

By: Representative Yancey

To: Public Health and Human Services

HOUSE BILL NO. 1412

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE LICENSED ACUTE CARE HOSPITALS THAT ARE LOCATED IN
3 RURAL, MEDICALLY UNDERSERVED AREAS TO EXPAND THE CURRENT SERVICE
4 LINES OF THE HOSPITAL INTO ANY OTHER LOCATIONS WITHIN THE COUNTY
5 IN WHICH THE HOSPITAL IS LOCATED OR INTO OTHER LOCATIONS IN
6 CONTIGUOUS COUNTIES WITHIN A RADIUS OF FIFTY MILES FROM THE MAIN
7 FACILITY OF THE HOSPITAL, WITHOUT HAVING TO OBTAIN A CERTIFICATE
8 OF NEED; AND FOR RELATED PURPOSES.

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

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

12 41-7-191. (1) Except as otherwise provided in this section,
13 no person shall engage in any of the following activities without
14 obtaining the required certificate of need:

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

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



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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

140 (a) The department may issue a certificate of need to
141 any person proposing the new construction of any health care
142 facility defined in subparagraphs (iv) and (vi) of Section
143 41-7-173(h) as part of a life care retirement facility, in any
144 county bordering on the Gulf of Mexico in which is located a
145 National Aeronautics and Space Administration facility, not to
146 exceed forty (40) beds. From and after July 1, 1999, there shall



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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



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

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



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



446 (6) months after final adjudication on the issuance of the
447 certificate of need.

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

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



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

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



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

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



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

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

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



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

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



571 additional nursing facility beds in that county during the
572 four-year period, and that county shall be excluded in determining
573 which counties have the highest need for nursing facility beds in
574 succeeding fiscal years.

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

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

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

591 (r) (i) Beginning on July 1, 1999, the State
592 Department of Health shall issue certificates of need during each
593 of the next two (2) fiscal years for the construction or expansion
594 of nursing facility beds or the conversion of other beds to
595 nursing facility beds in each of the four (4) Long-Term Care



596 Planning Districts designated in the fiscal year 1999 State Health
597 Plan, to provide care exclusively to patients with Alzheimer's
598 disease.

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

615 (iii) The State Department of Health, in
616 consultation with the Department of Mental Health and the Division
617 of Medicaid, shall develop and prescribe the staffing levels,
618 space requirements and other standards and requirements that must
619 be met with regard to the nursing facility beds authorized under



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

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

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



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



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

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



695 with the projection of need as reported in the current State
696 Health Plan are waived, and the provisions of Section 41-7-197
697 requiring a formal certificate of need hearing process are waived.
698 The beds authorized by this paragraph shall be counted as
699 pediatric skilled nursing facility beds for health planning
700 purposes under Section 41-7-171 et seq. There shall be no
701 prohibition of or restrictions on participation in the Medicaid
702 program for the person receiving the certificate of need
703 authorized by this paragraph.

704 (3) The State Department of Health may grant approval for
705 and issue certificates of need to any person proposing the new
706 construction of, addition to, conversion of beds of or expansion
707 of any health care facility defined in subparagraph (x)
708 (psychiatric residential treatment facility) of Section
709 41-7-173(h). The total number of beds which may be authorized by
710 such certificates of need shall not exceed three hundred
711 thirty-four (334) beds for the entire state.

712 (a) Of the total number of beds authorized under this
713 subsection, the department shall issue a certificate of need to a
714 privately owned psychiatric residential treatment facility in
715 Simpson County for the conversion of sixteen (16) intermediate
716 care facility for the mentally retarded (ICF-MR) beds to
717 psychiatric residential treatment facility beds, provided that
718 facility agrees in writing that the facility shall give priority



719 for the use of those sixteen (16) beds to Mississippi residents
720 who are presently being treated in out-of-state facilities.

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



744 Medicaid and the State Department of Health shall not certify more
745 than thirty (30) of the beds in the psychiatric residential
746 treatment facility for participation in the Medicaid program for
747 the use of any patients other than those who are participating
748 only in the Medicaid program of another state. If the psychiatric
749 residential treatment facility violates the terms of the written
750 agreement by admitting or keeping in the facility on a regular or
751 continuing basis more than thirty (30) patients who are
752 participating in the Mississippi Medicaid program, the State
753 Department of Health shall revoke the license of the facility, at
754 the time that the department determines, after a hearing complying
755 with due process, that the facility has violated the condition
756 upon which the certificate of need was issued, as provided in this
757 paragraph and in the written agreement.

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

762 (c) Of the total number of beds authorized under this
763 subsection, the department shall issue a certificate of need to a
764 hospital currently operating Medicaid-certified acute psychiatric
765 beds for adolescents in DeSoto County, for the establishment of a
766 forty-bed psychiatric residential treatment facility in DeSoto
767 County, provided that the hospital agrees in writing (i) that the
768 hospital shall give priority for the use of those forty (40) beds



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



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

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

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

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



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

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



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

863 (i) [Deleted]

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



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

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

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



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

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

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



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



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

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

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



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

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



992 certificate of need, if it is still outstanding, and shall deny or
993 revoke the license of the long-term care hospital, at the time
994 that the department determines, after a hearing complying with due
995 process, that the facility has failed to comply with any of the
996 conditions upon which the certificate of need was issued, as
997 provided in this subsection and in the written agreement by the
998 recipient of the certificate of need. For purposes of this
999 subsection, the provisions of Section 41-7-193(1) requiring
1000 substantial compliance with the projection of need as reported in
1001 the current State Health Plan are waived.

1002 (7) The State Department of Health may issue a certificate
1003 of need to any hospital in the state to utilize a portion of its
1004 beds for the "swing-bed" concept. Any such hospital must be in
1005 conformance with the federal regulations regarding such swing-bed
1006 concept at the time it submits its application for a certificate
1007 of need to the State Department of Health, except that such
1008 hospital may have more licensed beds or a higher average daily
1009 census (ADC) than the maximum number specified in federal
1010 regulations for participation in the swing-bed program. Any
1011 hospital meeting all federal requirements for participation in the
1012 swing-bed program which receives such certificate of need shall
1013 render services provided under the swing-bed concept to any
1014 patient eligible for Medicare (Title XVIII of the Social Security
1015 Act) who is certified by a physician to be in need of such
1016 services, and no such hospital shall permit any patient who is



1017 eligible for both Medicaid and Medicare or eligible only for
1018 Medicaid to stay in the swing beds of the hospital for more than
1019 thirty (30) days per admission unless the hospital receives prior
1020 approval for such patient from the Division of Medicaid, Office of
1021 the Governor. Any hospital having more licensed beds or a higher
1022 average daily census (ADC) than the maximum number specified in
1023 federal regulations for participation in the swing-bed program
1024 which receives such certificate of need shall develop a procedure
1025 to ensure that before a patient is allowed to stay in the swing
1026 beds of the hospital, there are no vacant nursing home beds
1027 available for that patient located within a fifty-mile radius of
1028 the hospital. When any such hospital has a patient staying in the
1029 swing beds of the hospital and the hospital receives notice from a
1030 nursing home located within such radius that there is a vacant bed
1031 available for that patient, the hospital shall transfer the
1032 patient to the nursing home within a reasonable time after receipt
1033 of the notice. Any hospital which is subject to the requirements
1034 of the two (2) preceding sentences of this subsection may be
1035 suspended from participation in the swing-bed program for a
1036 reasonable period of time by the State Department of Health if the
1037 department, after a hearing complying with due process, determines
1038 that the hospital has failed to comply with any of those
1039 requirements.

1040 (8) The Department of Health shall not grant approval for or
1041 issue a certificate of need to any person proposing the new



1042 construction of, addition to or expansion of a health care
1043 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1044 except as hereinafter provided: The department may issue a
1045 certificate of need to a nonprofit corporation located in Madison
1046 County, Mississippi, for the construction, expansion or conversion
1047 of not more than twenty (20) beds in a community living program
1048 for developmentally disabled adults in a facility as defined in
1049 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1050 subsection (8), the provisions of Section 41-7-193(1) requiring
1051 substantial compliance with the projection of need as reported in
1052 the current State Health Plan and the provisions of Section
1053 41-7-197 requiring a formal certificate of need hearing process
1054 are waived. There shall be no prohibition or restrictions on
1055 participation in the Medicaid program for the person receiving the
1056 certificate of need authorized under this subsection (8).

1057 (9) The Department of Health shall not grant approval for or
1058 issue a certificate of need to any person proposing the
1059 establishment of, or expansion of the currently approved territory
1060 of, or the contracting to establish a home office, subunit or
1061 branch office within the space operated as a health care facility
1062 as defined in Section 41-7-173(h) (i) through (viii) by a health
1063 care facility as defined in subparagraph (ix) of Section
1064 41-7-173(h).

1065 (10) Health care facilities owned and/or operated by the
1066 state or its agencies are exempt from the restraints in this



1067 section against issuance of a certificate of need if such addition
1068 or expansion consists of repairing or renovation necessary to
1069 comply with the state licensure law. This exception shall not
1070 apply to the new construction of any building by such state
1071 facility. This exception shall not apply to any health care
1072 facilities owned and/or operated by counties, municipalities,
1073 districts, unincorporated areas, other defined persons, or any
1074 combination thereof.

1075 (11) The new construction, renovation or expansion of or
1076 addition to any health care facility defined in subparagraph (ii)
1077 (psychiatric hospital), subparagraph (iv) (skilled nursing
1078 facility), subparagraph (vi) (intermediate care facility),
1079 subparagraph (viii) (intermediate care facility for the mentally
1080 retarded) and subparagraph (x) (psychiatric residential treatment
1081 facility) of Section 41-7-173(h) which is owned by the State of
1082 Mississippi and under the direction and control of the State
1083 Department of Mental Health, and the addition of new beds or the
1084 conversion of beds from one category to another in any such
1085 defined health care facility which is owned by the State of
1086 Mississippi and under the direction and control of the State
1087 Department of Mental Health, shall not require the issuance of a
1088 certificate of need under Section 41-7-171 et seq.,
1089 notwithstanding any provision in Section 41-7-171 et seq. to the
1090 contrary.



1091 (12) The new construction, renovation or expansion of or
1092 addition to any veterans homes or domiciliaries for eligible
1093 veterans of the State of Mississippi as authorized under Section
1094 35-1-19 shall not require the issuance of a certificate of need,
1095 notwithstanding any provision in Section 41-7-171 et seq. to the
1096 contrary.

1097 (13) The repair or the rebuilding of an existing, operating
1098 health care facility that sustained significant damage from a
1099 natural disaster that occurred after April 15, 2014, in an area
1100 that is proclaimed a disaster area or subject to a state of
1101 emergency by the Governor or by the President of the United States
1102 shall be exempt from all of the requirements of the Mississippi
1103 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1104 rules and regulations promulgated under that law, subject to the
1105 following conditions:

1106 (a) The repair or the rebuilding of any such damaged
1107 health care facility must be within one (1) mile of the
1108 pre-disaster location of the campus of the damaged health care
1109 facility, except that any temporary post-disaster health care
1110 facility operating location may be within five (5) miles of the
1111 pre-disaster location of the damaged health care facility;

1112 (b) The repair or the rebuilding of the damaged health
1113 care facility (i) does not increase or change the complement of
1114 its bed capacity that it had before the Governor's or the
1115 President's proclamation, (ii) does not increase or change its



1116 levels and types of health care services that it provided before
1117 the Governor's or the President's proclamation, and (iii) does not
1118 rebuild in a different county; however, this paragraph does not
1119 restrict or prevent a health care facility from decreasing its bed
1120 capacity that it had before the Governor's or the President's
1121 proclamation, or from decreasing the levels of or decreasing or
1122 eliminating the types of health care services that it provided
1123 before the Governor's or the President's proclamation, when the
1124 damaged health care facility is repaired or rebuilt;

1125 (c) The exemption from Certificate of Need Law provided
1126 under this subsection (13) is valid for only five (5) years from
1127 the date of the Governor's or the President's proclamation. If
1128 actual construction has not begun within that five-year period,
1129 the exemption provided under this subsection is inapplicable; and

1130 (d) The Division of Health Facilities Licensure and
1131 Certification of the State Department of Health shall provide the
1132 same oversight for the repair or the rebuilding of the damaged
1133 health care facility that it provides to all health care facility
1134 construction projects in the state.

1135 For the purposes of this subsection (13), "significant
1136 damage" to a health care facility means damage to the health care
1137 facility requiring an expenditure of at least One Million Dollars
1138 (\$1,000,000.00).

1139 (14) The State Department of Health shall issue a
1140 certificate of need to any hospital which is currently licensed



1141 for two hundred fifty (250) or more acute care beds and is located
1142 in any general hospital service area not having a comprehensive
1143 cancer center, for the establishment and equipping of such a
1144 center which provides facilities and services for outpatient
1145 radiation oncology therapy, outpatient medical oncology therapy,
1146 and appropriate support services including the provision of
1147 radiation therapy services. The provisions of Section 41-7-193(1)
1148 regarding substantial compliance with the projection of need as
1149 reported in the current State Health Plan are waived for the
1150 purpose of this subsection.

1151 (15) The State Department of Health may authorize the
1152 transfer of hospital beds, not to exceed sixty (60) beds, from the
1153 North Panola Community Hospital to the South Panola Community
1154 Hospital. The authorization for the transfer of those beds shall
1155 be exempt from the certificate of need review process.

1156 (16) The State Department of Health shall issue any
1157 certificates of need necessary for Mississippi State University
1158 and a public or private health care provider to jointly acquire
1159 and operate a linear accelerator and a magnetic resonance imaging
1160 unit. Those certificates of need shall cover all capital
1161 expenditures related to the project between Mississippi State
1162 University and the health care provider, including, but not
1163 limited to, the acquisition of the linear accelerator, the
1164 magnetic resonance imaging unit and other radiological modalities;
1165 the offering of linear accelerator and magnetic resonance imaging



1166 services; and the cost of construction of facilities in which to
1167 locate these services. The linear accelerator and the magnetic
1168 resonance imaging unit shall be (a) located in the City of
1169 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1170 Mississippi State University and the public or private health care
1171 provider selected by Mississippi State University through a
1172 request for proposals (RFP) process in which Mississippi State
1173 University selects, and the Board of Trustees of State
1174 Institutions of Higher Learning approves, the health care provider
1175 that makes the best overall proposal; (c) available to Mississippi
1176 State University for research purposes two-thirds (2/3) of the
1177 time that the linear accelerator and magnetic resonance imaging
1178 unit are operational; and (d) available to the public or private
1179 health care provider selected by Mississippi State University and
1180 approved by the Board of Trustees of State Institutions of Higher
1181 Learning one-third (1/3) of the time for clinical, diagnostic and
1182 treatment purposes. For purposes of this subsection, the
1183 provisions of Section 41-7-193(1) requiring substantial compliance
1184 with the projection of need as reported in the current State
1185 Health Plan are waived.

1186 (17) The State Department of Health shall issue a
1187 certificate of need for the construction of an acute care hospital
1188 in Kemper County, not to exceed twenty-five (25) beds, which shall
1189 be named the "John C. Stennis Memorial Hospital." In issuing the
1190 certificate of need under this subsection, the department shall



1191 give priority to a hospital located in Lauderdale County that has
1192 two hundred fifteen (215) beds. For purposes of this subsection,
1193 the provisions of Section 41-7-193(1) requiring substantial
1194 compliance with the projection of need as reported in the current
1195 State Health Plan and the provisions of Section 41-7-197 requiring
1196 a formal certificate of need hearing process are waived. There
1197 shall be no prohibition or restrictions on participation in the
1198 Medicaid program (Section 43-13-101 et seq.) for the person or
1199 entity receiving the certificate of need authorized under this
1200 subsection or for the beds constructed under the authority of that
1201 certificate of need.

1202 (18) The planning, design, construction, renovation,
1203 addition, furnishing and equipping of a clinical research unit at
1204 any health care facility defined in Section 41-7-173(h) that is
1205 under the direction and control of the University of Mississippi
1206 Medical Center and located in Jackson, Mississippi, and the
1207 addition of new beds or the conversion of beds from one (1)
1208 category to another in any such clinical research unit, shall not
1209 require the issuance of a certificate of need under Section
1210 41-7-171 et seq., notwithstanding any provision in Section
1211 41-7-171 et seq. to the contrary.

1212 (19) [Repealed]

1213 (20) Nothing in this section or in any other provision of
1214 Section 41-7-171 et seq. shall prevent any nursing facility from
1215 designating an appropriate number of existing beds in the facility



1216 as beds for providing care exclusively to patients with
1217 Alzheimer's disease.

1218 (21) 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 (22) (a) A licensed acute care hospital that is located in
1230 a rural, medically underserved area shall not require the issuance
1231 of a certificate of need under Section 41-7-171 et seq. to expand
1232 the current service lines of the hospital into any other locations
1233 within the county in which the hospital is located or into other
1234 locations in contiguous counties within a radius of fifty (50)
1235 miles from the main facility of the hospital, notwithstanding any
1236 provision in Section 41-7-171 et seq. to the contrary.

1237 (b) For the purpose of this subsection (22), the
1238 following terms shall be defined as provided in this paragraph
1239 (b) :



1240 (i) "Acute care hospital" means a hospital that
1241 provides inpatient medical care and other related services for
1242 surgery, acute medical conditions or injuries, usually for a
1243 short-term illness or condition.

1244 (ii) "Medically underserved area" means an area of
1245 the state designated by the Health Resources and Service
1246 Administration as having a shortage of primary health care
1247 services.

1248 (iii) "Rural" means a county that has a population
1249 of less than fifty thousand (50,000) in the most recent federal
1250 decennial census.

1251 **SECTION 2.** This act shall take effect and be in force from
1252 and after July 1, 2024.

