

By: Senator(s) Bryan, Thomas, Simmons
(12th), Blackmon, Norwood

To: Public Health and
Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2681

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO REVISE CERTAIN PROVISIONS RELATING TO A HOSPITAL THAT HAS A
3 CERTIFICATE OF NEED FOR A FORTY-BED PSYCHIATRIC RESIDENTIAL
4 TREATMENT FACILITY IN DESOTO COUNTY; TO PROVIDE THAT THERE SHALL
5 BE NO PROHIBITION OR RESTRICTIONS ON PARTICIPATION IN THE MEDICAID
6 PROGRAM FOR SUCH FACILITY THAT WOULD NOT OTHERWISE APPLY TO ANY
7 OTHER SUCH FACILITY; TO REQUIRE THE ISSUANCE OF A CERTIFICATE OF
8 NEED FOR ADDITIONAL BEDS IN A COMMUNITY LIVING PROGRAM FOR
9 DEVELOPMENTALLY DISABLED ADULTS LOCATED IN MADISON COUNTY; TO
10 REVISE THE CONDITIONS FOR A CERTIFICATE OF NEED ISSUED FOR A
11 LONG-TERM CARE HOSPITAL IN HARRISON COUNTY TO ALLOW THE HOSPITAL
12 TO PARTICIPATE IN THE MEDICAID PROGRAM AS A CROSSOVER PROVIDER;
13 AND FOR RELATED PURPOSES.

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

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

17 41-7-191. (1) No person shall engage in any of the
18 following activities without obtaining the required certificate of
19 need:

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



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

31 (c) Any change in the existing bed complement of any
32 health care facility through the addition or conversion of any
33 beds or the alteration, modernizing or refurbishing of any unit or
34 department in which the beds may be located; however, if a health
35 care facility has voluntarily delicensed some of its existing bed
36 complement, it may later relicense some or all of its delicensed
37 beds without the necessity of having to acquire a certificate of
38 need. The State Department of Health shall maintain a record of
39 the delicensing health care facility and its voluntarily
40 delicensed beds and continue counting those beds as part of the
41 state's total bed count for health care planning purposes. If a
42 health care facility that has voluntarily delicensed some of its
43 beds later desires to relicense some or all of its voluntarily
44 delicensed beds, it shall notify the State Department of Health of
45 its intent to increase the number of its licensed beds. The State
46 Department of Health shall survey the health care facility within
47 thirty (30) days of that notice and, if appropriate, issue the
48 health care facility a new license reflecting the new contingent



49 of beds. However, in no event may a health care facility that has
50 voluntarily delicensed some of its beds be reissued a license to
51 operate beds in excess of its bed count before the voluntary
52 delicensure of some of its beds without seeking certificate of
53 need approval;

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

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



74 (xiv) Long-term care hospital services;

75 (xv) Positron emission tomography (PET) services;

76 (e) The relocation of one or more health services from

77 one physical facility or site to another physical facility or

78 site, unless such relocation, which does not involve a capital

79 expenditure by or on behalf of a health care facility, (i) is to a

80 physical facility or site within five thousand two hundred eighty

81 (5,280) feet from the main entrance of the health care facility

82 where the health care service is located, or (ii) is the result of

83 an order of a court of appropriate jurisdiction or a result of

84 pending litigation in such court, or by order of the State

85 Department of Health, or by order of any other agency or legal

86 entity of the state, the federal government, or any political

87 subdivision of either, whose order is also approved by the State

88 Department of Health;

89 (f) The acquisition or otherwise control of any major

90 medical equipment for the provision of medical services; however,

91 (i) the acquisition of any major medical equipment used only for

92 research purposes, and (ii) the acquisition of major medical

93 equipment to replace medical equipment for which a facility is

94 already providing medical services and for which the State

95 Department of Health has been notified before the date of such

96 acquisition shall be exempt from this paragraph; an acquisition

97 for less than fair market value must be reviewed, if the

98 acquisition at fair market value would be subject to review;



99 (g) Changes of ownership of existing health care
100 facilities in which a notice of intent is not filed with the State
101 Department of Health at least thirty (30) days prior to the date
102 such change of ownership occurs, or a change in services or bed
103 capacity as prescribed in paragraph (c) or (d) of this subsection
104 as a result of the change of ownership; an acquisition for less
105 than fair market value must be reviewed, if the acquisition at
106 fair market value would be subject to review;

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

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

119 (j) Any capital expenditure or deferred capital
120 expenditure by or on behalf of a health care facility not covered
121 by paragraphs (a) through (h);

122 (k) The contracting of a health care facility as
123 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)



124 to establish a home office, subunit, or branch office in the space
125 operated as a health care facility through a formal arrangement
126 with an existing health care facility as defined in subparagraph
127 (ix) of Section 41-7-173(h);

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

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

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

144 (a) The department may issue a certificate of need to
145 any person proposing the new construction of any health care
146 facility defined in subparagraphs (iv) and (vi) of Section
147 41-7-173(h) as part of a life care retirement facility, in any
148 county bordering on the Gulf of Mexico in which is located a



149 National Aeronautics and Space Administration facility, not to
150 exceed forty (40) beds. From and after July 1, 1999, there shall
151 be no prohibition or restrictions on participation in the Medicaid
152 program (Section 43-13-101 et seq.) for the beds in the health
153 care facility that were authorized under this paragraph (a).

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

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



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

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



198 (e) The State Department of Health may issue a
199 certificate of need for the construction of a nursing facility or
200 the conversion of beds to nursing facility beds at a personal care
201 facility for the elderly in Lowndes County that is owned and
202 operated by a Mississippi nonprofit corporation, not to exceed
203 sixty (60) beds. From and after July 1, 1999, there shall be no
204 prohibition or restrictions on participation in the Medicaid
205 program (Section 43-13-101 et seq.) for the beds in the nursing
206 facility that were authorized under this paragraph (e).

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

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



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

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



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

270 (j) The department may issue certificates of need to
271 allow any existing freestanding long-term care facility in
272 Tishomingo County and Hancock County that on July 1, 1995, is



273 licensed with fewer than sixty (60) beds. For the purposes of
274 this paragraph (j), the provisions of Section 41-7-193(1)
275 requiring substantial compliance with the projection of need as
276 reported in the current State Health Plan are waived. From and
277 after July 1, 1999, there shall be no prohibition or restrictions
278 on participation in the Medicaid program (Section 43-13-101 et
279 seq.) for the beds in the long-term care facilities that were
280 authorized under this paragraph (j).

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



298 condition of licensure of the facility, and the agreement shall be
299 fully binding on any subsequent owner of the facility if the
300 ownership of the facility is transferred at any time after July 1,
301 2001. After this written agreement is executed, the Division of
302 Medicaid and the State Department of Health shall not certify more
303 than thirty (30) of the beds in the facility for participation in
304 the Medicaid program. If the facility violates the terms of the
305 written agreement by admitting or keeping in the facility on a
306 regular or continuing basis more than thirty (30) patients who are
307 participating in the Medicaid program, the State Department of
308 Health shall revoke the license of the facility, at the time that
309 the department determines, after a hearing complying with due
310 process, that the facility has violated the written agreement.

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

321 (m) The State Department of Health may issue a
322 certificate of need to a county-owned hospital in the Second



323 Judicial District of Panola County for the conversion of not more
324 than seventy-two (72) hospital beds to nursing facility beds,
325 provided that the recipient of the certificate of need agrees in
326 writing that none of the beds at the nursing facility will be
327 certified for participation in the Medicaid program (Section
328 43-13-101 et seq.), and that no claim will be submitted for
329 Medicaid reimbursement in the nursing facility in any day or for
330 any patient in the nursing facility. This written agreement by
331 the recipient of the certificate of need shall be a condition of
332 the issuance of the certificate of need under this paragraph, and
333 the agreement shall be fully binding on any subsequent owner of
334 the nursing facility if the ownership of the nursing facility is
335 transferred at any time after the issuance of the certificate of
336 need. After this written agreement is executed, the Division of
337 Medicaid and the State Department of Health shall not certify any
338 of the beds in the nursing facility for participation in the
339 Medicaid program. If the nursing facility violates the terms of
340 the written agreement by admitting or keeping in the nursing
341 facility on a regular or continuing basis any patients who are
342 participating in the Medicaid program, the State Department of
343 Health shall revoke the license of the nursing facility, at the
344 time that the department determines, after a hearing complying
345 with due process, that the nursing facility has violated the
346 condition upon which the certificate of need was issued, as
347 provided in this paragraph and in the written agreement. If the



348 certificate of need authorized under this paragraph is not issued
349 within twelve (12) months after July 1, 2001, the department shall
350 deny the application for the certificate of need and shall not
351 issue the certificate of need at any time after the twelve-month
352 period, unless the issuance is contested. If the certificate of
353 need is issued and substantial construction of the nursing
354 facility beds has not commenced within eighteen (18) months after
355 July 1, 2001, the State Department of Health, after a hearing
356 complying with due process, shall revoke the certificate of need
357 if it is still outstanding, and the department shall not issue a
358 license for the nursing facility at any time after the
359 eighteen-month period. However, if the issuance of the
360 certificate of need is contested, the department shall require
361 substantial construction of the nursing facility beds within six
362 (6) months after final adjudication on the issuance of the
363 certificate of need.

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



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



398 nursing facility beds has not commenced within eighteen (18)
399 months after July 1, 1998, the State Department of Health, after a
400 hearing complying with due process, shall revoke the certificate
401 of need if it is still outstanding, and the department shall not
402 issue a license for the nursing facility at any time after the
403 eighteen-month period. However, if the issuance of the
404 certificate of need is contested, the department shall require
405 substantial construction of the nursing facility beds within six
406 (6) months after final adjudication on the issuance of the
407 certificate of need.

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



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



448 certificate of need is contested, the department shall require
449 substantial construction of the nursing facility beds within six
450 (6) months after final adjudication on the issuance of the
451 certificate of need.

452 (p) The department may issue a certificate of need for
453 the construction of a municipally owned nursing facility within
454 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
455 beds, provided that the recipient of the certificate of need
456 agrees in writing that the skilled nursing facility will not at
457 any time participate in the Medicaid program (Section 43-13-101 et
458 seq.) or admit or keep any patients in the skilled nursing
459 facility who are participating in the Medicaid program. This
460 written agreement by the recipient of the certificate of need
461 shall be fully binding on any subsequent owner of the skilled
462 nursing facility, if the ownership of the facility is transferred
463 at any time after the issuance of the certificate of need.
464 Agreement that the skilled nursing facility will not participate
465 in the Medicaid program shall be a condition of the issuance of a
466 certificate of need to any person under this paragraph (p), and if
467 such skilled nursing facility at any time after the issuance of
468 the certificate of need, regardless of the ownership of the
469 facility, participates in the Medicaid program or admits or keeps
470 any patients in the facility who are participating in the Medicaid
471 program, the State Department of Health shall revoke the
472 certificate of need, if it is still outstanding, and shall deny or



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



497 (q) (i) Beginning on July 1, 1999, the State
498 Department of Health shall issue certificates of need during each
499 of the next four (4) fiscal years for the construction or
500 expansion of nursing facility beds or the conversion of other beds
501 to nursing facility beds in each county in the state having a need
502 for fifty (50) or more additional nursing facility beds, as shown
503 in the fiscal year 1999 State Health Plan, in the manner provided
504 in this paragraph (q). The total number of nursing facility beds
505 that may be authorized by any certificate of need authorized under
506 this paragraph (q) shall not exceed sixty (60) beds.

507 (ii) Subject to the provisions of subparagraph
508 (v), during each of the next four (4) fiscal years, the department
509 shall issue six (6) certificates of need for new nursing facility
510 beds, as follows: During fiscal years 2000, 2001 and 2002, one
511 (1) certificate of need shall be issued for new nursing facility
512 beds in the county in each of the four (4) Long-Term Care Planning
513 Districts designated in the fiscal year 1999 State Health Plan
514 that has the highest need in the district for those beds; and two
515 (2) certificates of need shall be issued for new nursing facility
516 beds in the two (2) counties from the state at large that have the
517 highest need in the state for those beds, when considering the
518 need on a statewide basis and without regard to the Long-Term Care
519 Planning Districts in which the counties are located. During
520 fiscal year 2003, one (1) certificate of need shall be issued for
521 new nursing facility beds in any county having a need for fifty



522 (50) or more additional nursing facility beds, as shown in the
523 fiscal year 1999 State Health Plan, that has not received a
524 certificate of need under this paragraph (q) during the three (3)
525 previous fiscal years. During fiscal year 2000, in addition to
526 the six (6) certificates of need authorized in this subparagraph,
527 the department also shall issue a certificate of need for new
528 nursing facility beds in Amite County and a certificate of need
529 for new nursing facility beds in Carroll County.

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

544 (iv) Subject to the provisions of subparagraph
545 (v), the certificate of need issued under subparagraph (ii) for
546 nursing facility beds in the two (2) counties from the state at



547 large during each fiscal year shall first be available for nursing
548 facility beds in the two (2) counties that have the highest need
549 in the state for those beds, as shown in the fiscal year 1999
550 State Health Plan, when considering the need on a statewide basis
551 and without regard to the Long-Term Care Planning Districts in
552 which the counties are located. If there are no applications for
553 a certificate of need for nursing facility beds in either of the
554 two (2) counties having the highest need for those beds on a
555 statewide basis by the date specified by the department, then the
556 certificate of need shall be available for nursing facility beds
557 in other counties from the state at large in descending order of
558 the need for those beds on a statewide basis, from the county with
559 the second highest need to the county with the lowest need, until
560 an application is received for nursing facility beds in an
561 eligible county from the state at large.

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



572 this paragraph (q) for nursing facility beds in a county during
573 any fiscal year of the four-year period, a certificate of need
574 shall not be available again under this paragraph (q) for
575 additional nursing facility beds in that county during the
576 four-year period, and that county shall be excluded in determining
577 which counties have the highest need for nursing facility beds in
578 succeeding fiscal years.

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

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

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

595 (r) (i) Beginning on July 1, 1999, the State
596 Department of Health shall issue certificates of need during each



597 of the next two (2) fiscal years for the construction or expansion
598 of nursing facility beds or the conversion of other beds to
599 nursing facility beds in each of the four (4) Long-Term Care
600 Planning Districts designated in the fiscal year 1999 State Health
601 Plan, to provide care exclusively to patients with Alzheimer's
602 disease.

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

619 (iii) The State Department of Health, in
620 consultation with the Department of Mental Health and the Division
621 of Medicaid, shall develop and prescribe the staffing levels,



622 space requirements and other standards and requirements that must
623 be met with regard to the nursing facility beds authorized under
624 this paragraph (r) to provide care exclusively to patients with
625 Alzheimer's disease.

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

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



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



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

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



697 State Board of Health. For purposes of this paragraph (u), the
698 provisions of Section 41-7-193(1) requiring substantial compliance
699 with the projection of need as reported in the current State
700 Health Plan are waived, and the provisions of Section 41-7-197
701 requiring a formal certificate of need hearing process are waived.
702 The beds authorized by this paragraph shall be counted as
703 pediatric skilled nursing facility beds for health planning
704 purposes under Section 41-7-171 et seq. There shall be no
705 prohibition of or restrictions on participation in the Medicaid
706 program for the person receiving the certificate of need
707 authorized by this paragraph.

708 (3) The State Department of Health may grant approval for
709 and issue certificates of need to any person proposing the new
710 construction of, addition to, conversion of beds of or expansion
711 of any health care facility defined in subparagraph (x)
712 (psychiatric residential treatment facility) of Section
713 41-7-173(h). The total number of beds which may be authorized by
714 such certificates of need shall not exceed three hundred
715 thirty-four (334) beds for the entire state.

716 (a) Of the total number of beds authorized under this
717 subsection, the department shall issue a certificate of need to a
718 privately owned psychiatric residential treatment facility in
719 Simpson County for the conversion of sixteen (16) intermediate
720 care facility for individuals with intellectual disabilities
721 (ICF-IID) beds to psychiatric residential treatment facility beds,



722 provided that facility agrees in writing that the facility shall
723 give priority for the use of those sixteen (16) beds to
724 Mississippi residents who are presently being treated in
725 out-of-state facilities.

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



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

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

767 (c) Of the total number of beds authorized under this
768 subsection, the department shall issue a certificate of need to a
769 hospital currently operating Medicaid-certified acute psychiatric
770 beds for adolescents in DeSoto County, for the establishment of a
771 forty-bed psychiatric residential treatment facility in DeSoto



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



797 ~~Health shall revoke the license of the facility, at the time that~~
798 ~~the department determines, after a hearing complying with due~~
799 ~~process, that the facility has violated the condition upon which~~
800 ~~the certificate of need was issued, as provided in this paragraph~~
801 ~~and in the written agreement. There shall be no prohibition or~~
802 ~~restrictions on participation in the Medicaid program (Section~~
803 ~~43-13-101 et seq.) for the person(s) receiving the certificate of~~
804 ~~need authorized under this paragraph (c) or for the beds converted~~
805 ~~pursuant to the authority of that certificate of need that would~~
806 ~~not apply to any other psychiatric residential treatment facility.~~

807 (d) Of the total number of beds authorized under this
808 subsection, the department may issue a certificate or certificates
809 of need for the construction or expansion of psychiatric
810 residential treatment facility beds or the conversion of other
811 beds to psychiatric treatment facility beds, not to exceed thirty
812 (30) psychiatric residential treatment facility beds, in either
813 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
814 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

815 (e) Of the total number of beds authorized under this
816 subsection (3) the department shall issue a certificate of need to
817 a privately owned, nonprofit psychiatric residential treatment
818 facility in Hinds County for an eight-bed expansion of the
819 facility, provided that the facility agrees in writing that the
820 facility shall give priority for the use of those eight (8) beds



821 to Mississippi residents who are presently being treated in
822 out-of-state facilities.

823 (f) The department shall issue a certificate of need to
824 a one-hundred-thirty-four-bed specialty hospital located on
825 twenty-nine and forty-four one-hundredths (29.44) commercial acres
826 at 5900 Highway 39 North in Meridian (Lauderdale County),
827 Mississippi, for the addition, construction or expansion of
828 child/adolescent psychiatric residential treatment facility beds
829 in Lauderdale County. As a condition of issuance of the
830 certificate of need under this paragraph, the facility shall give
831 priority in admissions to the child/adolescent psychiatric
832 residential treatment facility beds authorized under this
833 paragraph to patients who otherwise would require out-of-state
834 placement. The Division of Medicaid, in conjunction with the
835 Department of Human Services, shall furnish the facility a list of
836 all out-of-state patients on a quarterly basis. Furthermore,
837 notice shall also be provided to the parent, custodial parent or
838 guardian of each out-of-state patient notifying them of the
839 priority status granted by this paragraph. For purposes of this
840 paragraph, the provisions of Section 41-7-193(1) requiring
841 substantial compliance with the projection of need as reported in
842 the current State Health Plan are waived. The total number of
843 child/adolescent psychiatric residential treatment facility beds
844 that may be authorized under the authority of this paragraph shall
845 be sixty (60) beds. There shall be no prohibition or restrictions



846 on participation in the Medicaid program (Section 43-13-101 et
847 seq.) for the person receiving the certificate of need authorized
848 under this paragraph or for the beds converted pursuant to the
849 authority of that certificate of need.

850 (4) (a) From and after March 25, 2021, the department may
851 issue a certificate of need to any person for the new construction
852 of any hospital, psychiatric hospital or chemical dependency
853 hospital that will contain any child/adolescent psychiatric or
854 child/adolescent chemical dependency beds, or for the conversion
855 of any other health care facility to a hospital, psychiatric
856 hospital or chemical dependency hospital that will contain any
857 child/adolescent psychiatric or child/adolescent chemical
858 dependency beds. There shall be no prohibition or restrictions on
859 participation in the Medicaid program (Section 43-13-101 et seq.)
860 for the person(s) receiving the certificate(s) of need authorized
861 under this paragraph (a) or for the beds converted pursuant to the
862 authority of that certificate of need. In issuing any new
863 certificate of need for any child/adolescent psychiatric or
864 child/adolescent chemical dependency beds, either by new
865 construction or conversion of beds of another category, the
866 department shall give preference to beds which will be located in
867 an area of the state which does not have such beds located in it,
868 and to a location more than sixty-five (65) miles from existing
869 beds. Upon receiving 2020 census data, the department may amend
870 the State Health Plan regarding child/adolescent psychiatric and



871 child/adolescent chemical dependency beds to reflect the need
872 based on new census data.

873 (i) [Deleted]

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

887 (iii) The department may issue a certificate or
888 certificates of need for the construction or expansion of
889 child/adolescent psychiatric beds or the conversion of other beds
890 to child/adolescent psychiatric beds in Warren County. For
891 purposes of this subparagraph (iii), the provisions of Section
892 41-7-193(1) requiring substantial compliance with the projection
893 of need as reported in the current State Health Plan are waived.
894 The total number of beds that may be authorized under the
895 authority of this subparagraph shall not exceed twenty (20) beds.



896 There shall be no prohibition or restrictions on participation in
897 the Medicaid program (Section 43-13-101 et seq.) for the person
898 receiving the certificate of need authorized under this
899 subparagraph or for the beds converted pursuant to the authority
900 of that certificate of need.

901 If by January 1, 2002, there has been no significant
902 commencement of construction of the beds authorized under this
903 subparagraph (iii), or no significant action taken to convert
904 existing beds to the beds authorized under this subparagraph, then
905 the certificate of need that was previously issued under this
906 subparagraph shall expire. If the previously issued certificate
907 of need expires, the department may accept applications for
908 issuance of another certificate of need for the beds authorized
909 under this subparagraph, and may issue a certificate of need to
910 authorize the construction, expansion or conversion of the beds
911 authorized under this subparagraph.

912 (iv) The department shall issue a certificate of
913 need to the Region 7 Mental Health/Retardation Commission for the
914 construction or expansion of child/adolescent psychiatric beds or
915 the conversion of other beds to child/adolescent psychiatric beds
916 in any of the counties served by the commission. For purposes of
917 this subparagraph (iv), the provisions of Section 41-7-193(1)
918 requiring substantial compliance with the projection of need as
919 reported in the current State Health Plan are waived. The total
920 number of beds that may be authorized under the authority of this



921 subparagraph shall not exceed twenty (20) beds. There shall be no
922 prohibition or restrictions on participation in the Medicaid
923 program (Section 43-13-101 et seq.) for the person receiving the
924 certificate of need authorized under this subparagraph or for the
925 beds converted pursuant to the authority of that certificate of
926 need.

927 (v) The department may issue a certificate of need
928 to any county hospital located in Leflore County for the
929 construction or expansion of adult psychiatric beds or the
930 conversion of other beds to adult psychiatric beds, not to exceed
931 twenty (20) beds, provided that the recipient of the certificate
932 of need agrees in writing that the adult psychiatric beds will not
933 at any time be certified for participation in the Medicaid program
934 and that the hospital will not admit or keep any patients who are
935 participating in the Medicaid program in any of such adult
936 psychiatric beds. This written agreement by the recipient of the
937 certificate of need shall be fully binding on any subsequent owner
938 of the hospital if the ownership of the hospital is transferred at
939 any time after the issuance of the certificate of need. Agreement
940 that the adult psychiatric beds will not be certified for
941 participation in the Medicaid program shall be a condition of the
942 issuance of a certificate of need to any person under this
943 subparagraph (v), and if such hospital at any time after the
944 issuance of the certificate of need, regardless of the ownership
945 of the hospital, has any of such adult psychiatric beds certified



946 for participation in the Medicaid program or admits or keeps any
947 Medicaid patients in such adult psychiatric beds, the State
948 Department of Health shall revoke the certificate of need, if it
949 is still outstanding, and shall deny or revoke the license of the
950 hospital at the time that the department determines, after a
951 hearing complying with due process, that the hospital has failed
952 to comply with any of the conditions upon which the certificate of
953 need was issued, as provided in this subparagraph and in the
954 written agreement by the recipient of the certificate of need.

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

969 (b) From and after July 1, 1990, no hospital,
970 psychiatric hospital or chemical dependency hospital shall be



971 authorized to add any child/adolescent psychiatric or
972 child/adolescent chemical dependency beds or convert any beds of
973 another category to child/adolescent psychiatric or
974 child/adolescent chemical dependency beds without a certificate of
975 need under the authority of subsection (1)(c) and subsection
976 (4)(a) of this section.

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

980 (6) The State Department of Health shall issue a certificate
981 of need to a Mississippi corporation qualified to manage a
982 long-term care hospital as defined in Section 41-7-173(h)(xii) in
983 Harrison County, not to exceed eighty (80) beds, including any
984 necessary renovation or construction required for licensure and
985 certification, provided that the recipient of the certificate of
986 need agrees in writing that the long-term care hospital will not
987 at any time participate in the Medicaid program (Section 43-13-101
988 et seq.) * * * ~~or admit or keep any patients in the long-term care~~
989 ~~hospital who are participating in the Medicaid program~~ except as a
990 crossover provider. This written agreement by the recipient of
991 the certificate of need shall be fully binding on any subsequent
992 owner of the long-term care hospital, if the ownership of the
993 facility is transferred at any time after the issuance of the
994 certificate of need. Agreement that the long-term care hospital
995 will not participate in the Medicaid program except as a crossover



996 provider shall be a condition of the issuance of a certificate of
997 need to any person under this subsection (6), and if such
998 long-term care hospital at any time after the issuance of the
999 certificate of need, regardless of the ownership of the facility,
1000 participates in the Medicaid program * * * ~~or admits or keeps any~~
1001 ~~patients in the facility who are participating in the Medicaid~~
1002 ~~program~~ except as a crossover provider, the State Department of
1003 Health shall revoke the certificate of need, if it is still
1004 outstanding, and shall deny or revoke the license of the long-term
1005 care hospital, at the time that the department determines, after a
1006 hearing complying with due process, that the facility has failed
1007 to comply with any of the conditions upon which the certificate of
1008 need was issued, as provided in this subsection and in the written
1009 agreement by the recipient of the certificate of need. For
1010 purposes of this subsection, the provisions of Section 41-7-193(1)
1011 requiring substantial compliance with the projection of need as
1012 reported in the current State Health Plan are waived. This
1013 subsection (6) shall be retroactive to July 1, 2023.

1014 (7) The State Department of Health may issue a certificate
1015 of need to any hospital in the state to utilize a portion of its
1016 beds for the "swing-bed" concept. Any such hospital must be in
1017 conformance with the federal regulations regarding such swing-bed
1018 concept at the time it submits its application for a certificate
1019 of need to the State Department of Health, except that such
1020 hospital may have more licensed beds or a higher average daily



1021 census (ADC) than the maximum number specified in federal
1022 regulations for participation in the swing-bed program. Any
1023 hospital meeting all federal requirements for participation in the
1024 swing-bed program which receives such certificate of need shall
1025 render services provided under the swing-bed concept to any
1026 patient eligible for Medicare (Title XVIII of the Social Security
1027 Act) who is certified by a physician to be in need of such
1028 services, and no such hospital shall permit any patient who is
1029 eligible for both Medicaid and Medicare or eligible only for
1030 Medicaid to stay in the swing beds of the hospital for more than
1031 thirty (30) days per admission unless the hospital receives prior
1032 approval for such patient from the Division of Medicaid, Office of
1033 the Governor. Any hospital having more licensed beds or a higher
1034 average daily census (ADC) than the maximum number specified in
1035 federal regulations for participation in the swing-bed program
1036 which receives such certificate of need shall develop a procedure
1037 to ensure that before a patient is allowed to stay in the swing
1038 beds of the hospital, there are no vacant nursing home beds
1039 available for that patient located within a fifty-mile radius of
1040 the hospital. When any such hospital has a patient staying in the
1041 swing beds of the hospital and the hospital receives notice from a
1042 nursing home located within such radius that there is a vacant bed
1043 available for that patient, the hospital shall transfer the
1044 patient to the nursing home within a reasonable time after receipt
1045 of the notice. Any hospital which is subject to the requirements



1046 of the two (2) preceding sentences of this subsection may be
1047 suspended from participation in the swing-bed program for a
1048 reasonable period of time by the State Department of Health if the
1049 department, after a hearing complying with due process, determines
1050 that the hospital has failed to comply with any of those
1051 requirements.

1052 (8) The Department of Health shall not grant approval for or
1053 issue a certificate of need to any person proposing the new
1054 construction of, addition to or expansion of a health care
1055 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1056 except as hereinafter provided: Effective July 1, 2025, the
1057 department * * * ~~may~~ shall issue a certificate of need to a
1058 nonprofit corporation located in Madison County, Mississippi, for
1059 the construction, expansion or conversion of * * * ~~not more than~~
1060 ~~twenty (20)~~ forty (40) beds in a community living program for
1061 developmentally disabled adults in a facility as defined in
1062 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1063 subsection (8), the provisions of Section 41-7-193(1) requiring
1064 substantial compliance with the projection of need as reported in
1065 the current State Health Plan and the provisions of Section
1066 41-7-197 requiring a formal certificate of need hearing process
1067 are waived. There shall be no prohibition or restrictions on
1068 participation in the Medicaid program for the person receiving the
1069 certificate of need authorized under this subsection (8).



1070 (9) The Department of Health shall not grant approval for or
1071 issue a certificate of need to any person proposing the
1072 establishment of, or expansion of the currently approved territory
1073 of, or the contracting to establish a home office, subunit or
1074 branch office within the space operated as a health care facility
1075 as defined in Section 41-7-173(h) (i) through (viii) by a health
1076 care facility as defined in subparagraph (ix) of Section
1077 41-7-173(h).

1078 (10) Health care facilities owned and/or operated by the
1079 state or its agencies are exempt from the restraints in this
1080 section against issuance of a certificate of need if such addition
1081 or expansion consists of repairing or renovation necessary to
1082 comply with the state licensure law. This exception shall not
1083 apply to the new construction of any building by such state
1084 facility. This exception shall not apply to any health care
1085 facilities owned and/or operated by counties, municipalities,
1086 districts, unincorporated areas, other defined persons, or any
1087 combination thereof.

1088 (11) The new construction, renovation or expansion of or
1089 addition to any health care facility defined in subparagraph (ii)
1090 (psychiatric hospital), subparagraph (iv) (skilled nursing
1091 facility), subparagraph (vi) (intermediate care facility),
1092 subparagraph (viii) (intermediate care facility for individuals
1093 with intellectual disabilities) and subparagraph (x) (psychiatric
1094 residential treatment facility) of Section 41-7-173(h) which is



1095 owned by the State of Mississippi and under the direction and
1096 control of the State Department of Mental Health, and the addition
1097 of new beds or the conversion of beds from one category to another
1098 in any such defined health care facility which is owned by the
1099 State of Mississippi and under the direction and control of the
1100 State Department of Mental Health, shall not require the issuance
1101 of a certificate of need under Section 41-7-171 et seq.,
1102 notwithstanding any provision in Section 41-7-171 et seq. to the
1103 contrary.

1104 (12) The new construction, renovation or expansion of or
1105 addition to any veterans homes or domiciliaries for eligible
1106 veterans of the State of Mississippi as authorized under Section
1107 35-1-19 shall not require the issuance of a certificate of need,
1108 notwithstanding any provision in Section 41-7-171 et seq. to the
1109 contrary.

1110 (13) The repair or the rebuilding of an existing, operating
1111 health care facility that sustained significant damage from a
1112 natural disaster that occurred after April 15, 2014, in an area
1113 that is proclaimed a disaster area or subject to a state of
1114 emergency by the Governor or by the President of the United States
1115 shall be exempt from all of the requirements of the Mississippi
1116 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1117 rules and regulations promulgated under that law, subject to the
1118 following conditions:



1119 (a) The repair or the rebuilding of any such damaged
1120 health care facility must be within one (1) mile of the
1121 pre-disaster location of the campus of the damaged health care
1122 facility, except that any temporary post-disaster health care
1123 facility operating location may be within five (5) miles of the
1124 pre-disaster location of the damaged health care facility;

1125 (b) The repair or the rebuilding of the damaged health
1126 care facility (i) does not increase or change the complement of
1127 its bed capacity that it had before the Governor's or the
1128 President's proclamation, (ii) does not increase or change its
1129 levels and types of health care services that it provided before
1130 the Governor's or the President's proclamation, and (iii) does not
1131 rebuild in a different county; however, this paragraph does not
1132 restrict or prevent a health care facility from decreasing its bed
1133 capacity that it had before the Governor's or the President's
1134 proclamation, or from decreasing the levels of or decreasing or
1135 eliminating the types of health care services that it provided
1136 before the Governor's or the President's proclamation, when the
1137 damaged health care facility is repaired or rebuilt;

1138 (c) The exemption from Certificate of Need Law provided
1139 under this subsection (13) is valid for only five (5) years from
1140 the date of the Governor's or the President's proclamation. If
1141 actual construction has not begun within that five-year period,
1142 the exemption provided under this subsection is inapplicable; and



1143 (d) The Division of Health Facilities Licensure and
1144 Certification of the State Department of Health shall provide the
1145 same oversight for the repair or the rebuilding of the damaged
1146 health care facility that it provides to all health care facility
1147 construction projects in the state.

1148 For the purposes of this subsection (13), "significant
1149 damage" to a health care facility means damage to the health care
1150 facility requiring an expenditure of at least One Million Dollars
1151 (\$1,000,000.00).

1152 (14) The State Department of Health shall issue a
1153 certificate of need to any hospital which is currently licensed
1154 for two hundred fifty (250) or more acute care beds and is located
1155 in any general hospital service area not having a comprehensive
1156 cancer center, for the establishment and equipping of such a
1157 center which provides facilities and services for outpatient
1158 radiation oncology therapy, outpatient medical oncology therapy,
1159 and appropriate support services including the provision of
1160 radiation therapy services. The provisions of Section 41-7-193(1)
1161 regarding substantial compliance with the projection of need as
1162 reported in the current State Health Plan are waived for the
1163 purpose of this subsection.

1164 (15) The State Department of Health may authorize the
1165 transfer of hospital beds, not to exceed sixty (60) beds, from the
1166 North Panola Community Hospital to the South Panola Community



1167 Hospital. The authorization for the transfer of those beds shall
1168 be exempt from the certificate of need review process.

1169 (16) The State Department of Health shall issue any
1170 certificates of need necessary for Mississippi State University
1171 and a public or private health care provider to jointly acquire
1172 and operate a linear accelerator and a magnetic resonance imaging
1173 unit. Those certificates of need shall cover all capital
1174 expenditures related to the project between Mississippi State
1175 University and the health care provider, including, but not
1176 limited to, the acquisition of the linear accelerator, the
1177 magnetic resonance imaging unit and other radiological modalities;
1178 the offering of linear accelerator and magnetic resonance imaging
1179 services; and the cost of construction of facilities in which to
1180 locate these services. The linear accelerator and the magnetic
1181 resonance imaging unit shall be (a) located in the City of
1182 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1183 Mississippi State University and the public or private health care
1184 provider selected by Mississippi State University through a
1185 request for proposals (RFP) process in which Mississippi State
1186 University selects, and the Board of Trustees of State
1187 Institutions of Higher Learning approves, the health care provider
1188 that makes the best overall proposal; (c) available to Mississippi
1189 State University for research purposes two-thirds (2/3) of the
1190 time that the linear accelerator and magnetic resonance imaging
1191 unit are operational; and (d) available to the public or private



1192 health care provider selected by Mississippi State University and
1193 approved by the Board of Trustees of State Institutions of Higher
1194 Learning one-third (1/3) of the time for clinical, diagnostic and
1195 treatment purposes. For purposes of this subsection, the
1196 provisions of Section 41-7-193(1) requiring substantial compliance
1197 with the projection of need as reported in the current State
1198 Health Plan are waived.

1199 (17) The State Department of Health shall issue a
1200 certificate of need for the construction of an acute care hospital
1201 in Kemper County, not to exceed twenty-five (25) beds, which shall
1202 be named the "John C. Stennis Memorial Hospital." In issuing the
1203 certificate of need under this subsection, the department shall
1204 give priority to a hospital located in Lauderdale County that has
1205 two hundred fifteen (215) beds. For purposes of this subsection,
1206 the provisions of Section 41-7-193(1) requiring substantial
1207 compliance with the projection of need as reported in the current
1208 State Health Plan and the provisions of Section 41-7-197 requiring
1209 a formal certificate of need hearing process are waived. There
1210 shall be no prohibition or restrictions on participation in the
1211 Medicaid program (Section 43-13-101 et seq.) for the person or
1212 entity receiving the certificate of need authorized under this
1213 subsection or for the beds constructed under the authority of that
1214 certificate of need.

1215 (18) The planning, design, construction, renovation,
1216 addition, furnishing and equipping of a clinical research unit at



1217 any health care facility defined in Section 41-7-173(h) that is
1218 under the direction and control of the University of Mississippi
1219 Medical Center and located in Jackson, Mississippi, and the
1220 addition of new beds or the conversion of beds from one (1)
1221 category to another in any such clinical research unit, shall not
1222 require the issuance of a certificate of need under Section
1223 41-7-171 et seq., notwithstanding any provision in Section
1224 41-7-171 et seq. to the contrary.

1225 (19) [Repealed]

1226 (20) Nothing in this section or in any other provision of
1227 Section 41-7-171 et seq. shall prevent any nursing facility from
1228 designating an appropriate number of existing beds in the facility
1229 as beds for providing care exclusively to patients with
1230 Alzheimer's disease.

1231 (21) Nothing in this section or any other provision of
1232 Section 41-7-171 et seq. shall prevent any health care facility
1233 from the new construction, renovation, conversion or expansion of
1234 new beds in the facility designated as intensive care units,
1235 negative pressure rooms, or isolation rooms pursuant to the
1236 provisions of Sections 41-14-1 through 41-14-11, or Section
1237 41-14-31. For purposes of this subsection, the provisions of
1238 Section 41-7-193(1) requiring substantial compliance with the
1239 projection of need as reported in the current State Health Plan
1240 and the provisions of Section 41-7-197 requiring a formal
1241 certificate of need hearing process are waived.



1242 **SECTION 2.** This act shall take effect and be in force from
1243 and after July 1, 2025, and shall stand repealed on June 30, 2025.

