

By: Senator(s) Suber

To: Public Health and
Welfare

SENATE BILL NO. 2877

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT FOR ANY HEALTH CARE FACILITY THAT RELINQUISHED ITS
 3 CERTIFICATE OF NEED OR LICENSE FOR INPATIENT PSYCHIATRIC SERVICES,
 4 AS APPLICABLE, BECAUSE THE FACILITY CONVERTED FROM AN ACUTE CARE
 5 HOSPITAL TO A RURAL EMERGENCY HOSPITAL IN ACCORDANCE WITH CERTAIN
 6 FEDERAL REGULATIONS, THE DEPARTMENT OF HEALTH MAY LICENSE THE
 7 PSYCHIATRIC INPATIENT BEDS AS A SEPARATE ENTITY FROM THE RURAL
 8 EMERGENCY HOSPITAL; TO REQUIRE THE DEPARTMENT OF HEALTH TO ISSUE A
 9 CERTIFICATE OF NEED FOR ANY SUCH FACILITY, AS APPLICABLE; AND FOR
 10 RELATED PURPOSES.

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

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

14 41-7-191. (1) No person shall engage in any of the
 15 following activities without obtaining the required certificate of
 16 need:

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

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



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

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



48 operate beds in excess of its bed count before the voluntary
49 delicensure of some of its beds without seeking certificate of
50 need approval;

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



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

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

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



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



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

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



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



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

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



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



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

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

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



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

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



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

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



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

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

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



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

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



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

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

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

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

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



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

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

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



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

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

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



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



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

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



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

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

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



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

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



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

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

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



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



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

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

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

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



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

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



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

864 (i) [Deleted]

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



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

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

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



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

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

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



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



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

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

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



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

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



993 certificate of need, if it is still outstanding, and shall deny or
994 revoke the license of the long-term care hospital, at the time
995 that the department determines, after a hearing complying with due
996 process, that the facility has failed to comply with any of the
997 conditions upon which the certificate of need was issued, as
998 provided in this subsection and in the written agreement by the
999 recipient of the certificate of need. For purposes of this
1000 subsection, the provisions of Section 41-7-193(1) requiring
1001 substantial compliance with the projection of need as reported in
1002 the current State Health Plan are waived.

1003 (7) The State Department of Health may issue a certificate
1004 of need to any hospital in the state to utilize a portion of its
1005 beds for the "swing-bed" concept. Any such hospital must be in
1006 conformance with the federal regulations regarding such swing-bed
1007 concept at the time it submits its application for a certificate
1008 of need to the State Department of Health, except that such
1009 hospital may have more licensed beds or a higher average daily
1010 census (ADC) than the maximum number specified in federal
1011 regulations for participation in the swing-bed program. Any
1012 hospital meeting all federal requirements for participation in the
1013 swing-bed program which receives such certificate of need shall
1014 render services provided under the swing-bed concept to any
1015 patient eligible for Medicare (Title XVIII of the Social Security
1016 Act) who is certified by a physician to be in need of such
1017 services, and no such hospital shall permit any patient who is



1018 eligible for both Medicaid and Medicare or eligible only for
1019 Medicaid to stay in the swing beds of the hospital for more than
1020 thirty (30) days per admission unless the hospital receives prior
1021 approval for such patient from the Division of Medicaid, Office of
1022 the Governor. Any hospital having more licensed beds or a higher
1023 average daily census (ADC) than the maximum number specified in
1024 federal regulations for participation in the swing-bed program
1025 which receives such certificate of need shall develop a procedure
1026 to ensure that before a patient is allowed to stay in the swing
1027 beds of the hospital, there are no vacant nursing home beds
1028 available for that patient located within a fifty-mile radius of
1029 the hospital. When any such hospital has a patient staying in the
1030 swing beds of the hospital and the hospital receives notice from a
1031 nursing home located within such radius that there is a vacant bed
1032 available for that patient, the hospital shall transfer the
1033 patient to the nursing home within a reasonable time after receipt
1034 of the notice. Any hospital which is subject to the requirements
1035 of the two (2) preceding sentences of this subsection may be
1036 suspended from participation in the swing-bed program for a
1037 reasonable period of time by the State Department of Health if the
1038 department, after a hearing complying with due process, determines
1039 that the hospital has failed to comply with any of those
1040 requirements.

1041 (8) The Department of Health shall not grant approval for or
1042 issue a certificate of need to any person proposing the new



1043 construction of, addition to or expansion of a health care
1044 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1045 except as hereinafter provided: The department may issue a
1046 certificate of need to a nonprofit corporation located in Madison
1047 County, Mississippi, for the construction, expansion or conversion
1048 of not more than twenty (20) beds in a community living program
1049 for developmentally disabled adults in a facility as defined in
1050 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1051 subsection (8), the provisions of Section 41-7-193(1) requiring
1052 substantial compliance with the projection of need as reported in
1053 the current State Health Plan and the provisions of Section
1054 41-7-197 requiring a formal certificate of need hearing process
1055 are waived. There shall be no prohibition or restrictions on
1056 participation in the Medicaid program for the person receiving the
1057 certificate of need authorized under this subsection (8).

1058 (9) The Department of Health shall not grant approval for or
1059 issue a certificate of need to any person proposing the
1060 establishment of, or expansion of the currently approved territory
1061 of, or the contracting to establish a home office, subunit or
1062 branch office within the space operated as a health care facility
1063 as defined in Section 41-7-173(h) (i) through (viii) by a health
1064 care facility as defined in subparagraph (ix) of Section
1065 41-7-173(h).

1066 (10) Health care facilities owned and/or operated by the
1067 state or its agencies are exempt from the restraints in this



1068 section against issuance of a certificate of need if such addition
1069 or expansion consists of repairing or renovation necessary to
1070 comply with the state licensure law. This exception shall not
1071 apply to the new construction of any building by such state
1072 facility. This exception shall not apply to any health care
1073 facilities owned and/or operated by counties, municipalities,
1074 districts, unincorporated areas, other defined persons, or any
1075 combination thereof.

1076 (11) The new construction, renovation or expansion of or
1077 addition to any health care facility defined in subparagraph (ii)
1078 (psychiatric hospital), subparagraph (iv) (skilled nursing
1079 facility), subparagraph (vi) (intermediate care facility),
1080 subparagraph (viii) (intermediate care facility for the mentally
1081 retarded) and subparagraph (x) (psychiatric residential treatment
1082 facility) of Section 41-7-173(h) which is owned by the State of
1083 Mississippi and under the direction and control of the State
1084 Department of Mental Health, and the addition of new beds or the
1085 conversion of beds from one category to another in any such
1086 defined health care facility which is owned by the State of
1087 Mississippi and under the direction and control of the State
1088 Department of Mental Health, shall not require the issuance of a
1089 certificate of need under Section 41-7-171 et seq.,
1090 notwithstanding any provision in Section 41-7-171 et seq. to the
1091 contrary.



1092 (12) The new construction, renovation or expansion of or
1093 addition to any veterans homes or domiciliaries for eligible
1094 veterans of the State of Mississippi as authorized under Section
1095 35-1-19 shall not require the issuance of a certificate of need,
1096 notwithstanding any provision in Section 41-7-171 et seq. to the
1097 contrary.

1098 (13) The repair or the rebuilding of an existing, operating
1099 health care facility that sustained significant damage from a
1100 natural disaster that occurred after April 15, 2014, in an area
1101 that is proclaimed a disaster area or subject to a state of
1102 emergency by the Governor or by the President of the United States
1103 shall be exempt from all of the requirements of the Mississippi
1104 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1105 rules and regulations promulgated under that law, subject to the
1106 following conditions:

1107 (a) The repair or the rebuilding of any such damaged
1108 health care facility must be within one (1) mile of the
1109 pre-disaster location of the campus of the damaged health care
1110 facility, except that any temporary post-disaster health care
1111 facility operating location may be within five (5) miles of the
1112 pre-disaster location of the damaged health care facility;

1113 (b) The repair or the rebuilding of the damaged health
1114 care facility (i) does not increase or change the complement of
1115 its bed capacity that it had before the Governor's or the
1116 President's proclamation, (ii) does not increase or change its



1117 levels and types of health care services that it provided before
1118 the Governor's or the President's proclamation, and (iii) does not
1119 rebuild in a different county; however, this paragraph does not
1120 restrict or prevent a health care facility from decreasing its bed
1121 capacity that it had before the Governor's or the President's
1122 proclamation, or from decreasing the levels of or decreasing or
1123 eliminating the types of health care services that it provided
1124 before the Governor's or the President's proclamation, when the
1125 damaged health care facility is repaired or rebuilt;

1126 (c) The exemption from Certificate of Need Law provided
1127 under this subsection (13) is valid for only five (5) years from
1128 the date of the Governor's or the President's proclamation. If
1129 actual construction has not begun within that five-year period,
1130 the exemption provided under this subsection is inapplicable; and

1131 (d) The Division of Health Facilities Licensure and
1132 Certification of the State Department of Health shall provide the
1133 same oversight for the repair or the rebuilding of the damaged
1134 health care facility that it provides to all health care facility
1135 construction projects in the state.

1136 For the purposes of this subsection (13), "significant
1137 damage" to a health care facility means damage to the health care
1138 facility requiring an expenditure of at least One Million Dollars
1139 (\$1,000,000.00).

1140 (14) The State Department of Health shall issue a
1141 certificate of need to any hospital which is currently licensed



1142 for two hundred fifty (250) or more acute care beds and is located
1143 in any general hospital service area not having a comprehensive
1144 cancer center, for the establishment and equipping of such a
1145 center which provides facilities and services for outpatient
1146 radiation oncology therapy, outpatient medical oncology therapy,
1147 and appropriate support services including the provision of
1148 radiation therapy services. The provisions of Section 41-7-193(1)
1149 regarding substantial compliance with the projection of need as
1150 reported in the current State Health Plan are waived for the
1151 purpose of this subsection.

1152 (15) The State Department of Health may authorize the
1153 transfer of hospital beds, not to exceed sixty (60) beds, from the
1154 North Panola Community Hospital to the South Panola Community
1155 Hospital. The authorization for the transfer of those beds shall
1156 be exempt from the certificate of need review process.

1157 (16) The State Department of Health shall issue any
1158 certificates of need necessary for Mississippi State University
1159 and a public or private health care provider to jointly acquire
1160 and operate a linear accelerator and a magnetic resonance imaging
1161 unit. Those certificates of need shall cover all capital
1162 expenditures related to the project between Mississippi State
1163 University and the health care provider, including, but not
1164 limited to, the acquisition of the linear accelerator, the
1165 magnetic resonance imaging unit and other radiological modalities;
1166 the offering of linear accelerator and magnetic resonance imaging



1167 services; and the cost of construction of facilities in which to
1168 locate these services. The linear accelerator and the magnetic
1169 resonance imaging unit shall be (a) located in the City of
1170 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1171 Mississippi State University and the public or private health care
1172 provider selected by Mississippi State University through a
1173 request for proposals (RFP) process in which Mississippi State
1174 University selects, and the Board of Trustees of State
1175 Institutions of Higher Learning approves, the health care provider
1176 that makes the best overall proposal; (c) available to Mississippi
1177 State University for research purposes two-thirds (2/3) of the
1178 time that the linear accelerator and magnetic resonance imaging
1179 unit are operational; and (d) available to the public or private
1180 health care provider selected by Mississippi State University and
1181 approved by the Board of Trustees of State Institutions of Higher
1182 Learning one-third (1/3) of the time for clinical, diagnostic and
1183 treatment purposes. For purposes of this subsection, the
1184 provisions of Section 41-7-193(1) requiring substantial compliance
1185 with the projection of need as reported in the current State
1186 Health Plan are waived.

1187 (17) The State Department of Health shall issue a
1188 certificate of need for the construction of an acute care hospital
1189 in Kemper County, not to exceed twenty-five (25) beds, which shall
1190 be named the "John C. Stennis Memorial Hospital." In issuing the
1191 certificate of need under this subsection, the department shall



1192 give priority to a hospital located in Lauderdale County that has
1193 two hundred fifteen (215) beds. For purposes of this subsection,
1194 the provisions of Section 41-7-193(1) requiring substantial
1195 compliance with the projection of need as reported in the current
1196 State Health Plan and the provisions of Section 41-7-197 requiring
1197 a formal certificate of need hearing process are waived. There
1198 shall be no prohibition or restrictions on participation in the
1199 Medicaid program (Section 43-13-101 et seq.) for the person or
1200 entity receiving the certificate of need authorized under this
1201 subsection or for the beds constructed under the authority of that
1202 certificate of need.

1203 (18) The planning, design, construction, renovation,
1204 addition, furnishing and equipping of a clinical research unit at
1205 any health care facility defined in Section 41-7-173(h) that is
1206 under the direction and control of the University of Mississippi
1207 Medical Center and located in Jackson, Mississippi, and the
1208 addition of new beds or the conversion of beds from one (1)
1209 category to another in any such clinical research unit, shall not
1210 require the issuance of a certificate of need under Section
1211 41-7-171 et seq., notwithstanding any provision in Section
1212 41-7-171 et seq. to the contrary.

1213 (19) [Repealed]

1214 (20) Nothing in this section or in any other provision of
1215 Section 41-7-171 et seq. shall prevent any nursing facility from
1216 designating an appropriate number of existing beds in the facility



1217 as beds for providing care exclusively to patients with
1218 Alzheimer's disease.

1219 (21) Nothing in this section or any other provision of
1220 Section 41-7-171 et seq. shall prevent any health care facility
1221 from the new construction, renovation, conversion or expansion of
1222 new beds in the facility designated as intensive care units,
1223 negative pressure rooms, or isolation rooms pursuant to the
1224 provisions of Sections 41-14-1 through 41-14-11, or Section
1225 41-14-31. For purposes of this subsection, the provisions of
1226 Section 41-7-193(1) requiring substantial compliance with the
1227 projection of need as reported in the current State Health Plan
1228 and the provisions of Section 41-7-197 requiring a formal
1229 certificate of need hearing process are waived.

1230 (22) If any health care facility relinquished its
1231 certificate of need or license for inpatient psychiatric services,
1232 as applicable, because the facility converted from an acute care
1233 hospital to a rural emergency hospital in accordance with 42
1234 C.F.R. Section 485.502, the Department of Health may license the
1235 psychiatric inpatient beds as a separate entity from the rural
1236 emergency hospital. The Department of Health shall issue a
1237 certificate of need for any such facility, as applicable.

1238 **SECTION 2.** This act shall take effect and be in force from
1239 and after July 1, 2024.

