 (g) Changes of ownership of existing health care
421 facilities in which a notice of intent is not filed with the State
422 Department of Health at least thirty (30) days prior to the date
423 such change of ownership occurs, or a change in services or bed
424 capacity as prescribed in paragraph (c) or (d) of this subsection
425 as a result of the change of ownership; an acquisition for less
426 than fair market value must be reviewed, if the acquisition at
427 fair market value would be subject to review;

428 (h) The change of ownership of any health care facility
429 defined in subparagraphs (iv), (vi) and (viii) of Section
430 41-7-173(h), in which a notice of intent as described in paragraph
431 (g) has not been filed and if the Executive Director, Division of
432 Medicaid, Office of the Governor, has not certified in writing
433 that there will be no increase in allowable costs to Medicaid from
434 revaluation of the assets or from increased interest and
435 depreciation as a result of the proposed change of ownership;

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

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



443 (k) The contracting of a health care facility as
444 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
445 to establish a home office, subunit, or branch office in the space
446 operated as a health care facility through a formal arrangement
447 with an existing health care facility as defined in subparagraph
448 (ix) of Section 41-7-173(h);

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

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

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

465 (a) The department may issue a certificate of need to
466 any person proposing the new construction of any health care
467 facility defined in subparagraphs (iv) and (vi) of Section



468 41-7-173(h) as part of a life care retirement facility, in any
469 county bordering on the Gulf of Mexico in which is located a
470 National Aeronautics and Space Administration facility, not to
471 exceed forty (40) beds. From and after July 1, 1999, there shall
472 be no prohibition or restrictions on participation in the Medicaid
473 program (Section 43-13-101 et seq.) for the beds in the health
474 care facility that were authorized under this paragraph (a).

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

482 (c) The department may issue a certificate of need for
483 the addition to or expansion of any skilled nursing facility that
484 is part of an existing continuing care retirement community
485 located in Madison County, provided that the recipient of the
486 certificate of need agrees in writing that the skilled nursing
487 facility will not at any time participate in the Medicaid program
488 (Section 43-13-101 et seq.) or admit or keep any patients in the
489 skilled nursing facility who are participating in the Medicaid
490 program. This written agreement by the recipient of the
491 certificate of need shall be fully binding on any subsequent owner
492 of the skilled nursing facility, if the ownership of the facility



493 is transferred at any time after the issuance of the certificate
494 of need. Agreement that the skilled nursing facility will not
495 participate in the Medicaid program shall be a condition of the
496 issuance of a certificate of need to any person under this
497 paragraph (c), and if such skilled nursing facility at any time
498 after the issuance of the certificate of need, regardless of the
499 ownership of the facility, participates in the Medicaid program or
500 admits or keeps any patients in the facility who are participating
501 in the Medicaid program, the State Department of Health shall
502 revoke the certificate of need, if it is still outstanding, and
503 shall deny or revoke the license of the skilled nursing facility,
504 at the time that the department determines, after a hearing
505 complying with due process, that the facility has failed to comply
506 with any of the conditions upon which the certificate of need was
507 issued, as provided in this paragraph and in the written agreement
508 by the recipient of the certificate of need. The total number of
509 beds that may be authorized under the authority of this paragraph
510 (c) shall not exceed sixty (60) beds.

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



517 for the beds in the nursing facility that were authorized under
518 this paragraph (d).

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

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

536 (g) The State Department of Health may issue a
537 certificate of need for the construction or expansion of nursing
538 facility beds or the conversion of other beds to nursing facility
539 beds in either Hinds, Madison or Rankin County, not to exceed
540 sixty (60) beds. From and after July 1, 1999, there shall be no
541 prohibition or restrictions on participation in the Medicaid



542 program (Section 43-13-101 et seq.) for the beds in the nursing
543 facility that were authorized under this paragraph (g).

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

552 (i) The department may issue a certificate of need for
553 the new construction of a skilled nursing facility in Leake
554 County, provided that the recipient of the certificate of need
555 agrees in writing that the skilled nursing facility will not at
556 any time participate in the Medicaid program (Section 43-13-101 et
557 seq.) or admit or keep any patients in the skilled nursing
558 facility who are participating in the Medicaid program. This
559 written agreement by the recipient of the certificate of need
560 shall be fully binding on any subsequent owner of the skilled
561 nursing facility, if the ownership of the facility is transferred
562 at any time after the issuance of the certificate of need.
563 Agreement that the skilled nursing facility will not participate
564 in the Medicaid program shall be a condition of the issuance of a
565 certificate of need to any person under this paragraph (i), and if
566 such skilled nursing facility at any time after the issuance of



567 the certificate of need, regardless of the ownership of the
568 facility, participates in the Medicaid program or admits or keeps
569 any patients in the facility who are participating in the Medicaid
570 program, the State Department of Health shall revoke the
571 certificate of need, if it is still outstanding, and shall deny or
572 revoke the license of the skilled nursing facility, at the time
573 that the department determines, after a hearing complying with due
574 process, that the facility has failed to comply with any of the
575 conditions upon which the certificate of need was issued, as
576 provided in this paragraph and in the written agreement by the
577 recipient of the certificate of need. The provision of Section
578 41-7-193(1) regarding substantial compliance of the projection of
579 need as reported in the current State Health Plan is waived for
580 the purposes of this paragraph. The total number of nursing
581 facility beds that may be authorized by any certificate of need
582 issued under this paragraph (i) shall not exceed sixty (60) beds.
583 If the skilled nursing facility authorized by the certificate of
584 need issued under this paragraph is not constructed and fully
585 operational within eighteen (18) months after July 1, 1994, the
586 State Department of Health, after a hearing complying with due
587 process, shall revoke the certificate of need, if it is still
588 outstanding, and shall not issue a license for the skilled nursing
589 facility at any time after the expiration of the eighteen-month
590 period.



591 (j) The department may issue certificates of need to
592 allow any existing freestanding long-term care facility in
593 Tishomingo County and Hancock County that on July 1, 1995, is
594 licensed with fewer than sixty (60) beds. For the purposes of
595 this paragraph (j), the provisions of Section 41-7-193(1)
596 requiring substantial compliance with the projection of need as
597 reported in the current State Health Plan are waived. From and
598 after July 1, 1999, there shall be no prohibition or restrictions
599 on participation in the Medicaid program (Section 43-13-101 et
600 seq.) for the beds in the long-term care facilities that were
601 authorized under this paragraph (j).

602 (k) The department may issue a certificate of need for
603 the construction of a nursing facility at a continuing care
604 retirement community in Lowndes County. The total number of beds
605 that may be authorized under the authority of this paragraph (k)
606 shall not exceed sixty (60) beds. From and after July 1, 2001,
607 the prohibition on the facility participating in the Medicaid
608 program (Section 43-13-101 et seq.) that was a condition of
609 issuance of the certificate of need under this paragraph (k) shall
610 be revised as follows: The nursing facility may participate in
611 the Medicaid program from and after July 1, 2001, if the owner of
612 the facility on July 1, 2001, agrees in writing that no more than
613 thirty (30) of the beds at the facility will be certified for
614 participation in the Medicaid program, and that no claim will be
615 submitted for Medicaid reimbursement for more than thirty (30)



616 patients in the facility in any month or for any patient in the
617 facility who is in a bed that is not Medicaid-certified. This
618 written agreement by the owner of the facility shall be a
619 condition of licensure of the facility, and the agreement shall be
620 fully binding on any subsequent owner of the facility if the
621 ownership of the facility is transferred at any time after July 1,
622 2001. After this written agreement is executed, the Division of
623 Medicaid and the State Department of Health shall not certify more
624 than thirty (30) of the beds in the facility for participation in
625 the Medicaid program. If the facility violates the terms of the
626 written agreement by admitting or keeping in the facility on a
627 regular or continuing basis more than thirty (30) patients who are
628 participating in the Medicaid program, the State Department of
629 Health shall revoke the license of the facility, at the time that
630 the department determines, after a hearing complying with due
631 process, that the facility has violated the written agreement.

632 (1) Provided that funds are specifically appropriated
633 therefor by the Legislature, the department may issue a
634 certificate of need to a rehabilitation hospital in Hinds County
635 for the construction of a sixty-bed long-term care nursing
636 facility dedicated to the care and treatment of persons with
637 severe disabilities including persons with spinal cord and
638 closed-head injuries and ventilator dependent patients. The
639 provisions of Section 41-7-193(1) regarding substantial compliance



640 with projection of need as reported in the current State Health
641 Plan are waived for the purpose of this paragraph.

642 (m) The State Department of Health may issue a
643 certificate of need to a county-owned hospital in the Second
644 Judicial District of Panola County for the conversion of not more
645 than seventy-two (72) hospital beds to nursing facility beds,
646 provided that the recipient of the certificate of need agrees in
647 writing that none of the beds at the nursing facility will be
648 certified for participation in the Medicaid program (Section
649 43-13-101 et seq.), and that no claim will be submitted for
650 Medicaid reimbursement in the nursing facility in any day or for
651 any patient in the nursing facility. This written agreement by
652 the recipient of the certificate of need shall be a condition of
653 the issuance of the certificate of need under this paragraph, and
654 the agreement shall be fully binding on any subsequent owner of
655 the nursing facility if the ownership of the nursing facility is
656 transferred at any time after the issuance of the certificate of
657 need. After this written agreement is executed, the Division of
658 Medicaid and the State Department of Health shall not certify any
659 of the beds in the nursing facility for participation in the
660 Medicaid program. If the nursing facility violates the terms of
661 the written agreement by admitting or keeping in the nursing
662 facility on a regular or continuing basis any patients who are
663 participating in the Medicaid program, the State Department of
664 Health shall revoke the license of the nursing facility, at the



665 time that the department determines, after a hearing complying
666 with due process, that the nursing facility has violated the
667 condition upon which the certificate of need was issued, as
668 provided in this paragraph and in the written agreement. If the
669 certificate of need authorized under this paragraph is not issued
670 within twelve (12) months after July 1, 2001, the department shall
671 deny the application for the certificate of need and shall not
672 issue the certificate of need at any time after the twelve-month
673 period, unless the issuance is contested. If the certificate of
674 need is issued and substantial construction of the nursing
675 facility beds has not commenced within eighteen (18) months after
676 July 1, 2001, the State Department of Health, after a hearing
677 complying with due process, shall revoke the certificate of need
678 if it is still outstanding, and the department shall not issue a
679 license for the nursing facility at any time after the
680 eighteen-month period. However, if the issuance of the
681 certificate of need is contested, the department shall require
682 substantial construction of the nursing facility beds within six
683 (6) months after final adjudication on the issuance of the
684 certificate of need.

685 (n) The department may issue a certificate of need for
686 the new construction, addition or conversion of skilled nursing
687 facility beds in Madison County, provided that the recipient of
688 the certificate of need agrees in writing that the skilled nursing
689 facility will not at any time participate in the Medicaid program



690 (Section 43-13-101 et seq.) or admit or keep any patients in the
691 skilled nursing facility who are participating in the Medicaid
692 program. This written agreement by the recipient of the
693 certificate of need shall be fully binding on any subsequent owner
694 of the skilled nursing facility, if the ownership of the facility
695 is transferred at any time after the issuance of the certificate
696 of need. Agreement that the skilled nursing facility will not
697 participate in the Medicaid program shall be a condition of the
698 issuance of a certificate of need to any person under this
699 paragraph (n), and if such skilled nursing facility at any time
700 after the issuance of the certificate of need, regardless of the
701 ownership of the facility, participates in the Medicaid program or
702 admits or keeps any patients in the facility who are participating
703 in the Medicaid program, the State Department of Health shall
704 revoke the certificate of need, if it is still outstanding, and
705 shall deny or revoke the license of the skilled nursing facility,
706 at the time that the department determines, after a hearing
707 complying with due process, that the facility has failed to comply
708 with any of the conditions upon which the certificate of need was
709 issued, as provided in this paragraph and in the written agreement
710 by the recipient of the certificate of need. The total number of
711 nursing facility beds that may be authorized by any certificate of
712 need issued under this paragraph (n) shall not exceed sixty (60)
713 beds. If the certificate of need authorized under this paragraph
714 is not issued within twelve (12) months after July 1, 1998, the



715 department shall deny the application for the certificate of need
716 and shall not issue the certificate of need at any time after the
717 twelve-month period, unless the issuance is contested. If the
718 certificate of need is issued and substantial construction of the
719 nursing facility beds has not commenced within eighteen (18)
720 months after July 1, 1998, the State Department of Health, after a
721 hearing complying with due process, shall revoke the certificate
722 of need if it is still outstanding, and the department shall not
723 issue a license for the nursing facility at any time after the
724 eighteen-month period. However, if the issuance of the
725 certificate of need is contested, the department shall require
726 substantial construction of the nursing facility beds within six
727 (6) months after final adjudication on the issuance of the
728 certificate of need.

729 (o) The department may issue a certificate of need for
730 the new construction, addition or conversion of skilled nursing
731 facility beds in Leake County, provided that the recipient of the
732 certificate of need agrees in writing that the skilled nursing
733 facility will not at any time participate in the Medicaid program
734 (Section 43-13-101 et seq.) or admit or keep any patients in the
735 skilled nursing facility who are participating in the Medicaid
736 program. This written agreement by the recipient of the
737 certificate of need shall be fully binding on any subsequent owner
738 of the skilled nursing facility, if the ownership of the facility
739 is transferred at any time after the issuance of the certificate



740 of need. Agreement that the skilled nursing facility will not
741 participate in the Medicaid program shall be a condition of the
742 issuance of a certificate of need to any person under this
743 paragraph (o), and if such skilled nursing facility at any time
744 after the issuance of the certificate of need, regardless of the
745 ownership of the facility, participates in the Medicaid program or
746 admits or keeps any patients in the facility who are participating
747 in the Medicaid program, the State Department of Health shall
748 revoke the certificate of need, if it is still outstanding, and
749 shall deny or revoke the license of the skilled nursing facility,
750 at the time that the department determines, after a hearing
751 complying with due process, that the facility has failed to comply
752 with any of the conditions upon which the certificate of need was
753 issued, as provided in this paragraph and in the written agreement
754 by the recipient of the certificate of need. The total number of
755 nursing facility beds that may be authorized by any certificate of
756 need issued under this paragraph (o) shall not exceed sixty (60)
757 beds. If the certificate of need authorized under this paragraph
758 is not issued within twelve (12) months after July 1, 2001, the
759 department shall deny the application for the certificate of need
760 and shall not issue the certificate of need at any time after the
761 twelve-month period, unless the issuance is contested. If the
762 certificate of need is issued and substantial construction of the
763 nursing facility beds has not commenced within eighteen (18)
764 months after July 1, 2001, the State Department of Health, after a



765 hearing complying with due process, shall revoke the certificate
766 of need if it is still outstanding, and the department shall not
767 issue a license for the nursing facility at any time after the
768 eighteen-month period. However, if the issuance of the
769 certificate of need is contested, the department shall require
770 substantial construction of the nursing facility beds within six
771 (6) months after final adjudication on the issuance of the
772 certificate of need.

773 (p) The department may issue a certificate of need for
774 the construction of a municipally owned nursing facility within
775 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
776 beds, provided that the recipient of the certificate of need
777 agrees in writing that the skilled nursing facility will not at
778 any time participate in the Medicaid program (Section 43-13-101 et
779 seq.) or admit or keep any patients in the skilled nursing
780 facility who are participating in the Medicaid program. This
781 written agreement by the recipient of the certificate of need
782 shall be fully binding on any subsequent owner of the skilled
783 nursing facility, if the ownership of the facility is transferred
784 at any time after the issuance of the certificate of need.

785 Agreement that the skilled nursing facility will not participate
786 in the Medicaid program shall be a condition of the issuance of a
787 certificate of need to any person under this paragraph (p), and if
788 such skilled nursing facility at any time after the issuance of
789 the certificate of need, regardless of the ownership of the



790 facility, participates in the Medicaid program or admits or keeps
791 any patients in the facility who are participating in the Medicaid
792 program, the State Department of Health shall revoke the
793 certificate of need, if it is still outstanding, and shall deny or
794 revoke the license of the skilled nursing facility, at the time
795 that the department determines, after a hearing complying with due
796 process, that the facility has failed to comply with any of the
797 conditions upon which the certificate of need was issued, as
798 provided in this paragraph and in the written agreement by the
799 recipient of the certificate of need. The provision of Section
800 41-7-193(1) regarding substantial compliance of the projection of
801 need as reported in the current State Health Plan is waived for
802 the purposes of this paragraph. If the certificate of need
803 authorized under this paragraph is not issued within twelve (12)
804 months after July 1, 1998, the department shall deny the
805 application for the certificate of need and shall not issue the
806 certificate of need at any time after the twelve-month period,
807 unless the issuance is contested. If the certificate of need is
808 issued and substantial construction of the nursing facility beds
809 has not commenced within eighteen (18) months after July 1, 1998,
810 the State Department of Health, after a hearing complying with due
811 process, shall revoke the certificate of need if it is still
812 outstanding, and the department shall not issue a license for the
813 nursing facility at any time after the eighteen-month period.
814 However, if the issuance of the certificate of need is contested,



815 the department shall require substantial construction of the
816 nursing facility beds within six (6) months after final
817 adjudication on the issuance of the certificate of need.

818 (q) (i) Beginning on July 1, 1999, the State
819 Department of Health shall issue certificates of need during each
820 of the next four (4) fiscal years for the construction or
821 expansion of nursing facility beds or the conversion of other beds
822 to nursing facility beds in each county in the state having a need
823 for fifty (50) or more additional nursing facility beds, as shown
824 in the fiscal year 1999 State Health Plan, in the manner provided
825 in this paragraph (q). The total number of nursing facility beds
826 that may be authorized by any certificate of need authorized under
827 this paragraph (q) shall not exceed sixty (60) beds.

828 (ii) Subject to the provisions of subparagraph
829 (v), during each of the next four (4) fiscal years, the department
830 shall issue six (6) certificates of need for new nursing facility
831 beds, as follows: During fiscal years 2000, 2001 and 2002, one
832 (1) certificate of need shall be issued for new nursing facility
833 beds in the county in each of the four (4) Long-Term Care Planning
834 Districts designated in the fiscal year 1999 State Health Plan
835 that has the highest need in the district for those beds; and two
836 (2) certificates of need shall be issued for new nursing facility
837 beds in the two (2) counties from the state at large that have the
838 highest need in the state for those beds, when considering the
839 need on a statewide basis and without regard to the Long-Term Care



840 Planning Districts in which the counties are located. During
841 fiscal year 2003, one (1) certificate of need shall be issued for
842 new nursing facility beds in any county having a need for fifty
843 (50) or more additional nursing facility beds, as shown in the
844 fiscal year 1999 State Health Plan, that has not received a
845 certificate of need under this paragraph (q) during the three (3)
846 previous fiscal years. During fiscal year 2000, in addition to
847 the six (6) certificates of need authorized in this subparagraph,
848 the department also shall issue a certificate of need for new
849 nursing facility beds in Amite County and a certificate of need
850 for new nursing facility beds in Carroll County.

851 (iii) Subject to the provisions of subparagraph
852 (v), the certificate of need issued under subparagraph (ii) for
853 nursing facility beds in each Long-Term Care Planning District
854 during each fiscal year shall first be available for nursing
855 facility beds in the county in the district having the highest
856 need for those beds, as shown in the fiscal year 1999 State Health
857 Plan. If there are no applications for a certificate of need for
858 nursing facility beds in the county having the highest need for
859 those beds by the date specified by the department, then the
860 certificate of need shall be available for nursing facility beds
861 in other counties in the district in descending order of the need
862 for those beds, from the county with the second highest need to
863 the county with the lowest need, until an application is received
864 for nursing facility beds in an eligible county in the district.



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

883 (v) If a certificate of need is authorized to be
884 issued under this paragraph (q) for nursing facility beds in a
885 county on the basis of the need in the Long-Term Care Planning
886 District during any fiscal year of the four-year period, a
887 certificate of need shall not also be available under this
888 paragraph (q) for additional nursing facility beds in that county
889 on the basis of the need in the state at large, and that county



890 shall be excluded in determining which counties have the highest
891 need for nursing facility beds in the state at large for that
892 fiscal year. After a certificate of need has been issued under
893 this paragraph (q) for nursing facility beds in a county during
894 any fiscal year of the four-year period, a certificate of need
895 shall not be available again under this paragraph (q) for
896 additional nursing facility beds in that county during the
897 four-year period, and that county shall be excluded in determining
898 which counties have the highest need for nursing facility beds in
899 succeeding fiscal years.

900 (vi) If more than one (1) application is made for
901 a certificate of need for nursing home facility beds available
902 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
903 County, and one (1) of the applicants is a county-owned hospital
904 located in the county where the nursing facility beds are
905 available, the department shall give priority to the county-owned
906 hospital in granting the certificate of need if the following
907 conditions are met:

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

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



914 qualifications of the other applicants for the certificate of
915 need.

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

924 (ii) Not more than twenty (20) beds may be
925 authorized by any certificate of need issued under this paragraph
926 (r), and not more than a total of sixty (60) beds may be
927 authorized in any Long-Term Care Planning District by all
928 certificates of need issued under this paragraph (r). However,
929 the total number of beds that may be authorized by all
930 certificates of need issued under this paragraph (r) during any
931 fiscal year shall not exceed one hundred twenty (120) beds, and
932 the total number of beds that may be authorized in any Long-Term
933 Care Planning District during any fiscal year shall not exceed
934 forty (40) beds. Of the certificates of need that are issued for
935 each Long-Term Care Planning District during the next two (2)
936 fiscal years, at least one (1) shall be issued for beds in the
937 northern part of the district, at least one (1) shall be issued



938 for beds in the central part of the district, and at least one (1)
939 shall be issued for beds in the southern part of the district.

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

947 (s) The State Department of Health may issue a
948 certificate of need to a nonprofit skilled nursing facility using
949 the Green House model of skilled nursing care and located in Yazoo
950 City, Yazoo County, Mississippi, for the construction, expansion
951 or conversion of not more than nineteen (19) nursing facility
952 beds. For purposes of this paragraph (s), the provisions of
953 Section 41-7-193(1) requiring substantial compliance with the
954 projection of need as reported in the current State Health Plan
955 and the provisions of Section 41-7-197 requiring a formal
956 certificate of need hearing process are waived. There shall be no
957 prohibition or restrictions on participation in the Medicaid
958 program for the person receiving the certificate of need
959 authorized under this paragraph (s).

960 (t) The State Department of Health shall issue
961 certificates of need to the owner of a nursing facility in
962 operation at the time of Hurricane Katrina in Hancock County that



963 was not operational on December 31, 2005, because of damage
964 sustained from Hurricane Katrina to authorize the following: (i)
965 the construction of a new nursing facility in Harrison County;
966 (ii) the relocation of forty-nine (49) nursing facility beds from
967 the Hancock County facility to the new Harrison County facility;
968 (iii) the establishment of not more than twenty (20) non-Medicaid
969 nursing facility beds at the Hancock County facility; and (iv) the
970 establishment of not more than twenty (20) non-Medicaid beds at
971 the new Harrison County facility. The certificates of need that
972 authorize the non-Medicaid nursing facility beds under
973 subparagraphs (iii) and (iv) of this paragraph (t) shall be
974 subject to the following conditions: The owner of the Hancock
975 County facility and the new Harrison County facility must agree in
976 writing that no more than fifty (50) of the beds at the Hancock
977 County facility and no more than forty-nine (49) of the beds at
978 the Harrison County facility will be certified for participation
979 in the Medicaid program, and that no claim will be submitted for
980 Medicaid reimbursement for more than fifty (50) patients in the
981 Hancock County facility in any month, or for more than forty-nine
982 (49) patients in the Harrison County facility in any month, or for
983 any patient in either facility who is in a bed that is not
984 Medicaid-certified. This written agreement by the owner of the
985 nursing facilities shall be a condition of the issuance of the
986 certificates of need under this paragraph (t), and the agreement
987 shall be fully binding on any later owner or owners of either



988 facility if the ownership of either facility is transferred at any
989 time after the certificates of need are issued. After this
990 written agreement is executed, the Division of Medicaid and the
991 State Department of Health shall not certify more than fifty (50)
992 of the beds at the Hancock County facility or more than forty-nine
993 (49) of the beds at the Harrison County facility for participation
994 in the Medicaid program. If the Hancock County facility violates
995 the terms of the written agreement by admitting or keeping in the
996 facility on a regular or continuing basis more than fifty (50)
997 patients who are participating in the Medicaid program, or if the
998 Harrison County facility violates the terms of the written
999 agreement by admitting or keeping in the facility on a regular or
1000 continuing basis more than forty-nine (49) patients who are
1001 participating in the Medicaid program, the State Department of
1002 Health shall revoke the license of the facility that is in
1003 violation of the agreement, at the time that the department
1004 determines, after a hearing complying with due process, that the
1005 facility has violated the agreement.

1006 (u) The State Department of Health shall issue a
1007 certificate of need to a nonprofit venture for the establishment,
1008 construction and operation of a skilled nursing facility of not
1009 more than sixty (60) beds to provide skilled nursing care for
1010 ventilator dependent or otherwise medically dependent pediatric
1011 patients who require medical and nursing care or rehabilitation
1012 services to be located in a county in which an academic medical



1013 center and a children's hospital are located, and for any
1014 construction and for the acquisition of equipment related to those
1015 beds. The facility shall be authorized to keep such ventilator
1016 dependent or otherwise medically dependent pediatric patients
1017 beyond age twenty-one (21) in accordance with regulations of the
1018 State Board of Health. For purposes of this paragraph (u), the
1019 provisions of Section 41-7-193(1) requiring substantial compliance
1020 with the projection of need as reported in the current State
1021 Health Plan are waived, and the provisions of Section 41-7-197
1022 requiring a formal certificate of need hearing process are waived.
1023 The beds authorized by this paragraph shall be counted as
1024 pediatric skilled nursing facility beds for health planning
1025 purposes under Section 41-7-171 et seq. There shall be no
1026 prohibition of or restrictions on participation in the Medicaid
1027 program for the person receiving the certificate of need
1028 authorized by this paragraph.

1029 (3) * * * [Deleted]

1030 (4) * * * [Deleted]

1031 (5) * * * [Deleted]

1032 (6) The State Department of Health shall issue a certificate
1033 of need to a Mississippi corporation qualified to manage a
1034 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1035 Harrison County, not to exceed eighty (80) beds, including any
1036 necessary renovation or construction required for licensure and
1037 certification, provided that the recipient of the certificate of



1038 need agrees in writing that the long-term care hospital will not
1039 at any time participate in the Medicaid program (Section 43-13-101
1040 et seq.) or admit or keep any patients in the long-term care
1041 hospital who are participating in the Medicaid program. This
1042 written agreement by the recipient of the certificate of need
1043 shall be fully binding on any subsequent owner of the long-term
1044 care hospital, if the ownership of the facility is transferred at
1045 any time after the issuance of the certificate of need. Agreement
1046 that the long-term care hospital will not participate in the
1047 Medicaid program shall be a condition of the issuance of a
1048 certificate of need to any person under this subsection (6), and
1049 if such long-term care hospital at any time after the issuance of
1050 the certificate of need, regardless of the ownership of the
1051 facility, participates in the Medicaid program or admits or keeps
1052 any patients in the facility who are participating in the Medicaid
1053 program, the State Department of Health shall revoke the
1054 certificate of need, if it is still outstanding, and shall deny or
1055 revoke the license of the long-term care hospital, at the time
1056 that the department determines, after a hearing complying with due
1057 process, that the facility has failed to comply with any of the
1058 conditions upon which the certificate of need was issued, as
1059 provided in this subsection and in the written agreement by the
1060 recipient of the certificate of need. For purposes of this
1061 subsection, the provisions of Section 41-7-193(1) requiring



1062 substantial compliance with the projection of need as reported in
1063 the current State Health Plan are waived.

1064 (7) The State Department of Health may issue a certificate
1065 of need to any hospital in the state to utilize a portion of its
1066 beds for the "swing-bed" concept. Any such hospital must be in
1067 conformance with the federal regulations regarding such swing-bed
1068 concept at the time it submits its application for a certificate
1069 of need to the State Department of Health, except that such
1070 hospital may have more licensed beds or a higher average daily
1071 census (ADC) than the maximum number specified in federal
1072 regulations for participation in the swing-bed program. Any
1073 hospital meeting all federal requirements for participation in the
1074 swing-bed program which receives such certificate of need shall
1075 render services provided under the swing-bed concept to any
1076 patient eligible for Medicare (Title XVIII of the Social Security
1077 Act) who is certified by a physician to be in need of such
1078 services, and no such hospital shall permit any patient who is
1079 eligible for both Medicaid and Medicare or eligible only for
1080 Medicaid to stay in the swing beds of the hospital for more than
1081 thirty (30) days per admission unless the hospital receives prior
1082 approval for such patient from the Division of Medicaid, Office of
1083 the Governor. Any hospital having more licensed beds or a higher
1084 average daily census (ADC) than the maximum number specified in
1085 federal regulations for participation in the swing-bed program
1086 which receives such certificate of need shall develop a procedure



1087 to ensure that before a patient is allowed to stay in the swing
1088 beds of the hospital, there are no vacant nursing home beds
1089 available for that patient located within a fifty-mile radius of
1090 the hospital. When any such hospital has a patient staying in the
1091 swing beds of the hospital and the hospital receives notice from a
1092 nursing home located within such radius that there is a vacant bed
1093 available for that patient, the hospital shall transfer the
1094 patient to the nursing home within a reasonable time after receipt
1095 of the notice. Any hospital which is subject to the requirements
1096 of the two (2) preceding sentences of this subsection may be
1097 suspended from participation in the swing-bed program for a
1098 reasonable period of time by the State Department of Health if the
1099 department, after a hearing complying with due process, determines
1100 that the hospital has failed to comply with any of those
1101 requirements.

1102 (8) * * * [Deleted]

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
1123 (iv) (skilled nursing facility), * * * of Section 41-7-173(h)
1124 which is owned by the State of Mississippi and under the direction
1125 and control of the State Department of Mental Health, and the
1126 addition of new beds or the conversion of beds from one category
1127 to another in any such defined health care facility which is owned
1128 by the State of Mississippi and under the direction and control of
1129 the State Department of Mental Health, shall not require the
1130 issuance of a certificate of need under Section 41-7-171 et seq.,
1131 notwithstanding any provision in Section 41-7-171 et seq. to the
1132 contrary.

1133 (12) The new construction, renovation or expansion of or
1134 addition to any veterans homes or domiciliaries for eligible
1135 veterans of the State of Mississippi as authorized under Section



1136 35-1-19 shall not require the issuance of a certificate of need,
1137 notwithstanding any provision in Section 41-7-171 et seq. to the
1138 contrary.

1139 (13) The repair or the rebuilding of an existing, operating
1140 health care facility that sustained significant damage from a
1141 natural disaster that occurred after April 15, 2014, in an area
1142 that is proclaimed a disaster area or subject to a state of
1143 emergency by the Governor or by the President of the United States
1144 shall be exempt from all of the requirements of the Mississippi
1145 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1146 rules and regulations promulgated under that law, subject to the
1147 following conditions:

1148 (a) The repair or the rebuilding of any such damaged
1149 health care facility must be within one (1) mile of the
1150 pre-disaster location of the campus of the damaged health care
1151 facility, except that any temporary post-disaster health care
1152 facility operating location may be within five (5) miles of the
1153 pre-disaster location of the damaged health care facility;

1154 (b) The repair or the rebuilding of the damaged health
1155 care facility (i) does not increase or change the complement of
1156 its bed capacity that it had before the Governor's or the
1157 President's proclamation, (ii) does not increase or change its
1158 levels and types of health care services that it provided before
1159 the Governor's or the President's proclamation, and (iii) does not
1160 rebuild in a different county; however, this paragraph does not



1161 restrict or prevent a health care facility from decreasing its bed
1162 capacity that it had before the Governor's or the President's
1163 proclamation, or from decreasing the levels of or decreasing or
1164 eliminating the types of health care services that it provided
1165 before the Governor's or the President's proclamation, when the
1166 damaged health care facility is repaired or rebuilt;

1167 (c) The exemption from Certificate of Need Law provided
1168 under this subsection (13) is valid for only five (5) years from
1169 the date of the Governor's or the President's proclamation. If
1170 actual construction has not begun within that five-year period,
1171 the exemption provided under this subsection is inapplicable; and

1172 (d) The Division of Health Facilities Licensure and
1173 Certification of the State Department of Health shall provide the
1174 same oversight for the repair or the rebuilding of the damaged
1175 health care facility that it provides to all health care facility
1176 construction projects in the state.

1177 For the purposes of this subsection (13), "significant
1178 damage" to a health care facility means damage to the health care
1179 facility requiring an expenditure of at least One Million Dollars
1180 (\$1,000,000.00).

1181 (14) The State Department of Health shall issue a
1182 certificate of need to any hospital which is currently licensed
1183 for two hundred fifty (250) or more acute care beds and is located
1184 in any general hospital service area not having a comprehensive
1185 cancer center, for the establishment and equipping of such a



1186 center which provides facilities and services for outpatient
1187 radiation oncology therapy, outpatient medical oncology therapy,
1188 and appropriate support services including the provision of
1189 radiation therapy services. The provisions of Section 41-7-193(1)
1190 regarding substantial compliance with the projection of need as
1191 reported in the current State Health Plan are waived for the
1192 purpose of this subsection.

1193 (15) The State Department of Health may authorize the
1194 transfer of hospital beds, not to exceed sixty (60) beds, from the
1195 North Panola Community Hospital to the South Panola Community
1196 Hospital. The authorization for the transfer of those beds shall
1197 be exempt from the certificate of need review process.

1198 (16) The State Department of Health shall issue any
1199 certificates of need necessary for Mississippi State University
1200 and a public or private health care provider to jointly acquire
1201 and operate a linear accelerator and a magnetic resonance imaging
1202 unit. Those certificates of need shall cover all capital
1203 expenditures related to the project between Mississippi State
1204 University and the health care provider, including, but not
1205 limited to, the acquisition of the linear accelerator, the
1206 magnetic resonance imaging unit and other radiological modalities;
1207 the offering of linear accelerator and magnetic resonance imaging
1208 services; and the cost of construction of facilities in which to
1209 locate these services. The linear accelerator and the magnetic
1210 resonance imaging unit shall be (a) located in the City of



1211 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1212 Mississippi State University and the public or private health care
1213 provider selected by Mississippi State University through a
1214 request for proposals (RFP) process in which Mississippi State
1215 University selects, and the Board of Trustees of State
1216 Institutions of Higher Learning approves, the health care provider
1217 that makes the best overall proposal; (c) available to Mississippi
1218 State University for research purposes two-thirds (2/3) of the
1219 time that the linear accelerator and magnetic resonance imaging
1220 unit are operational; and (d) available to the public or private
1221 health care provider selected by Mississippi State University and
1222 approved by the Board of Trustees of State Institutions of Higher
1223 Learning one-third (1/3) of the time for clinical, diagnostic and
1224 treatment purposes. For purposes of this subsection, the
1225 provisions of Section 41-7-193(1) requiring substantial compliance
1226 with the projection of need as reported in the current State
1227 Health Plan are waived.

1228 (17) The State Department of Health shall issue a
1229 certificate of need for the construction of an acute care hospital
1230 in Kemper County, not to exceed twenty-five (25) beds, which shall
1231 be named the "John C. Stennis Memorial Hospital." In issuing the
1232 certificate of need under this subsection, the department shall
1233 give priority to a hospital located in Lauderdale County that has
1234 two hundred fifteen (215) beds. For purposes of this subsection,
1235 the provisions of Section 41-7-193(1) requiring substantial



1236 compliance with the projection of need as reported in the current
1237 State Health Plan and the provisions of Section 41-7-197 requiring
1238 a formal certificate of need hearing process are waived. There
1239 shall be no prohibition or restrictions on participation in the
1240 Medicaid program (Section 43-13-101 et seq.) for the person or
1241 entity receiving the certificate of need authorized under this
1242 subsection or for the beds constructed under the authority of that
1243 certificate of need.

1244 (18) The planning, design, construction, renovation,
1245 addition, furnishing and equipping of a clinical research unit at
1246 any health care facility defined in Section 41-7-173(h) that is
1247 under the direction and control of the University of Mississippi
1248 Medical Center and located in Jackson, Mississippi, and the
1249 addition of new beds or the conversion of beds from one (1)
1250 category to another in any such clinical research unit, shall not
1251 require the issuance of a certificate of need under Section
1252 41-7-171 et seq., notwithstanding any provision in Section
1253 41-7-171 et seq. to the contrary.

1254 (19) [Repealed]

1255 (20) Nothing in this section or in any other provision of
1256 Section 41-7-171 et seq. shall prevent any nursing facility from
1257 designating an appropriate number of existing beds in the facility
1258 as beds for providing care exclusively to patients with
1259 Alzheimer's disease.



1260 (21) Nothing in this section or any other provision of
1261 Section 41-7-171 et seq. shall prevent any health care facility
1262 from the new construction, renovation, conversion or expansion of
1263 new beds in the facility designated as intensive care units,
1264 negative pressure rooms, or isolation rooms pursuant to the
1265 provisions of Sections 41-14-1 through 41-14-11, or Section
1266 41-14-31. For purposes of this subsection, the provisions of
1267 Section 41-7-193(1) requiring substantial compliance with the
1268 projection of need as reported in the current State Health Plan
1269 and the provisions of Section 41-7-197 requiring a formal
1270 certificate of need hearing process are waived.

1271 **SECTION 3.** This act shall take effect and be in force from
1272 and after July 1, 2024.

