

By: Representative Scott

To: Public Health and Human Services

HOUSE BILL NO. 956

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE MULTISPECIALTY
3 CERTIFICATES OF NEED TO AN EXISTING AMBULATORY SURGICAL CENTER;
4 AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the
9 following activities without obtaining the required certificate of
10 need:

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

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



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

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



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

- 49 (i) Open-heart surgery services;
- 50 (ii) Cardiac catheterization services;
- 51 (iii) Comprehensive inpatient rehabilitation
52 services;
- 53 (iv) Licensed psychiatric services;
- 54 (v) Licensed chemical dependency services;
- 55 (vi) Radiation therapy services;
- 56 (vii) Diagnostic imaging services of an invasive
57 nature, i.e. invasive digital angiography;
- 58 (viii) Nursing home care as defined in
59 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 60 (ix) Home health services;
- 61 (x) Swing-bed services;
- 62 (xi) Ambulatory surgical services;
- 63 (xii) Magnetic resonance imaging services;
- 64 (xiii) [Deleted]
- 65 (xiv) Long-term care hospital services;
- 66 (xv) Positron emission tomography (PET) services;

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



70 expenditure by or on behalf of a health care facility, (i) is to a
71 physical facility or site within five thousand two hundred eighty
72 (5,280) feet from the main entrance of the health care facility
73 where the health care service is located, or (ii) is the result of
74 an order of a court of appropriate jurisdiction or a result of
75 pending litigation in such court, or by order of the State
76 Department of Health, or by order of any other agency or legal
77 entity of the state, the federal government, or any political
78 subdivision of either, whose order is also approved by the State
79 Department of Health;

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

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



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

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

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

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

113 (k) The contracting of a health care facility as
114 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
115 to establish a home office, subunit, or branch office in the space
116 operated as a health care facility through a formal arrangement
117 with an existing health care facility as defined in subparagraph
118 (ix) of Section 41-7-173(h);



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

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

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

135 (a) The department may issue a certificate of need to
136 any person proposing the new construction of any health care
137 facility defined in subparagraphs (iv) and (vi) of Section
138 41-7-173(h) as part of a life care retirement facility, in any
139 county bordering on the Gulf of Mexico in which is located a
140 National Aeronautics and Space Administration facility, not to
141 exceed forty (40) beds. From and after July 1, 1999, there shall
142 be no prohibition or restrictions on participation in the Medicaid



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

312 (m) The State Department of Health may issue a
313 certificate of need to a county-owned hospital in the Second
314 Judicial District of Panola County for the conversion of not more
315 than seventy-two (72) hospital beds to nursing facility beds,
316 provided that the recipient of the certificate of need agrees in
317 writing that none of the beds at the nursing facility will be



318 certified for participation in the Medicaid program (Section
319 43-13-101 et seq.), and that no claim will be submitted for
320 Medicaid reimbursement in the nursing facility in any day or for
321 any patient in the nursing facility. This written agreement by
322 the recipient of the certificate of need shall be a condition of
323 the issuance of the certificate of need under this paragraph, and
324 the agreement shall be fully binding on any subsequent owner of
325 the nursing facility if the ownership of the nursing facility is
326 transferred at any time after the issuance of the certificate of
327 need. After this written agreement is executed, the Division of
328 Medicaid and the State Department of Health shall not certify any
329 of the beds in the nursing facility for participation in the
330 Medicaid program. If the nursing facility violates the terms of
331 the written agreement by admitting or keeping in the nursing
332 facility on a regular or continuing basis any patients who are
333 participating in the Medicaid program, the State Department of
334 Health shall revoke the license of the nursing facility, at the
335 time that the department determines, after a hearing complying
336 with due process, that the nursing facility has violated the
337 condition upon which the certificate of need was issued, as
338 provided in this paragraph and in the written agreement. If the
339 certificate of need authorized under this paragraph is not issued
340 within twelve (12) months after July 1, 2001, the department shall
341 deny the application for the certificate of need and shall not
342 issue the certificate of need at any time after the twelve-month



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

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



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



393 issue a license for the nursing facility at any time after the
394 eighteen-month period. However, if the issuance of the
395 certificate of need is contested, the department shall require
396 substantial construction of the nursing facility beds within six
397 (6) months after final adjudication on the issuance of the
398 certificate of need.

399 (o) The department may issue a certificate of need for
400 the new construction, addition or conversion of skilled nursing
401 facility beds in Leake County, provided that the recipient of the
402 certificate of need agrees in writing that the skilled nursing
403 facility will not at any time participate in the Medicaid program
404 (Section 43-13-101 et seq.) or admit or keep any patients in the
405 skilled nursing facility who are participating in the Medicaid
406 program. This written agreement by the recipient of the
407 certificate of need shall be fully binding on any subsequent owner
408 of the skilled nursing facility, if the ownership of the facility
409 is transferred at any time after the issuance of the certificate
410 of need. Agreement that the skilled nursing facility will not
411 participate in the Medicaid program shall be a condition of the
412 issuance of a certificate of need to any person under this
413 paragraph (o), and if such skilled nursing facility at any time
414 after the issuance of the certificate of need, regardless of the
415 ownership of the facility, participates in the Medicaid program or
416 admits or keeps any patients in the facility who are participating
417 in the Medicaid program, the State Department of Health shall



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



443 (p) The department may issue a certificate of need for
444 the construction of a municipally owned nursing facility within
445 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
446 beds, provided that the recipient of the certificate of need
447 agrees in writing that the skilled nursing facility will not at
448 any time participate in the Medicaid program (Section 43-13-101 et
449 seq.) or admit or keep any patients in the skilled nursing
450 facility who are participating in the Medicaid program. This
451 written agreement by the recipient of the certificate of need
452 shall be fully binding on any subsequent owner of the skilled
453 nursing facility, if the ownership of the facility is transferred
454 at any time after the issuance of the certificate of need.
455 Agreement that the skilled nursing facility will not participate
456 in the Medicaid program shall be a condition of the issuance of a
457 certificate of need to any person under this paragraph (p), and if
458 such skilled nursing facility at any time after the issuance of
459 the certificate of need, regardless of the ownership of the
460 facility, participates in the Medicaid program or admits or keeps
461 any patients in the facility who are participating in the Medicaid
462 program, the State Department of Health shall revoke the
463 certificate of need, if it is still outstanding, and shall deny or
464 revoke the license of the skilled nursing facility, at the time
465 that the department determines, after a hearing complying with due
466 process, that the facility has failed to comply with any of the
467 conditions upon which the certificate of need was issued, as



468 provided in this paragraph and in the written agreement by the
469 recipient of the certificate of need. The provision of Section
470 41-7-193(1) regarding substantial compliance of the projection of
471 need as reported in the current State Health Plan is waived for
472 the purposes of this paragraph. If the certificate of need
473 authorized under this paragraph is not issued within twelve (12)
474 months after July 1, 1998, the department shall deny the
475 application for the certificate of need and shall not issue the
476 certificate of need at any time after the twelve-month period,
477 unless the issuance is contested. If the certificate of need is
478 issued and substantial construction of the nursing facility beds
479 has not commenced within eighteen (18) months after July 1, 1998,
480 the State Department of Health, after a hearing complying with due
481 process, shall revoke the certificate of need if it is still
482 outstanding, and the department shall not issue a license for the
483 nursing facility at any time after the eighteen-month period.
484 However, if the issuance of the certificate of need is contested,
485 the department shall require substantial construction of the
486 nursing facility beds within six (6) months after final
487 adjudication on the issuance of the certificate of need.

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



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

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



518 the department also shall issue a certificate of need for new
519 nursing facility beds in Amite County and a certificate of need
520 for new nursing facility beds in Carroll County.

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

535 (iv) Subject to the provisions of subparagraph
536 (v), the certificate of need issued under subparagraph (ii) for
537 nursing facility beds in the two (2) counties from the state at
538 large during each fiscal year shall first be available for nursing
539 facility beds in the two (2) counties that have the highest need
540 in the state for those beds, as shown in the fiscal year 1999
541 State Health Plan, when considering the need on a statewide basis
542 and without regard to the Long-Term Care Planning Districts in



543 which the counties are located. If there are no applications for
544 a certificate of need for nursing facility beds in either of the
545 two (2) counties having the highest need for those beds on a
546 statewide basis by the date specified by the department, then the
547 certificate of need shall be available for nursing facility beds
548 in other counties from the state at large in descending order of
549 the need for those beds on a statewide basis, from the county with
550 the second highest need to the county with the lowest need, until
551 an application is received for nursing facility beds in an
552 eligible county from the state at large.

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



568 which counties have the highest need for nursing facility beds in
569 succeeding fiscal years.

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

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

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

586 (r) (i) Beginning on July 1, 1999, the State
587 Department of Health shall issue certificates of need during each
588 of the next two (2) fiscal years for the construction or expansion
589 of nursing facility beds or the conversion of other beds to
590 nursing facility beds in each of the four (4) Long-Term Care
591 Planning Districts designated in the fiscal year 1999 State Health



592 Plan, to provide care exclusively to patients with Alzheimer's
593 disease.

594 (ii) Not more than twenty (20) beds may be
595 authorized by any certificate of need issued under this paragraph
596 (r), and not more than a total of sixty (60) beds may be
597 authorized in any Long-Term Care Planning District by all
598 certificates of need issued under this paragraph (r). However,
599 the total number of beds that may be authorized by all
600 certificates of need issued under this paragraph (r) during any
601 fiscal year shall not exceed one hundred twenty (120) beds, and
602 the total number of beds that may be authorized in any Long-Term
603 Care Planning District during any fiscal year shall not exceed
604 forty (40) beds. Of the certificates of need that are issued for
605 each Long-Term Care Planning District during the next two (2)
606 fiscal years, at least one (1) shall be issued for beds in the
607 northern part of the district, at least one (1) shall be issued
608 for beds in the central part of the district, and at least one (1)
609 shall be issued for beds in the southern part of the district.

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



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

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



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



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

676 (u) The State Department of Health shall issue a
677 certificate of need to a nonprofit venture for the establishment,
678 construction and operation of a skilled nursing facility of not
679 more than sixty (60) beds to provide skilled nursing care for
680 ventilator dependent or otherwise medically dependent pediatric
681 patients who require medical and nursing care or rehabilitation
682 services to be located in a county in which an academic medical
683 center and a children's hospital are located, and for any
684 construction and for the acquisition of equipment related to those
685 beds. The facility shall be authorized to keep such ventilator
686 dependent or otherwise medically dependent pediatric patients
687 beyond age twenty-one (21) in accordance with regulations of the
688 State Board of Health. For purposes of this paragraph (u), the
689 provisions of Section 41-7-193(1) requiring substantial compliance
690 with the projection of need as reported in the current State
691 Health Plan are waived, and the provisions of Section 41-7-197



692 requiring a formal certificate of need hearing process are waived.
693 The beds authorized by this paragraph shall be counted as
694 pediatric skilled nursing facility beds for health planning
695 purposes under Section 41-7-171 et seq. There shall be no
696 prohibition of or restrictions on participation in the Medicaid
697 program for the person receiving the certificate of need
698 authorized by this paragraph.

699 (3) The State Department of Health may grant approval for
700 and issue certificates of need to any person proposing the new
701 construction of, addition to, conversion of beds of or expansion
702 of any health care facility defined in subparagraph (x)
703 (psychiatric residential treatment facility) of Section
704 41-7-173(h). The total number of beds which may be authorized by
705 such certificates of need shall not exceed three hundred
706 thirty-four (334) beds for the entire state.

707 (a) Of the total number of beds authorized under this
708 subsection, the department shall issue a certificate of need to a
709 privately owned psychiatric residential treatment facility in
710 Simpson County for the conversion of sixteen (16) intermediate
711 care facility for the mentally retarded (ICF-MR) beds to
712 psychiatric residential treatment facility beds, provided that
713 facility agrees in writing that the facility shall give priority
714 for the use of those sixteen (16) beds to Mississippi residents
715 who are presently being treated in out-of-state facilities.



716 (b) Of the total number of beds authorized under this
717 subsection, the department may issue a certificate or certificates
718 of need for the construction or expansion of psychiatric
719 residential treatment facility beds or the conversion of other
720 beds to psychiatric residential treatment facility beds in Warren
721 County, not to exceed sixty (60) psychiatric residential treatment
722 facility beds, provided that the facility agrees in writing that
723 no more than thirty (30) of the beds at the psychiatric
724 residential treatment facility will be certified for participation
725 in the Medicaid program (Section 43-13-101 et seq.) for the use of
726 any patients other than those who are participating only in the
727 Medicaid program of another state, and that no claim will be
728 submitted to the Division of Medicaid for Medicaid reimbursement
729 for more than thirty (30) patients in the psychiatric residential
730 treatment facility in any day or for any patient in the
731 psychiatric residential treatment facility who is in a bed that is
732 not Medicaid-certified. This written agreement by the recipient
733 of the certificate of need shall be a condition of the issuance of
734 the certificate of need under this paragraph, and the agreement
735 shall be fully binding on any subsequent owner of the psychiatric
736 residential treatment facility if the ownership of the facility is
737 transferred at any time after the issuance of the certificate of
738 need. After this written agreement is executed, the Division of
739 Medicaid and the State Department of Health shall not certify more
740 than thirty (30) of the beds in the psychiatric residential



741 treatment facility for participation in the Medicaid program for
742 the use of any patients other than those who are participating
743 only in the Medicaid program of another state. If the psychiatric
744 residential treatment facility violates the terms of the written
745 agreement by admitting or keeping in the facility on a regular or
746 continuing basis more than thirty (30) patients who are
747 participating in the Mississippi Medicaid program, the State
748 Department of Health shall revoke the license of the facility, at
749 the time that the department determines, after a hearing complying
750 with due process, that the facility has violated the condition
751 upon which the certificate of need was issued, as provided in this
752 paragraph and in the written agreement.

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

757 (c) Of the total number of beds authorized under this
758 subsection, the department shall issue a certificate of need to a
759 hospital currently operating Medicaid-certified acute psychiatric
760 beds for adolescents in DeSoto County, for the establishment of a
761 forty-bed psychiatric residential treatment facility in DeSoto
762 County, provided that the hospital agrees in writing (i) that the
763 hospital shall give priority for the use of those forty (40) beds
764 to Mississippi residents who are presently being treated in
765 out-of-state facilities, and (ii) that no more than fifteen (15)



766 of the beds at the psychiatric residential treatment facility will
767 be certified for participation in the Medicaid program (Section
768 43-13-101 et seq.), and that no claim will be submitted for
769 Medicaid reimbursement for more than fifteen (15) patients in the
770 psychiatric residential treatment facility in any day or for any
771 patient in the psychiatric residential treatment facility who is
772 in a bed that is not Medicaid-certified. This written agreement
773 by the recipient of the certificate of need shall be a condition
774 of the issuance of the certificate of need under this paragraph,
775 and the agreement shall be fully binding on any subsequent owner
776 of the psychiatric residential treatment facility if the ownership
777 of the facility is transferred at any time after the issuance of
778 the certificate of need. After this written agreement is
779 executed, the Division of Medicaid and the State Department of
780 Health shall not certify more than fifteen (15) of the beds in the
781 psychiatric residential treatment facility for participation in
782 the Medicaid program. If the psychiatric residential treatment
783 facility violates the terms of the written agreement by admitting
784 or keeping in the facility on a regular or continuing basis more
785 than fifteen (15) patients who are participating in the Medicaid
786 program, the State Department of Health shall revoke the license
787 of the facility, at the time that the department determines, after
788 a hearing complying with due process, that the facility has
789 violated the condition upon which the certificate of need was



790 issued, as provided in this paragraph and in the written
791 agreement.

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

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

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



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

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



840 of any other health care facility to a hospital, psychiatric
841 hospital or chemical dependency hospital that will contain any
842 child/adolescent psychiatric or child/adolescent chemical
843 dependency beds. There shall be no prohibition or restrictions on
844 participation in the Medicaid program (Section 43-13-101 et seq.)
845 for the person(s) receiving the certificate(s) of need authorized
846 under this paragraph (a) or for the beds converted pursuant to the
847 authority of that certificate of need. In issuing any new
848 certificate of need for any child/adolescent psychiatric or
849 child/adolescent chemical dependency beds, either by new
850 construction or conversion of beds of another category, the
851 department shall give preference to beds which will be located in
852 an area of the state which does not have such beds located in it,
853 and to a location more than sixty-five (65) miles from existing
854 beds. Upon receiving 2020 census data, the department may amend
855 the State Health Plan regarding child/adolescent psychiatric and
856 child/adolescent chemical dependency beds to reflect the need
857 based on new census data.

858 (i) [Deleted]

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



865 Health Plan are waived. The total number of beds that may be
866 authorized under authority of this subparagraph shall not exceed
867 twenty (20) beds. There shall be no prohibition or restrictions
868 on participation in the Medicaid program (Section 43-13-101 et
869 seq.) for the hospital receiving the certificate of need
870 authorized under this subparagraph or for the beds converted
871 pursuant to the authority of that certificate of need.

872 (iii) The department may issue a certificate or
873 certificates of need for the construction or expansion of
874 child/adolescent psychiatric beds or the conversion of other beds
875 to child/adolescent psychiatric beds in Warren County. For
876 purposes of this subparagraph (iii), the provisions of Section
877 41-7-193(1) requiring substantial compliance with the projection
878 of need as reported in the current State Health Plan are waived.
879 The total number of beds that may be authorized under the
880 authority of this subparagraph shall not exceed twenty (20) beds.
881 There shall be no prohibition or restrictions on participation in
882 the Medicaid program (Section 43-13-101 et seq.) for the person
883 receiving the certificate of need authorized under this
884 subparagraph or for the beds converted pursuant to the authority
885 of that certificate of need.

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



890 the certificate of need that was previously issued under this
891 subparagraph shall expire. If the previously issued certificate
892 of need expires, the department may accept applications for
893 issuance of another certificate of need for the beds authorized
894 under this subparagraph, and may issue a certificate of need to
895 authorize the construction, expansion or conversion of the beds
896 authorized under this subparagraph.

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

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



915 conversion of other beds to adult psychiatric beds, not to exceed
916 twenty (20) beds, provided that the recipient of the certificate
917 of need agrees in writing that the adult psychiatric beds will not
918 at any time be certified for participation in the Medicaid program
919 and that the hospital will not admit or keep any patients who are
920 participating in the Medicaid program in any of such adult
921 psychiatric beds. This written agreement by the recipient of the
922 certificate of need shall be fully binding on any subsequent owner
923 of the hospital if the ownership of the hospital is transferred at
924 any time after the issuance of the certificate of need. Agreement
925 that the adult psychiatric beds will not be certified for
926 participation in the Medicaid program shall be a condition of the
927 issuance of a certificate of need to any person under this
928 subparagraph (v), and if such hospital at any time after the
929 issuance of the certificate of need, regardless of the ownership
930 of the hospital, has any of such adult psychiatric beds certified
931 for participation in the Medicaid program or admits or keeps any
932 Medicaid patients in such adult psychiatric beds, the State
933 Department of Health shall revoke the certificate of need, if it
934 is still outstanding, and shall deny or revoke the license of the
935 hospital at the time that the department determines, after a
936 hearing complying with due process, that the hospital has failed
937 to comply with any of the conditions upon which the certificate of
938 need was issued, as provided in this subparagraph and in the
939 written agreement by the recipient of the certificate of need.



940 (vi) The department may issue a certificate or
941 certificates of need for the expansion of child psychiatric beds
942 or the conversion of other beds to child psychiatric beds at the
943 University of Mississippi Medical Center. For purposes of this
944 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
945 substantial compliance with the projection of need as reported in
946 the current State Health Plan are waived. The total number of
947 beds that may be authorized under the authority of this
948 subparagraph shall not exceed fifteen (15) beds. There shall be
949 no prohibition or restrictions on participation in the Medicaid
950 program (Section 43-13-101 et seq.) for the hospital receiving the
951 certificate of need authorized under this subparagraph or for the
952 beds converted pursuant to the authority of that certificate of
953 need.

954 (b) From and after July 1, 1990, no hospital,
955 psychiatric hospital or chemical dependency hospital shall be
956 authorized to add any child/adolescent psychiatric or
957 child/adolescent chemical dependency beds or convert any beds of
958 another category to child/adolescent psychiatric or
959 child/adolescent chemical dependency beds without a certificate of
960 need under the authority of subsection (1)(c) and subsection
961 (4)(a) of this section.

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



965 (6) The State Department of Health shall issue a certificate
966 of need to a Mississippi corporation qualified to manage a
967 long-term care hospital as defined in Section 41-7-173(h)(xii) in
968 Harrison County, not to exceed eighty (80) beds, including any
969 necessary renovation or construction required for licensure and
970 certification, provided that the recipient of the certificate of
971 need agrees in writing that the long-term care hospital will not
972 at any time participate in the Medicaid program (Section 43-13-101
973 et seq.) or admit or keep any patients in the long-term care
974 hospital who are participating in the Medicaid program. This
975 written agreement by the recipient of the certificate of need
976 shall be fully binding on any subsequent owner of the long-term
977 care hospital, if the ownership of the facility is transferred at
978 any time after the issuance of the certificate of need. Agreement
979 that the long-term care hospital will not participate in the
980 Medicaid program shall be a condition of the issuance of a
981 certificate of need to any person under this subsection (6), and
982 if such long-term care hospital at any time after the issuance of
983 the certificate of need, regardless of the ownership of the
984 facility, participates in the Medicaid program or admits or keeps
985 any patients in the facility who are participating in the Medicaid
986 program, the State Department of Health shall revoke the
987 certificate of need, if it is still outstanding, and shall deny or
988 revoke the license of the long-term care hospital, at the time
989 that the department determines, after a hearing complying with due



990 process, that the facility has failed to comply with any of the
991 conditions upon which the certificate of need was issued, as
992 provided in this subsection and in the written agreement by the
993 recipient of the certificate of need. For purposes of this
994 subsection, the provisions of Section 41-7-193(1) requiring
995 substantial compliance with the projection of need as reported in
996 the current State Health Plan are waived.

997 (7) The State Department of Health may issue a certificate
998 of need to any hospital in the state to utilize a portion of its
999 beds for the "swing-bed" concept. Any such hospital must be in
1000 conformance with the federal regulations regarding such swing-bed
1001 concept at the time it submits its application for a certificate
1002 of need to the State Department of Health, except that such
1003 hospital may have more licensed beds or a higher average daily
1004 census (ADC) than the maximum number specified in federal
1005 regulations for participation in the swing-bed program. Any
1006 hospital meeting all federal requirements for participation in the
1007 swing-bed program which receives such certificate of need shall
1008 render services provided under the swing-bed concept to any
1009 patient eligible for Medicare (Title XVIII of the Social Security
1010 Act) who is certified by a physician to be in need of such
1011 services, and no such hospital shall permit any patient who is
1012 eligible for both Medicaid and Medicare or eligible only for
1013 Medicaid to stay in the swing beds of the hospital for more than
1014 thirty (30) days per admission unless the hospital receives prior



1015 approval for such patient from the Division of Medicaid, Office of
1016 the Governor. Any hospital having more licensed beds or a higher
1017 average daily census (ADC) than the maximum number specified in
1018 federal regulations for participation in the swing-bed program
1019 which receives such certificate of need shall develop a procedure
1020 to ensure that before a patient is allowed to stay in the swing
1021 beds of the hospital, there are no vacant nursing home beds
1022 available for that patient located within a fifty-mile radius of
1023 the hospital. When any such hospital has a patient staying in the
1024 swing beds of the hospital and the hospital receives notice from a
1025 nursing home located within such radius that there is a vacant bed
1026 available for that patient, the hospital shall transfer the
1027 patient to the nursing home within a reasonable time after receipt
1028 of the notice. Any hospital which is subject to the requirements
1029 of the two (2) preceding sentences of this subsection may be
1030 suspended from participation in the swing-bed program for a
1031 reasonable period of time by the State Department of Health if the
1032 department, after a hearing complying with due process, determines
1033 that the hospital has failed to comply with any of those
1034 requirements.

1035 (8) The Department of Health shall not grant approval for or
1036 issue a certificate of need to any person proposing the new
1037 construction of, addition to or expansion of a health care
1038 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1039 except as hereinafter provided: The department may issue a



1040 certificate of need to a nonprofit corporation located in Madison
1041 County, Mississippi, for the construction, expansion or conversion
1042 of not more than twenty (20) beds in a community living program
1043 for developmentally disabled adults in a facility as defined in
1044 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1045 subsection (8), the provisions of Section 41-7-193(1) requiring
1046 substantial compliance with the projection of need as reported in
1047 the current State Health Plan and the provisions of Section
1048 41-7-197 requiring a formal certificate of need hearing process
1049 are waived. There shall be no prohibition or restrictions on
1050 participation in the Medicaid program for the person receiving the
1051 certificate of need authorized under this subsection (8).

1052 (9) The Department of Health shall not grant approval for or
1053 issue a certificate of need to any person proposing the
1054 establishment of, or expansion of the currently approved territory
1055 of, or the contracting to establish a home office, subunit or
1056 branch office within the space operated as a health care facility
1057 as defined in Section 41-7-173(h) (i) through (viii) by a health
1058 care facility as defined in subparagraph (ix) of Section
1059 41-7-173(h).

1060 (10) Health care facilities owned and/or operated by the
1061 state or its agencies are exempt from the restraints in this
1062 section against issuance of a certificate of need if such addition
1063 or expansion consists of repairing or renovation necessary to
1064 comply with the state licensure law. This exception shall not



1065 apply to the new construction of any building by such state
1066 facility. This exception shall not apply to any health care
1067 facilities owned and/or operated by counties, municipalities,
1068 districts, unincorporated areas, other defined persons, or any
1069 combination thereof.

1070 (11) The new construction, renovation or expansion of or
1071 addition to any health care facility defined in subparagraph (ii)
1072 (psychiatric hospital), subparagraph (iv) (skilled nursing
1073 facility), subparagraph (vi) (intermediate care facility),
1074 subparagraph (viii) (intermediate care facility for the mentally
1075 retarded) and subparagraph (x) (psychiatric residential treatment
1076 facility) of Section 41-7-173(h) which is owned by the State of
1077 Mississippi and under the direction and control of the State
1078 Department of Mental Health, and the addition of new beds or the
1079 conversion of beds from one category to another in any such
1080 defined health care facility which is owned by the State of
1081 Mississippi and under the direction and control of the State
1082 Department of Mental Health, shall not require the issuance of a
1083 certificate of need under Section 41-7-171 et seq.,
1084 notwithstanding any provision in Section 41-7-171 et seq. to the
1085 contrary.

1086 (12) The new construction, renovation or expansion of or
1087 addition to any veterans homes or domiciliaries for eligible
1088 veterans of the State of Mississippi as authorized under Section
1089 35-1-19 shall not require the issuance of a certificate of need,



1090 notwithstanding any provision in Section 41-7-171 et seq. to the
1091 contrary.

1092 (13) The repair or the rebuilding of an existing, operating
1093 health care facility that sustained significant damage from a
1094 natural disaster that occurred after April 15, 2014, in an area
1095 that is proclaimed a disaster area or subject to a state of
1096 emergency by the Governor or by the President of the United States
1097 shall be exempt from all of the requirements of the Mississippi
1098 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1099 rules and regulations promulgated under that law, subject to the
1100 following conditions:

1101 (a) The repair or the rebuilding of any such damaged
1102 health care facility must be within one (1) mile of the
1103 pre-disaster location of the campus of the damaged health care
1104 facility, except that any temporary post-disaster health care
1105 facility operating location may be within five (5) miles of the
1106 pre-disaster location of the damaged health care facility;

1107 (b) The repair or the rebuilding of the damaged health
1108 care facility (i) does not increase or change the complement of
1109 its bed capacity that it had before the Governor's or the
1110 President's proclamation, (ii) does not increase or change its
1111 levels and types of health care services that it provided before
1112 the Governor's or the President's proclamation, and (iii) does not
1113 rebuild in a different county; however, this paragraph does not
1114 restrict or prevent a health care facility from decreasing its bed



1115 capacity that it had before the Governor's or the President's
1116 proclamation, or from decreasing the levels of or decreasing or
1117 eliminating the types of health care services that it provided
1118 before the Governor's or the President's proclamation, when the
1119 damaged health care facility is repaired or rebuilt;

1120 (c) The exemption from Certificate of Need Law provided
1121 under this subsection (13) is valid for only five (5) years from
1122 the date of the Governor's or the President's proclamation. If
1123 actual construction has not begun within that five-year period,
1124 the exemption provided under this subsection is inapplicable; and

1125 (d) The Division of Health Facilities Licensure and
1126 Certification of the State Department of Health shall provide the
1127 same oversight for the repair or the rebuilding of the damaged
1128 health care facility that it provides to all health care facility
1129 construction projects in the state.

1130 For the purposes of this subsection (13), "significant
1131 damage" to a health care facility means damage to the health care
1132 facility requiring an expenditure of at least One Million Dollars
1133 (\$1,000,000.00).

1134 (14) The State Department of Health shall issue a
1135 certificate of need to any hospital which is currently licensed
1136 for two hundred fifty (250) or more acute care beds and is located
1137 in any general hospital service area not having a comprehensive
1138 cancer center, for the establishment and equipping of such a
1139 center which provides facilities and services for outpatient



1140 radiation oncology therapy, outpatient medical oncology therapy,
1141 and appropriate support services including the provision of
1142 radiation therapy services. The provisions of Section 41-7-193(1)
1143 regarding substantial compliance with the projection of need as
1144 reported in the current State Health Plan are waived for the
1145 purpose of this subsection.

1146 (15) The State Department of Health may authorize the
1147 transfer of hospital beds, not to exceed sixty (60) beds, from the
1148 North Panola Community Hospital to the South Panola Community
1149 Hospital. The authorization for the transfer of those beds shall
1150 be exempt from the certificate of need review process.

1151 (16) The State Department of Health shall issue any
1152 certificates of need necessary for Mississippi State University
1153 and a public or private health care provider to jointly acquire
1154 and operate a linear accelerator and a magnetic resonance imaging
1155 unit. Those certificates of need shall cover all capital
1156 expenditures related to the project between Mississippi State
1157 University and the health care provider, including, but not
1158 limited to, the acquisition of the linear accelerator, the
1159 magnetic resonance imaging unit and other radiological modalities;
1160 the offering of linear accelerator and magnetic resonance imaging
1161 services; and the cost of construction of facilities in which to
1162 locate these services. The linear accelerator and the magnetic
1163 resonance imaging unit shall be (a) located in the City of
1164 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by



1165 Mississippi State University and the public or private health care
1166 provider selected by Mississippi State University through a
1167 request for proposals (RFP) process in which Mississippi State
1168 University selects, and the Board of Trustees of State
1169 Institutions of Higher Learning approves, the health care provider
1170 that makes the best overall proposal; (c) available to Mississippi
1171 State University for research purposes two-thirds (2/3) of the
1172 time that the linear accelerator and magnetic resonance imaging
1173 unit are operational; and (d) available to the public or private
1174 health care provider selected by Mississippi State University and
1175 approved by the Board of Trustees of State Institutions of Higher
1176 Learning one-third (1/3) of the time for clinical, diagnostic and
1177 treatment purposes. For purposes of this subsection, the
1178 provisions of Section 41-7-193(1) requiring substantial compliance
1179 with the projection of need as reported in the current State
1180 Health Plan are waived.

1181 (17) The State Department of Health shall issue a
1182 certificate of need for the construction of an acute care hospital
1183 in Kemper County, not to exceed twenty-five (25) beds, which shall
1184 be named the "John C. Stennis Memorial Hospital." In issuing the
1185 certificate of need under this subsection, the department shall
1186 give priority to a hospital located in Lauderdale County that has
1187 two hundred fifteen (215) beds. For purposes of this subsection,
1188 the provisions of Section 41-7-193(1) requiring substantial
1189 compliance with the projection of need as reported in the current



1190 State Health Plan and the provisions of Section 41-7-197 requiring
1191 a formal certificate of need hearing process are waived. There
1192 shall be no prohibition or restrictions on participation in the
1193 Medicaid program (Section 43-13-101 et seq.) for the person or
1194 entity receiving the certificate of need authorized under this
1195 subsection or for the beds constructed under the authority of that
1196 certificate of need.

1197 (18) The planning, design, construction, renovation,
1198 addition, furnishing and equipping of a clinical research unit at
1199 any health care facility defined in Section 41-7-173(h) that is
1200 under the direction and control of the University of Mississippi
1201 Medical Center and located in Jackson, Mississippi, and the
1202 addition of new beds or the conversion of beds from one (1)
1203 category to another in any such clinical research unit, shall not
1204 require the issuance of a certificate of need under Section
1205 41-7-171 et seq., notwithstanding any provision in Section
1206 41-7-171 et seq. to the contrary.

1207 (19) [Repealed]

1208 (20) The department shall issue multispecialty certificates
1209 of need to include two (2) OR-multispecialty rooms in Canton,
1210 Mississippi, to reopen the ambulatory surgery center located at
1211 1883 Highway 43 in Canton. These certificates shall not be moved
1212 or relocated from this facility.

1213 (* * *21) Nothing in this section or in any other provision
1214 of Section 41-7-171 et seq. shall prevent any nursing facility



1215 from designating an appropriate number of existing beds in the
1216 facility as beds for providing care exclusively to patients with
1217 Alzheimer's disease.

1218 (* * *22) Nothing in this section or any other provision of
1219 Section 41-7-171 et seq. shall prevent any health care facility
1220 from the new construction, renovation, conversion or expansion of
1221 new beds in the facility designated as intensive care units,
1222 negative pressure rooms, or isolation rooms pursuant to the
1223 provisions of Sections 41-14-1 through 41-14-11, or Section
1224 41-14-31. For purposes of this subsection, the provisions of
1225 Section 41-7-193(1) requiring substantial compliance with the
1226 projection of need as reported in the current State Health Plan
1227 and the provisions of Section 41-7-197 requiring a formal
1228 certificate of need hearing process are waived.

1229 **SECTION 2.** This act shall take effect and be in force from
1230 and after July 1, 2024.

