

By: Representatives Felsher, Creekmore IV

To: Public Health and Human Services

HOUSE BILL NO. 569
(As Sent to Governor)

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; TO
13 PROVIDE THAT THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER NEED NOT
14 OBTAIN A CERTIFICATE OF NEED FOR ANY HOSPITAL BEDS, SERVICES,
15 HEALTH CARE FACILITIES, OR MEDICAL EQUIPMENT WHICH HAVE BEEN
16 APPROVED AND CONTINUOUSLY OPERATED UNDER A CERTIFICATE OF NEED
17 EXEMPTION FOR A TEACHING HOSPITAL, OR WHICH ARE APPROVED BEFORE
18 JULY 1, 2025, SO LONG AS THEY DO NOT UNDERGO A PHYSICAL
19 RELOCATION; TO PROVIDE THAT AFTER JULY 1, 2025, THE UNIVERSITY OF
20 MISSISSIPPI MEDICAL CENTER SHALL HAVE AN ACADEMIC EXEMPTION FROM
21 THE CERTIFICATE OF NEED REQUIREMENTS ONLY WITHIN A CERTAIN AREA OF
22 JACKSON, MISSISSIPPI; TO CLARIFY THAT IN ORDER FOR THE UNIVERSITY
23 OF MISSISSIPPI MEDICAL CENTER TO QUALIFY FOR SUCH AN ACADEMIC
24 EXEMPTION, THE STATE HEALTH OFFICER MUST DETERMINE THAT THE
25 PROPOSED EQUIPMENT OR FACILITY FULFILLS A SUBSTANTIAL AND
26 MEANINGFUL ACADEMIC FUNCTION; TO DIRECT THE STATE DEPARTMENT OF
27 HEALTH TO ISSUE A CERTIFICATE OF NEED TO ANY PSYCHIATRIC HOSPITAL
28 LOCATED IN JACKSON, MISSISSIPPI, THAT WAS PROVIDING ADULT
29 PSYCHIATRIC SERVICES AS OF JANUARY 1, 2025, UNDER CERTIFICATE OF
30 NEED AUTHORITY THAT WAS TRANSFERRED TO IT WITHIN THE PAST FIVE
31 YEARS UNDER A CHANGE OF OWNERSHIP, AND TO PROVIDE THAT THE NEW
32 CERTIFICATE OF NEED SHALL AUTHORIZE THE CONTINUATION OF SUCH ADULT
33 PSYCHIATRIC SERVICES, PROVIDED THAT THE HOSPITAL RELINQUISHES ITS
34 EXISTING AUTHORITY TO OPERATE UNDER THE CERTIFICATE OF NEED



35 AUTHORITY TRANSFERRED TO THE HOSPITAL AS OF THE EFFECTIVE DATE OF
36 THE NEW CERTIFICATE OF NEED; TO DIRECT THE STATE DEPARTMENT OF
37 HEALTH TO CONDUCT A STUDY AND REPORT BY DECEMBER 1, 2025, ON THE
38 FEASIBILITY OF EXEMPTING SMALL HOSPITALS FROM THE REQUIREMENT FOR
39 A CERTIFICATE OF NEED FOR THE PLACEMENT OF DIALYSIS UNITS TO
40 REDUCE THE NUMBER OF TRANSFERS FOR PATIENTS REQUIRING DIALYSIS,
41 THE FEASIBILITY OF EXEMPTING SMALL HOSPITALS FROM THE REQUIREMENT
42 FOR A CERTIFICATE OF NEED TO OPERATE GERIATRIC PSYCHIATRIC UNITS,
43 AND THE FEASIBILITY OF A NEW REQUIREMENT THAT ACUTE ADULT
44 PSYCHIATRIC UNITS TREAT A CERTAIN PERCENTAGE OF UNINSURED PATIENTS
45 OR PAY A PERIODIC FEE IN LIEU THEREOF; TO AMEND SECTION 41-7-173,
46 MISSISSIPPI CODE OF 1972, TO INCREASE THE MINIMUM DOLLAR AMOUNTS
47 OF CAPITAL EXPENDITURES AND MAJOR MEDICAL EQUIPMENT THAT REQUIRE
48 THE ISSUANCE OF A CERTIFICATE OF NEED; AND FOR RELATED PURPOSES.

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

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

52 41-7-191. (1) No person shall engage in any of the
53 following activities without obtaining the required certificate of
54 need:

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

59 (b) The relocation of a health care facility or portion
60 thereof, or major medical equipment, unless such relocation of a
61 health care facility or portion thereof, or major medical
62 equipment, which does not involve a capital expenditure by or on
63 behalf of a health care facility, is within five thousand two
64 hundred eighty (5,280) feet from the main entrance of the health
65 care facility;



66 (c) Any change in the existing bed complement of any
67 health care facility through the addition or conversion of any
68 beds or the alteration, modernizing or refurbishing of any unit or
69 department in which the beds may be located; however, if a health
70 care facility has voluntarily delicensed some of its existing bed
71 complement, it may later relicense some or all of its delicensed
72 beds without the necessity of having to acquire a certificate of
73 need. The State Department of Health shall maintain a record of
74 the delicensing health care facility and its voluntarily
75 delicensed beds and continue counting those beds as part of the
76 state's total bed count for health care planning purposes. If a
77 health care facility that has voluntarily delicensed some of its
78 beds later desires to relicense some or all of its voluntarily
79 delicensed beds, it shall notify the State Department of Health of
80 its intent to increase the number of its licensed beds. The State
81 Department of Health shall survey the health care facility within
82 thirty (30) days of that notice and, if appropriate, issue the
83 health care facility a new license reflecting the new contingent
84 of beds. However, in no event may a health care facility that has
85 voluntarily delicensed some of its beds be reissued a license to
86 operate beds in excess of its bed count before the voluntary
87 delicensure of some of its beds without seeking certificate of
88 need approval;

89 (d) Offering of the following health services if those
90 services have not been provided on a regular basis by the proposed



91 provider of such services within the period of twelve (12) months
92 prior to the time such services would be offered:

- 93 (i) Open-heart surgery services;
- 94 (ii) Cardiac catheterization services;
- 95 (iii) Comprehensive inpatient rehabilitation
96 services;
- 97 (iv) Licensed psychiatric services;
- 98 (v) Licensed chemical dependency services;
- 99 (vi) Radiation therapy services;
- 100 (vii) Diagnostic imaging services of an invasive
101 nature, i.e. invasive digital angiography;
- 102 (viii) Nursing home care as defined in
103 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 104 (ix) Home health services;
- 105 (x) Swing-bed services;
- 106 (xi) Ambulatory surgical services;
- 107 (xii) Magnetic resonance imaging services;
- 108 (xiii) [Deleted]
- 109 (xiv) Long-term care hospital services;
- 110 (xv) Positron emission tomography (PET) services;

111 (e) The relocation of one or more health services from
112 one physical facility or site to another physical facility or
113 site, unless such relocation, which does not involve a capital
114 expenditure by or on behalf of a health care facility, (i) is to a
115 physical facility or site within five thousand two hundred eighty



116 (5,280) feet from the main entrance of the health care facility
117 where the health care service is located, or (ii) is the result of
118 an order of a court of appropriate jurisdiction or a result of
119 pending litigation in such court, or by order of the State
120 Department of Health, or by order of any other agency or legal
121 entity of the state, the federal government, or any political
122 subdivision of either, whose order is also approved by the State
123 Department of Health;

124 (f) The acquisition or otherwise control of any major
125 medical equipment for the provision of medical services; however,
126 (i) the acquisition of any major medical equipment used only for
127 research purposes, and (ii) the acquisition of major medical
128 equipment to replace medical equipment for which a facility is
129 already providing medical services and for which the State
130 Department of Health has been notified before the date of such
131 acquisition shall be exempt from this paragraph; an acquisition
132 for less than fair market value must be reviewed, if the
133 acquisition at fair market value would be subject to review;

134 (g) Changes of ownership of existing health care
135 facilities in which a notice of intent is not filed with the State
136 Department of Health at least thirty (30) days prior to the date
137 such change of ownership occurs, or a change in services or bed
138 capacity as prescribed in paragraph (c) or (d) of this subsection
139 as a result of the change of ownership; an acquisition for less



140 than fair market value must be reviewed, if the acquisition at
141 fair market value would be subject to review;

142 (h) The change of ownership of any health care facility
143 defined in subparagraphs (iv), (vi) and (viii) of Section
144 41-7-173(h), in which a notice of intent as described in paragraph
145 (g) has not been filed and if the Executive Director, Division of
146 Medicaid, Office of the Governor, has not certified in writing
147 that there will be no increase in allowable costs to Medicaid from
148 revaluation of the assets or from increased interest and
149 depreciation as a result of the proposed change of ownership;

150 (i) Any activity described in paragraphs (a) through
151 (h) if undertaken by any person if that same activity would
152 require certificate of need approval if undertaken by a health
153 care facility;

154 (j) Any capital expenditure or deferred capital
155 expenditure by or on behalf of a health care facility not covered
156 by paragraphs (a) through (h);

157 (k) The contracting of a health care facility as
158 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
159 to establish a home office, subunit, or branch office in the space
160 operated as a health care facility through a formal arrangement
161 with an existing health care facility as defined in subparagraph
162 (ix) of Section 41-7-173(h);

163 (l) The replacement or relocation of a health care
164 facility designated as a critical access hospital shall be exempt



165 from subsection (1) of this section so long as the critical access
166 hospital complies with all applicable federal law and regulations
167 regarding such replacement or relocation;

168 (m) Reopening a health care facility that has ceased to
169 operate for a period of sixty (60) months or more, which reopening
170 requires a certificate of need for the establishment of a new
171 health care facility.

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

179 (a) The department may issue a certificate of need to
180 any person proposing the new construction of any health care
181 facility defined in subparagraphs (iv) and (vi) of Section
182 41-7-173(h) as part of a life care retirement facility, in any
183 county bordering on the Gulf of Mexico in which is located a
184 National Aeronautics and Space Administration facility, not to
185 exceed forty (40) beds. From and after July 1, 1999, there shall
186 be no prohibition or restrictions on participation in the Medicaid
187 program (Section 43-13-101 et seq.) for the beds in the health
188 care facility that were authorized under this paragraph (a).



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

196 (c) The department may issue a certificate of need for
197 the addition to or expansion of any skilled nursing facility that
198 is part of an existing continuing care retirement community
199 located in Madison County, provided that the recipient of the
200 certificate of need agrees in writing that the skilled nursing
201 facility will not at any time participate in the Medicaid program
202 (Section 43-13-101 et seq.) or admit or keep any patients in the
203 skilled nursing facility who are participating in the Medicaid
204 program. This written agreement by the recipient of the
205 certificate of need shall be fully binding on any subsequent owner
206 of the skilled nursing facility, if the ownership of the facility
207 is transferred at any time after the issuance of the certificate
208 of need. Agreement that the skilled nursing facility will not
209 participate in the Medicaid program shall be a condition of the
210 issuance of a certificate of need to any person under this
211 paragraph (c), and if such skilled nursing facility at any time
212 after the issuance of the certificate of need, regardless of the
213 ownership of the facility, participates in the Medicaid program or



214 admits or keeps any patients in the facility who are participating
215 in the Medicaid program, the State Department of Health shall
216 revoke the certificate of need, if it is still outstanding, and
217 shall deny or revoke the license of the skilled nursing facility,
218 at the time that the department determines, after a hearing
219 complying with due process, that the facility has failed to comply
220 with any of the conditions upon which the certificate of need was
221 issued, as provided in this paragraph and in the written agreement
222 by the recipient of the certificate of need. The total number of
223 beds that may be authorized under the authority of this paragraph
224 (c) shall not exceed sixty (60) beds.

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

233 (e) The State Department of Health may issue a
234 certificate of need for the construction of a nursing facility or
235 the conversion of beds to nursing facility beds at a personal care
236 facility for the elderly in Lowndes County that is owned and
237 operated by a Mississippi nonprofit corporation, not to exceed
238 sixty (60) beds. From and after July 1, 1999, there shall be no



239 prohibition or restrictions on participation in the Medicaid
240 program (Section 43-13-101 et seq.) for the beds in the nursing
241 facility that were authorized under this paragraph (e).

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

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

258 (h) The State Department of Health may issue a
259 certificate of need for the construction or expansion of nursing
260 facility beds or the conversion of other beds to nursing facility
261 beds in either Hancock, Harrison or Jackson County, not to exceed
262 sixty (60) beds. From and after July 1, 1999, there shall be no
263 prohibition or restrictions on participation in the Medicaid



264 program (Section 43-13-101 et seq.) for the beds in the facility
265 that were authorized under this paragraph (h).

266 (i) The department may issue a certificate of need for
267 the new construction of a skilled nursing facility in Leake
268 County, provided that the recipient of the certificate of need
269 agrees in writing that the skilled nursing facility will not at
270 any time participate in the Medicaid program (Section 43-13-101 et
271 seq.) or admit or keep any patients in the skilled nursing
272 facility who are participating in the Medicaid program. This
273 written agreement by the recipient of the certificate of need
274 shall be fully binding on any subsequent owner of the skilled
275 nursing facility, if the ownership of the facility is transferred
276 at any time after the issuance of the certificate of need.
277 Agreement that the skilled nursing facility will not participate
278 in the Medicaid program shall be a condition of the issuance of a
279 certificate of need to any person under this paragraph (i), and if
280 such skilled nursing facility at any time after the issuance of
281 the certificate of need, regardless of the ownership of the
282 facility, participates in the Medicaid program or admits or keeps
283 any patients in the facility who are participating in the Medicaid
284 program, the State Department of Health shall revoke the
285 certificate of need, if it is still outstanding, and shall deny or
286 revoke the license of the skilled nursing facility, at the time
287 that the department determines, after a hearing complying with due
288 process, that the facility has failed to comply with any of the



289 conditions upon which the certificate of need was issued, as
290 provided in this paragraph and in the written agreement by the
291 recipient of the certificate of need. The provision of Section
292 41-7-193(1) regarding substantial compliance of the projection of
293 need as reported in the current State Health Plan is waived for
294 the purposes of this paragraph. The total number of nursing
295 facility beds that may be authorized by any certificate of need
296 issued under this paragraph (i) shall not exceed sixty (60) beds.
297 If the skilled nursing facility authorized by the certificate of
298 need issued under this paragraph is not constructed and fully
299 operational within eighteen (18) months after July 1, 1994, the
300 State Department of Health, after a hearing complying with due
301 process, shall revoke the certificate of need, if it is still
302 outstanding, and shall not issue a license for the skilled nursing
303 facility at any time after the expiration of the eighteen-month
304 period.

305 (j) The department may issue certificates of need to
306 allow any existing freestanding long-term care facility in
307 Tishomingo County and Hancock County that on July 1, 1995, is
308 licensed with fewer than sixty (60) beds. For the purposes of
309 this paragraph (j), the provisions of Section 41-7-193(1)
310 requiring substantial compliance with the projection of need as
311 reported in the current State Health Plan are waived. From and
312 after July 1, 1999, there shall be no prohibition or restrictions
313 on participation in the Medicaid program (Section 43-13-101 et



314 seq.) for the beds in the long-term care facilities that were
315 authorized under this paragraph (j).

316 (k) The department may issue a certificate of need for
317 the construction of a nursing facility at a continuing care
318 retirement community in Lowndes County. The total number of beds
319 that may be authorized under the authority of this paragraph (k)
320 shall not exceed sixty (60) beds. From and after July 1, 2001,
321 the prohibition on the facility participating in the Medicaid
322 program (Section 43-13-101 et seq.) that was a condition of
323 issuance of the certificate of need under this paragraph (k) shall
324 be revised as follows: The nursing facility may participate in
325 the Medicaid program from and after July 1, 2001, if the owner of
326 the facility on July 1, 2001, agrees in writing that no more than
327 thirty (30) of the beds at the facility will be certified for
328 participation in the Medicaid program, and that no claim will be
329 submitted for Medicaid reimbursement for more than thirty (30)
330 patients in the facility in any month or for any patient in the
331 facility who is in a bed that is not Medicaid-certified. This
332 written agreement by the owner of the facility shall be a
333 condition of licensure of the facility, and the agreement shall be
334 fully binding on any subsequent owner of the facility if the
335 ownership of the facility is transferred at any time after July 1,
336 2001. After this written agreement is executed, the Division of
337 Medicaid and the State Department of Health shall not certify more
338 than thirty (30) of the beds in the facility for participation in



339 the Medicaid program. If the facility violates the terms of the
340 written agreement by admitting or keeping in the facility on a
341 regular or continuing basis more than thirty (30) patients who are
342 participating in the Medicaid program, the State Department of
343 Health shall revoke the license of the facility, at the time that
344 the department determines, after a hearing complying with due
345 process, that the facility has violated the written agreement.

346 (l) Provided that funds are specifically appropriated
347 therefor by the Legislature, the department may issue a
348 certificate of need to a rehabilitation hospital in Hinds County
349 for the construction of a sixty-bed long-term care nursing
350 facility dedicated to the care and treatment of persons with
351 severe disabilities including persons with spinal cord and
352 closed-head injuries and ventilator dependent patients. The
353 provisions of Section 41-7-193(1) regarding substantial compliance
354 with projection of need as reported in the current State Health
355 Plan are waived for the purpose of this paragraph.

356 (m) The State Department of Health may issue a
357 certificate of need to a county-owned hospital in the Second
358 Judicial District of Panola County for the conversion of not more
359 than seventy-two (72) hospital beds to nursing facility beds,
360 provided that the recipient of the certificate of need agrees in
361 writing that none of the beds at the nursing facility will be
362 certified for participation in the Medicaid program (Section
363 43-13-101 et seq.), and that no claim will be submitted for



364 Medicaid reimbursement in the nursing facility in any day or for
365 any patient in the nursing facility. This written agreement by
366 the recipient of the certificate of need shall be a condition of
367 the issuance of the certificate of need under this paragraph, and
368 the agreement shall be fully binding on any subsequent owner of
369 the nursing facility if the ownership of the nursing facility is
370 transferred at any time after the issuance of the certificate of
371 need. After this written agreement is executed, the Division of
372 Medicaid and the State Department of Health shall not certify any
373 of the beds in the nursing facility for participation in the
374 Medicaid program. If the nursing facility violates the terms of
375 the written agreement by admitting or keeping in the nursing
376 facility on a regular or continuing basis any patients who are
377 participating in the Medicaid program, the State Department of
378 Health shall revoke the license of the nursing facility, at the
379 time that the department determines, after a hearing complying
380 with due process, that the nursing facility has violated the
381 condition upon which the certificate of need was issued, as
382 provided in this paragraph and in the written agreement. If the
383 certificate of need authorized under this paragraph is not issued
384 within twelve (12) months after July 1, 2001, the department shall
385 deny the application for the certificate of need and shall not
386 issue the certificate of need at any time after the twelve-month
387 period, unless the issuance is contested. If the certificate of
388 need is issued and substantial construction of the nursing



389 facility beds has not commenced within eighteen (18) months after
390 July 1, 2001, the State Department of Health, after a hearing
391 complying with due process, shall revoke the certificate of need
392 if it is still outstanding, and the department shall not issue a
393 license for the nursing facility at any time after the
394 eighteen-month period. However, if the issuance of the
395 certificate of need is contested, the department shall require
396 substantial construction of the nursing facility beds within six
397 (6) months after final adjudication on the issuance of the
398 certificate of need.

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



414 after the issuance of the certificate of need, regardless of the
415 ownership of the facility, participates in the Medicaid program or
416 admits or keeps any patients in the facility who are participating
417 in the Medicaid program, the State Department of Health shall
418 revoke the certificate of need, if it is still outstanding, and
419 shall deny or revoke the license of the skilled nursing facility,
420 at the time that the department determines, after a hearing
421 complying with due process, that the facility has failed to comply
422 with any of the conditions upon which the certificate of need was
423 issued, as provided in this paragraph and in the written agreement
424 by the recipient of the certificate of need. The total number of
425 nursing facility beds that may be authorized by any certificate of
426 need issued under this paragraph (n) shall not exceed sixty (60)
427 beds. If the certificate of need authorized under this paragraph
428 is not issued within twelve (12) months after July 1, 1998, the
429 department shall deny the application for the certificate of need
430 and shall not issue the certificate of need at any time after the
431 twelve-month period, unless the issuance is contested. If the
432 certificate of need is issued and substantial construction of the
433 nursing facility beds has not commenced within eighteen (18)
434 months after July 1, 1998, the State Department of Health, after a
435 hearing complying with due process, shall revoke the certificate
436 of need if it is still outstanding, and the department shall not
437 issue a license for the nursing facility at any time after the
438 eighteen-month period. However, if the issuance of the



439 certificate of need is contested, the department shall require
440 substantial construction of the nursing facility beds within six
441 (6) months after final adjudication on the issuance of the
442 certificate of need.

443 (o) The department may issue a certificate of need for
444 the new construction, addition or conversion of skilled nursing
445 facility beds in Leake County, provided that the recipient of the
446 certificate of need agrees in writing that the skilled nursing
447 facility will not at any time participate in the Medicaid program
448 (Section 43-13-101 et seq.) or admit or keep any patients in the
449 skilled nursing facility who are participating in the Medicaid
450 program. This written agreement by the recipient of the
451 certificate of need shall be fully binding on any subsequent owner
452 of the skilled nursing facility, if the ownership of the facility
453 is transferred at any time after the issuance of the certificate
454 of need. Agreement that the skilled nursing facility will not
455 participate in the Medicaid program shall be a condition of the
456 issuance of a certificate of need to any person under this
457 paragraph (o), and if such skilled nursing facility at any time
458 after the issuance of the certificate of need, regardless of the
459 ownership of the facility, participates in the Medicaid program or
460 admits or keeps any patients in the facility who are participating
461 in the Medicaid program, the State Department of Health shall
462 revoke the certificate of need, if it is still outstanding, and
463 shall deny or revoke the license of the skilled nursing facility,



464 at the time that the department determines, after a hearing
465 complying with due process, that the facility has failed to comply
466 with any of the conditions upon which the certificate of need was
467 issued, as provided in this paragraph and in the written agreement
468 by the recipient of the certificate of need. The total number of
469 nursing facility beds that may be authorized by any certificate of
470 need issued under this paragraph (o) shall not exceed sixty (60)
471 beds. If the certificate of need authorized under this paragraph
472 is not issued within twelve (12) months after July 1, 2001, the
473 department shall deny the application for the certificate of need
474 and shall not issue the certificate of need at any time after the
475 twelve-month period, unless the issuance is contested. If the
476 certificate of need is issued and substantial construction of the
477 nursing facility beds has not commenced within eighteen (18)
478 months after July 1, 2001, the State Department of Health, after a
479 hearing complying with due process, shall revoke the certificate
480 of need if it is still outstanding, and the department shall not
481 issue a license for the nursing facility at any time after the
482 eighteen-month period. However, if the issuance of the
483 certificate of need is contested, the department shall require
484 substantial construction of the nursing facility beds within six
485 (6) months after final adjudication on the issuance of the
486 certificate of need.

487 (p) The department may issue a certificate of need for
488 the construction of a municipally owned nursing facility within



489 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
490 beds, provided that the recipient of the certificate of need
491 agrees in writing that the skilled nursing facility will not at
492 any time participate in the Medicaid program (Section 43-13-101 et
493 seq.) or admit or keep any patients in the skilled nursing
494 facility who are participating in the Medicaid program. This
495 written agreement by the recipient of the certificate of need
496 shall be fully binding on any subsequent owner of the skilled
497 nursing facility, if the ownership of the facility is transferred
498 at any time after the issuance of the certificate of need.
499 Agreement that the skilled nursing facility will not participate
500 in the Medicaid program shall be a condition of the issuance of a
501 certificate of need to any person under this paragraph (p), and if
502 such skilled nursing facility at any time after the issuance of
503 the certificate of need, regardless of the ownership of the
504 facility, participates in the Medicaid program or admits or keeps
505 any patients in the facility who are participating in the Medicaid
506 program, the State Department of Health shall revoke the
507 certificate of need, if it is still outstanding, and shall deny or
508 revoke the license of the skilled nursing facility, at the time
509 that the department determines, after a hearing complying with due
510 process, that the facility has failed to comply with any of the
511 conditions upon which the certificate of need was issued, as
512 provided in this paragraph and in the written agreement by the
513 recipient of the certificate of need. The provision of Section



514 41-7-193(1) regarding substantial compliance of the projection of
515 need as reported in the current State Health Plan is waived for
516 the purposes of this paragraph. If the certificate of need
517 authorized under this paragraph is not issued within twelve (12)
518 months after July 1, 1998, the department shall deny the
519 application for the certificate of need and shall not issue the
520 certificate of need at any time after the twelve-month period,
521 unless the issuance is contested. If the certificate of need is
522 issued and substantial construction of the nursing facility beds
523 has not commenced within eighteen (18) months after July 1, 1998,
524 the State Department of Health, after a hearing complying with due
525 process, shall revoke the certificate of need if it is still
526 outstanding, and the department shall not issue a license for the
527 nursing facility at any time after the eighteen-month period.
528 However, if the issuance of the certificate of need is contested,
529 the department shall require substantial construction of the
530 nursing facility beds within six (6) months after final
531 adjudication on the issuance of the certificate of need.

532 (q) (i) Beginning on July 1, 1999, the State
533 Department of Health shall issue certificates of need during each
534 of the next four (4) fiscal years for the construction or
535 expansion of nursing facility beds or the conversion of other beds
536 to nursing facility beds in each county in the state having a need
537 for fifty (50) or more additional nursing facility beds, as shown
538 in the fiscal year 1999 State Health Plan, in the manner provided



539 in this paragraph (q). The total number of nursing facility beds
540 that may be authorized by any certificate of need authorized under
541 this paragraph (q) shall not exceed sixty (60) beds.

542 (ii) Subject to the provisions of subparagraph
543 (v), during each of the next four (4) fiscal years, the department
544 shall issue six (6) certificates of need for new nursing facility
545 beds, as follows: During fiscal years 2000, 2001 and 2002, one
546 (1) certificate of need shall be issued for new nursing facility
547 beds in the county in each of the four (4) Long-Term Care Planning
548 Districts designated in the fiscal year 1999 State Health Plan
549 that has the highest need in the district for those beds; and two
550 (2) certificates of need shall be issued for new nursing facility
551 beds in the two (2) counties from the state at large that have the
552 highest need in the state for those beds, when considering the
553 need on a statewide basis and without regard to the Long-Term Care
554 Planning Districts in which the counties are located. During
555 fiscal year 2003, one (1) certificate of need shall be issued for
556 new nursing facility beds in any county having a need for fifty
557 (50) or more additional nursing facility beds, as shown in the
558 fiscal year 1999 State Health Plan, that has not received a
559 certificate of need under this paragraph (q) during the three (3)
560 previous fiscal years. During fiscal year 2000, in addition to
561 the six (6) certificates of need authorized in this subparagraph,
562 the department also shall issue a certificate of need for new



563 nursing facility beds in Amite County and a certificate of need
564 for new nursing facility beds in Carroll County.

565 (iii) Subject to the provisions of subparagraph
566 (v), the certificate of need issued under subparagraph (ii) for
567 nursing facility beds in each Long-Term Care Planning District
568 during each fiscal year shall first be available for nursing
569 facility beds in the county in the district having the highest
570 need for those beds, as shown in the fiscal year 1999 State Health
571 Plan. If there are no applications for a certificate of need for
572 nursing facility beds in the county having the highest need for
573 those beds by the date specified by the department, then the
574 certificate of need shall be available for nursing facility beds
575 in other counties in the district in descending order of the need
576 for those beds, from the county with the second highest need to
577 the county with the lowest need, until an application is received
578 for nursing facility beds in an eligible county in the district.

579 (iv) Subject to the provisions of subparagraph
580 (v), the certificate of need issued under subparagraph (ii) for
581 nursing facility beds in the two (2) counties from the state at
582 large during each fiscal year shall first be available for nursing
583 facility beds in the two (2) counties that have the highest need
584 in the state for those beds, as shown in the fiscal year 1999
585 State Health Plan, when considering the need on a statewide basis
586 and without regard to the Long-Term Care Planning Districts in
587 which the counties are located. If there are no applications for



588 a certificate of need for nursing facility beds in either of the
589 two (2) counties having the highest need for those beds on a
590 statewide basis by the date specified by the department, then the
591 certificate of need shall be available for nursing facility beds
592 in other counties from the state at large in descending order of
593 the need for those beds on a statewide basis, from the county with
594 the second highest need to the county with the lowest need, until
595 an application is received for nursing facility beds in an
596 eligible county from the state at large.

597 (v) If a certificate of need is authorized to be
598 issued under this paragraph (q) for nursing facility beds in a
599 county on the basis of the need in the Long-Term Care Planning
600 District during any fiscal year of the four-year period, a
601 certificate of need shall not also be available under this
602 paragraph (q) for additional nursing facility beds in that county
603 on the basis of the need in the state at large, and that county
604 shall be excluded in determining which counties have the highest
605 need for nursing facility beds in the state at large for that
606 fiscal year. After a certificate of need has been issued under
607 this paragraph (q) for nursing facility beds in a county during
608 any fiscal year of the four-year period, a certificate of need
609 shall not be available again under this paragraph (q) for
610 additional nursing facility beds in that county during the
611 four-year period, and that county shall be excluded in determining



612 which counties have the highest need for nursing facility beds in
613 succeeding fiscal years.

614 (vi) If more than one (1) application is made for
615 a certificate of need for nursing home facility beds available
616 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
617 County, and one (1) of the applicants is a county-owned hospital
618 located in the county where the nursing facility beds are
619 available, the department shall give priority to the county-owned
620 hospital in granting the certificate of need if the following
621 conditions are met:

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

625 2. The county-owned hospital's qualifications
626 for the certificate of need, as shown in its application and as
627 determined by the department, are at least equal to the
628 qualifications of the other applicants for the certificate of
629 need.

630 (r) (i) Beginning on July 1, 1999, the State
631 Department of Health shall issue certificates of need during each
632 of the next two (2) fiscal years for the construction or expansion
633 of nursing facility beds or the conversion of other beds to
634 nursing facility beds in each of the four (4) Long-Term Care
635 Planning Districts designated in the fiscal year 1999 State Health



636 Plan, to provide care exclusively to patients with Alzheimer's
637 disease.

638 (ii) Not more than twenty (20) beds may be
639 authorized by any certificate of need issued under this paragraph
640 (r), and not more than a total of sixty (60) beds may be
641 authorized in any Long-Term Care Planning District by all
642 certificates of need issued under this paragraph (r). However,
643 the total number of beds that may be authorized by all
644 certificates of need issued under this paragraph (r) during any
645 fiscal year shall not exceed one hundred twenty (120) beds, and
646 the total number of beds that may be authorized in any Long-Term
647 Care Planning District during any fiscal year shall not exceed
648 forty (40) beds. Of the certificates of need that are issued for
649 each Long-Term Care Planning District during the next two (2)
650 fiscal years, at least one (1) shall be issued for beds in the
651 northern part of the district, at least one (1) shall be issued
652 for beds in the central part of the district, and at least one (1)
653 shall be issued for beds in the southern part of the district.

654 (iii) The State Department of Health, in
655 consultation with the Department of Mental Health and the Division
656 of Medicaid, shall develop and prescribe the staffing levels,
657 space requirements and other standards and requirements that must
658 be met with regard to the nursing facility beds authorized under
659 this paragraph (r) to provide care exclusively to patients with
660 Alzheimer's disease.



661 (s) The State Department of Health may issue a
662 certificate of need to a nonprofit skilled nursing facility using
663 the Green House model of skilled nursing care and located in Yazoo
664 City, Yazoo County, Mississippi, for the construction, expansion
665 or conversion of not more than nineteen (19) nursing facility
666 beds. For purposes of this paragraph (s), the provisions of
667 Section 41-7-193(1) requiring substantial compliance with the
668 projection of need as reported in the current State Health Plan
669 and the provisions of Section 41-7-197 requiring a formal
670 certificate of need hearing process are waived. There shall be no
671 prohibition or restrictions on participation in the Medicaid
672 program for the person receiving the certificate of need
673 authorized under this paragraph (s).

674 (t) The State Department of Health shall issue
675 certificates of need to the owner of a nursing facility in
676 operation at the time of Hurricane Katrina in Hancock County that
677 was not operational on December 31, 2005, because of damage
678 sustained from Hurricane Katrina to authorize the following: (i)
679 the construction of a new nursing facility in Harrison County;
680 (ii) the relocation of forty-nine (49) nursing facility beds from
681 the Hancock County facility to the new Harrison County facility;
682 (iii) the establishment of not more than twenty (20) non-Medicaid
683 nursing facility beds at the Hancock County facility; and (iv) the
684 establishment of not more than twenty (20) non-Medicaid beds at
685 the new Harrison County facility. The certificates of need that



686 authorize the non-Medicaid nursing facility beds under
687 subparagraphs (iii) and (iv) of this paragraph (t) shall be
688 subject to the following conditions: The owner of the Hancock
689 County facility and the new Harrison County facility must agree in
690 writing that no more than fifty (50) of the beds at the Hancock
691 County facility and no more than forty-nine (49) of the beds at
692 the Harrison County facility will be certified for participation
693 in the Medicaid program, and that no claim will be submitted for
694 Medicaid reimbursement for more than fifty (50) patients in the
695 Hancock County facility in any month, or for more than forty-nine
696 (49) patients in the Harrison County facility in any month, or for
697 any patient in either facility who is in a bed that is not
698 Medicaid-certified. This written agreement by the owner of the
699 nursing facilities shall be a condition of the issuance of the
700 certificates of need under this paragraph (t), and the agreement
701 shall be fully binding on any later owner or owners of either
702 facility if the ownership of either facility is transferred at any
703 time after the certificates of need are issued. After this
704 written agreement is executed, the Division of Medicaid and the
705 State Department of Health shall not certify more than fifty (50)
706 of the beds at the Hancock County facility or more than forty-nine
707 (49) of the beds at the Harrison County facility for participation
708 in the Medicaid program. If the Hancock County facility violates
709 the terms of the written agreement by admitting or keeping in the
710 facility on a regular or continuing basis more than fifty (50)



711 patients who are participating in the Medicaid program, or if the
712 Harrison County facility violates the terms of the written
713 agreement by admitting or keeping in the facility on a regular or
714 continuing basis more than forty-nine (49) patients who are
715 participating in the Medicaid program, the State Department of
716 Health shall revoke the license of the facility that is in
717 violation of the agreement, at the time that the department
718 determines, after a hearing complying with due process, that the
719 facility has violated the agreement.

720 (u) The State Department of Health shall issue a
721 certificate of need to a nonprofit venture for the establishment,
722 construction and operation of a skilled nursing facility of not
723 more than sixty (60) beds to provide skilled nursing care for
724 ventilator dependent or otherwise medically dependent pediatric
725 patients who require medical and nursing care or rehabilitation
726 services to be located in a county in which an academic medical
727 center and a children's hospital are located, and for any
728 construction and for the acquisition of equipment related to those
729 beds. The facility shall be authorized to keep such ventilator
730 dependent or otherwise medically dependent pediatric patients
731 beyond age twenty-one (21) in accordance with regulations of the
732 State Board of Health. For purposes of this paragraph (u), the
733 provisions of Section 41-7-193(1) requiring substantial compliance
734 with the projection of need as reported in the current State
735 Health Plan are waived, and the provisions of Section 41-7-197



736 requiring a formal certificate of need hearing process are waived.
737 The beds authorized by this paragraph shall be counted as
738 pediatric skilled nursing facility beds for health planning
739 purposes under Section 41-7-171 et seq. There shall be no
740 prohibition of or restrictions on participation in the Medicaid
741 program for the person receiving the certificate of need
742 authorized by this paragraph.

743 (3) The State Department of Health may grant approval for
744 and issue certificates of need to any person proposing the new
745 construction of, addition to, conversion of beds of or expansion
746 of any health care facility defined in subparagraph (x)
747 (psychiatric residential treatment facility) of Section
748 41-7-173(h). The total number of beds which may be authorized by
749 such certificates of need shall not exceed three hundred
750 thirty-four (334) beds for the entire state.

751 (a) Of the total number of beds authorized under this
752 subsection, the department shall issue a certificate of need to a
753 privately owned psychiatric residential treatment facility in
754 Simpson County for the conversion of sixteen (16) intermediate
755 care facility for individuals with intellectual disabilities
756 (ICF-IID) beds to psychiatric residential treatment facility beds,
757 provided that facility agrees in writing that the facility shall
758 give priority for the use of those sixteen (16) beds to
759 Mississippi residents who are presently being treated in
760 out-of-state facilities.



761 (b) Of the total number of beds authorized under this
762 subsection, the department may issue a certificate or certificates
763 of need for the construction or expansion of psychiatric
764 residential treatment facility beds or the conversion of other
765 beds to psychiatric residential treatment facility beds in Warren
766 County, not to exceed sixty (60) psychiatric residential treatment
767 facility beds, provided that the facility agrees in writing that
768 no more than thirty (30) of the beds at the psychiatric
769 residential treatment facility will be certified for participation
770 in the Medicaid program (Section 43-13-101 et seq.) for the use of
771 any patients other than those who are participating only in the
772 Medicaid program of another state, and that no claim will be
773 submitted to the Division of Medicaid for Medicaid reimbursement
774 for more than thirty (30) patients in the psychiatric residential
775 treatment facility in any day or for any patient in the
776 psychiatric residential treatment facility who is in a bed that is
777 not Medicaid-certified. This written agreement by the recipient
778 of the certificate of need shall be a condition of the issuance of
779 the certificate of need under this paragraph, and the agreement
780 shall be fully binding on any subsequent owner of the psychiatric
781 residential treatment facility if the ownership of the facility is
782 transferred at any time after the issuance of the certificate of
783 need. After this written agreement is executed, the Division of
784 Medicaid and the State Department of Health shall not certify more
785 than thirty (30) of the beds in the psychiatric residential



786 treatment facility for participation in the Medicaid program for
787 the use of any patients other than those who are participating
788 only in the Medicaid program of another state. If the psychiatric
789 residential treatment facility violates the terms of the written
790 agreement by admitting or keeping in the facility on a regular or
791 continuing basis more than thirty (30) patients who are
792 participating in the Mississippi Medicaid program, the State
793 Department of Health shall revoke the license of the facility, at
794 the time that the department determines, after a hearing complying
795 with due process, that the facility has violated the condition
796 upon which the certificate of need was issued, as provided in this
797 paragraph and in the written agreement.

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

802 (c) Of the total number of beds authorized under this
803 subsection, the department shall issue a certificate of need to a
804 hospital currently operating Medicaid-certified acute psychiatric
805 beds for adolescents in DeSoto County, for the establishment of a
806 forty-bed psychiatric residential treatment facility in DeSoto
807 County * * *. There shall be no prohibition or restrictions on
808 participation in the Medicaid program (Section 43-13-101 et seq.)
809 for the person(s) receiving the certificate of need authorized
810 under this paragraph (c) or for the beds converted pursuant to the



811 authority of that certificate of need that would not apply to any
812 other psychiatric residential treatment facility.

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

821 (e) Of the total number of beds authorized under this
822 subsection (3) the department shall issue a certificate of need to
823 a privately owned, nonprofit psychiatric residential treatment
824 facility in Hinds County for an eight-bed expansion of the
825 facility, provided that the facility agrees in writing that the
826 facility shall give priority for the use of those eight (8) beds
827 to Mississippi residents who are presently being treated in
828 out-of-state facilities.

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



836 certificate of need under this paragraph, the facility shall give
837 priority in admissions to the child/adolescent psychiatric
838 residential treatment facility beds authorized under this
839 paragraph to patients who otherwise would require out-of-state
840 placement. The Division of Medicaid, in conjunction with the
841 Department of Human Services, shall furnish the facility a list of
842 all out-of-state patients on a quarterly basis. Furthermore,
843 notice shall also be provided to the parent, custodial parent or
844 guardian of each out-of-state patient notifying them of the
845 priority status granted by this paragraph. For purposes of this
846 paragraph, the provisions of Section 41-7-193(1) requiring
847 substantial compliance with the projection of need as reported in
848 the current State Health Plan are waived. The total number of
849 child/adolescent psychiatric residential treatment facility beds
850 that may be authorized under the authority of this paragraph shall
851 be sixty (60) beds. There shall be no prohibition or restrictions
852 on participation in the Medicaid program (Section 43-13-101 et
853 seq.) for the person receiving the certificate of need authorized
854 under this paragraph or for the beds converted pursuant to the
855 authority of that certificate of need.

856 (4) (a) From and after March 25, 2021, the department may
857 issue a certificate of need to any person for the new construction
858 of any hospital, psychiatric hospital or chemical dependency
859 hospital that will contain any child/adolescent psychiatric or
860 child/adolescent chemical dependency beds, or for the conversion



861 of any other health care facility to a hospital, psychiatric
862 hospital or chemical dependency hospital that will contain any
863 child/adolescent psychiatric or child/adolescent chemical
864 dependency beds. There shall be no prohibition or restrictions on
865 participation in the Medicaid program (Section 43-13-101 et seq.)
866 for the person(s) receiving the certificate(s) of need authorized
867 under this paragraph (a) or for the beds converted pursuant to the
868 authority of that certificate of need. In issuing any new
869 certificate of need for any child/adolescent psychiatric or
870 child/adolescent chemical dependency beds, either by new
871 construction or conversion of beds of another category, the
872 department shall give preference to beds which will be located in
873 an area of the state which does not have such beds located in it,
874 and to a location more than sixty-five (65) miles from existing
875 beds. Upon receiving 2020 census data, the department may amend
876 the State Health Plan regarding child/adolescent psychiatric and
877 child/adolescent chemical dependency beds to reflect the need
878 based on new census data.

879 (i) [Deleted]

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



886 Health Plan are waived. The total number of beds that may be
887 authorized under authority of this subparagraph shall not exceed
888 twenty (20) beds. There shall be no prohibition or restrictions
889 on participation in the Medicaid program (Section 43-13-101 et
890 seq.) for the hospital receiving the certificate of need
891 authorized under this subparagraph or for the beds converted
892 pursuant to the authority of that certificate of need.

893 (iii) The department may issue a certificate or
894 certificates of need for the construction or expansion of
895 child/adolescent psychiatric beds or the conversion of other beds
896 to child/adolescent psychiatric beds in Warren County. For
897 purposes of this subparagraph (iii), the provisions of Section
898 41-7-193(1) requiring substantial compliance with the projection
899 of need as reported in the current State Health Plan are waived.
900 The total number of beds that may be authorized under the
901 authority of this subparagraph shall not exceed twenty (20) beds.
902 There shall be no prohibition or restrictions on participation in
903 the Medicaid program (Section 43-13-101 et seq.) for the person
904 receiving the certificate of need authorized under this
905 subparagraph or for the beds converted pursuant to the authority
906 of that certificate of need.

907 If by January 1, 2002, there has been no significant
908 commencement of construction of the beds authorized under this
909 subparagraph (iii), or no significant action taken to convert
910 existing beds to the beds authorized under this subparagraph, then



911 the certificate of need that was previously issued under this
912 subparagraph shall expire. If the previously issued certificate
913 of need expires, the department may accept applications for
914 issuance of another certificate of need for the beds authorized
915 under this subparagraph, and may issue a certificate of need to
916 authorize the construction, expansion or conversion of the beds
917 authorized under this subparagraph.

918 (iv) The department shall issue a certificate of
919 need to the Region 7 Mental Health/Retardation Commission for the
920 construction or expansion of child/adolescent psychiatric beds or
921 the conversion of other beds to child/adolescent psychiatric beds
922 in any of the counties served by the commission. For purposes of
923 this subparagraph (iv), the provisions of Section 41-7-193(1)
924 requiring substantial compliance with the projection of need as
925 reported in the current State Health Plan are waived. The total
926 number of beds that may be authorized under the authority of this
927 subparagraph shall not exceed twenty (20) beds. There shall be no
928 prohibition or restrictions on participation in the Medicaid
929 program (Section 43-13-101 et seq.) for the person receiving the
930 certificate of need authorized under this subparagraph or for the
931 beds converted pursuant to the authority of that certificate of
932 need.

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



936 conversion of other beds to adult psychiatric beds, not to exceed
937 twenty (20) beds, provided that the recipient of the certificate
938 of need agrees in writing that the adult psychiatric beds will not
939 at any time be certified for participation in the Medicaid program
940 and that the hospital will not admit or keep any patients who are
941 participating in the Medicaid program in any of such adult
942 psychiatric beds. This written agreement by the recipient of the
943 certificate of need shall be fully binding on any subsequent owner
944 of the hospital if the ownership of the hospital is transferred at
945 any time after the issuance of the certificate of need. Agreement
946 that the adult psychiatric beds will not be certified for
947 participation in the Medicaid program shall be a condition of the
948 issuance of a certificate of need to any person under this
949 subparagraph (v), and if such hospital at any time after the
950 issuance of the certificate of need, regardless of the ownership
951 of the hospital, has any of such adult psychiatric beds certified
952 for participation in the Medicaid program or admits or keeps any
953 Medicaid patients in such adult psychiatric beds, the State
954 Department of Health shall revoke the certificate of need, if it
955 is still outstanding, and shall deny or revoke the license of the
956 hospital at the time that the department determines, after a
957 hearing complying with due process, that the hospital has failed
958 to comply with any of the conditions upon which the certificate of
959 need was issued, as provided in this subparagraph and in the
960 written agreement by the recipient of the certificate of need.



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

975 (b) From and after July 1, 1990, no hospital,
976 psychiatric hospital or chemical dependency hospital shall be
977 authorized to add any child/adolescent psychiatric or
978 child/adolescent chemical dependency beds or convert any beds of
979 another category to child/adolescent psychiatric or
980 child/adolescent chemical dependency beds without a certificate of
981 need under the authority of subsection (1)(c) and subsection
982 (4)(a) of this section.

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



986 (6) The State Department of Health shall issue a certificate
987 of need to a Mississippi corporation qualified to manage a
988 long-term care hospital as defined in Section 41-7-173(h)(xii) in
989 Harrison County, not to exceed eighty (80) beds, including any
990 necessary renovation or construction required for licensure and
991 certification, provided that the recipient of the certificate of
992 need agrees in writing that the long-term care hospital will not
993 at any time participate in the Medicaid program (Section 43-13-101
994 et seq.) * * * except as a crossover provider. This written
995 agreement by the recipient of the certificate of need shall be
996 fully binding on any subsequent owner of the long-term care
997 hospital, if the ownership of the facility is transferred at any
998 time after the issuance of the certificate of need. Agreement
999 that the long-term care hospital will not participate in the
1000 Medicaid program except as a crossover provider shall be a
1001 condition of the issuance of a certificate of need to any person
1002 under this subsection (6), and if such long-term care hospital at
1003 any time after the issuance of the certificate of need, regardless
1004 of the ownership of the facility, participates in the Medicaid
1005 program * * * except as a crossover provider, the State Department
1006 of Health shall revoke the certificate of need, if it is still
1007 outstanding, and shall deny or revoke the license of the long-term
1008 care hospital, at the time that the department determines, after a
1009 hearing complying with due process, that the facility has failed
1010 to comply with any of the conditions upon which the certificate of



1011 need was issued, as provided in this subsection and in the written
1012 agreement by the recipient of the certificate of need. For
1013 purposes of this subsection, the provisions of Section 41-7-193(1)
1014 requiring substantial compliance with the projection of need as
1015 reported in the current State Health Plan are waived. This
1016 subsection (6) shall be retroactive to July 1, 2023.

1017 (7) The State Department of Health may issue a certificate
1018 of need to any hospital in the state to utilize a portion of its
1019 beds for the "swing-bed" concept. Any such hospital must be in
1020 conformance with the federal regulations regarding such swing-bed
1021 concept at the time it submits its application for a certificate
1022 of need to the State Department of Health, except that such
1023 hospital may have more licensed beds or a higher average daily
1024 census (ADC) than the maximum number specified in federal
1025 regulations for participation in the swing-bed program. Any
1026 hospital meeting all federal requirements for participation in the
1027 swing-bed program which receives such certificate of need shall
1028 render services provided under the swing-bed concept to any
1029 patient eligible for Medicare (Title XVIII of the Social Security
1030 Act) who is certified by a physician to be in need of such
1031 services, and no such hospital shall permit any patient who is
1032 eligible for both Medicaid and Medicare or eligible only for
1033 Medicaid to stay in the swing beds of the hospital for more than
1034 thirty (30) days per admission unless the hospital receives prior
1035 approval for such patient from the Division of Medicaid, Office of



1036 the Governor. Any hospital having more licensed beds or a higher
1037 average daily census (ADC) than the maximum number specified in
1038 federal regulations for participation in the swing-bed program
1039 which receives such certificate of need shall develop a procedure
1040 to ensure that before a patient is allowed to stay in the swing
1041 beds of the hospital, there are no vacant nursing home beds
1042 available for that patient located within a fifty-mile radius of
1043 the hospital. When any such hospital has a patient staying in the
1044 swing beds of the hospital and the hospital receives notice from a
1045 nursing home located within such radius that there is a vacant bed
1046 available for that patient, the hospital shall transfer the
1047 patient to the nursing home within a reasonable time after receipt
1048 of the notice. Any hospital which is subject to the requirements
1049 of the two (2) preceding sentences of this subsection may be
1050 suspended from participation in the swing-bed program for a
1051 reasonable period of time by the State Department of Health if the
1052 department, after a hearing complying with due process, determines
1053 that the hospital has failed to comply with any of those
1054 requirements.

1055 (8) The Department of Health shall not grant approval for or
1056 issue a certificate of need to any person proposing the new
1057 construction of, addition to or expansion of a health care
1058 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1059 except as hereinafter provided: Effective July 1, 2025, the
1060 department * * * shall issue a certificate of need to a nonprofit



1061 corporation located in Madison County, Mississippi, for the
1062 construction, expansion or conversion of * * * forty (40) beds in
1063 a community living program for developmentally disabled adults in
1064 a facility as defined in subparagraph (viii) of Section
1065 41-7-173(h). For purposes of this subsection (8), the provisions
1066 of Section 41-7-193(1) requiring substantial compliance with the
1067 projection of need as reported in the current State Health Plan
1068 and the provisions of Section 41-7-197 requiring a formal
1069 certificate of need hearing process are waived. There shall be no
1070 prohibition or restrictions on participation in the Medicaid
1071 program for the person receiving the certificate of need
1072 authorized under this subsection (8).

1073 (9) The Department of Health shall not grant approval for or
1074 issue a certificate of need to any person proposing the
1075 establishment of, or expansion of the currently approved territory
1076 of, or the contracting to establish a home office, subunit or
1077 branch office within the space operated as a health care facility
1078 as defined in Section 41-7-173(h) (i) through (viii) by a health
1079 care facility as defined in subparagraph (ix) of Section
1080 41-7-173(h).

1081 (10) Health care facilities owned and/or operated by the
1082 state or its agencies are exempt from the restraints in this
1083 section against issuance of a certificate of need if such addition
1084 or expansion consists of repairing or renovation necessary to
1085 comply with the state licensure law. This exception shall not



1086 apply to the new construction of any building by such state
1087 facility. This exception shall not apply to any health care
1088 facilities owned and/or operated by counties, municipalities,
1089 districts, unincorporated areas, other defined persons, or any
1090 combination thereof.

1091 (11) The new construction, renovation or expansion of or
1092 addition to any health care facility defined in subparagraph (ii)
1093 (psychiatric hospital), subparagraph (iv) (skilled nursing
1094 facility), subparagraph (vi) (intermediate care facility),
1095 subparagraph (viii) (intermediate care facility for individuals
1096 with intellectual disabilities) and subparagraph (x) (psychiatric
1097 residential treatment facility) of Section 41-7-173(h) which is
1098 owned by the State of Mississippi and under the direction and
1099 control of the State Department of Mental Health, and the addition
1100 of new beds or the conversion of beds from one category to another
1101 in any such defined health care facility which is owned by the
1102 State of Mississippi and under the direction and control of the
1103 State Department of Mental Health, shall not require the issuance
1104 of a certificate of need under Section 41-7-171 et seq.,
1105 notwithstanding any provision in Section 41-7-171 et seq. to the
1106 contrary.

1107 (12) The new construction, renovation or expansion of or
1108 addition to any veterans homes or domiciliaries for eligible
1109 veterans of the State of Mississippi as authorized under Section
1110 35-1-19 shall not require the issuance of a certificate of need,



1111 notwithstanding any provision in Section 41-7-171 et seq. to the
1112 contrary.

1113 (13) The repair or the rebuilding of an existing, operating
1114 health care facility that sustained significant damage from a
1115 natural disaster that occurred after April 15, 2014, in an area
1116 that is proclaimed a disaster area or subject to a state of
1117 emergency by the Governor or by the President of the United States
1118 shall be exempt from all of the requirements of the Mississippi
1119 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1120 rules and regulations promulgated under that law, subject to the
1121 following conditions:

1122 (a) The repair or the rebuilding of any such damaged
1123 health care facility must be within one (1) mile of the
1124 pre-disaster location of the campus of the damaged health care
1125 facility, except that any temporary post-disaster health care
1126 facility operating location may be within five (5) miles of the
1127 pre-disaster location of the damaged health care facility;

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



1136 capacity that it had before the Governor's or the President's
1137 proclamation, or from decreasing the levels of or decreasing or
1138 eliminating the types of health care services that it provided
1139 before the Governor's or the President's proclamation, when the
1140 damaged health care facility is repaired or rebuilt;

1141 (c) The exemption from Certificate of Need Law provided
1142 under this subsection (13) is valid for only five (5) years from
1143 the date of the Governor's or the President's proclamation. If
1144 actual construction has not begun within that five-year period,
1145 the exemption provided under this subsection is inapplicable; and

1146 (d) The Division of Health Facilities Licensure and
1147 Certification of the State Department of Health shall provide the
1148 same oversight for the repair or the rebuilding of the damaged
1149 health care facility that it provides to all health care facility
1150 construction projects in the state.

1151 For the purposes of this subsection (13), "significant
1152 damage" to a health care facility means damage to the health care
1153 facility requiring an expenditure of at least One Million Dollars
1154 (\$1,000,000.00).

1155 (14) The State Department of Health shall issue a
1156 certificate of need to any hospital which is currently licensed
1157 for two hundred fifty (250) or more acute care beds and is located
1158 in any general hospital service area not having a comprehensive
1159 cancer center, for the establishment and equipping of such a
1160 center which provides facilities and services for outpatient



1161 radiation oncology therapy, outpatient medical oncology therapy,
1162 and appropriate support services including the provision of
1163 radiation therapy services. The provisions of Section 41-7-193(1)
1164 regarding substantial compliance with the projection of need as
1165 reported in the current State Health Plan are waived for the
1166 purpose of this subsection.

1167 (15) The State Department of Health may authorize the
1168 transfer of hospital beds, not to exceed sixty (60) beds, from the
1169 North Panola Community Hospital to the South Panola Community
1170 Hospital. The authorization for the transfer of those beds shall
1171 be exempt from the certificate of need review process.

1172 (16) The State Department of Health shall issue any
1173 certificates of need necessary for Mississippi State University
1174 and a public or private health care provider to jointly acquire
1175 and operate a linear accelerator and a magnetic resonance imaging
1176 unit. Those certificates of need shall cover all capital
1177 expenditures related to the project between Mississippi State
1178 University and the health care provider, including, but not
1179 limited to, the acquisition of the linear accelerator, the
1180 magnetic resonance imaging unit and other radiological modalities;
1181 the offering of linear accelerator and magnetic resonance imaging
1182 services; and the cost of construction of facilities in which to
1183 locate these services. The linear accelerator and the magnetic
1184 resonance imaging unit shall be (a) located in the City of
1185 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by



1186 Mississippi State University and the public or private health care
1187 provider selected by Mississippi State University through a
1188 request for proposals (RFP) process in which Mississippi State
1189 University selects, and the Board of Trustees of State
1190 Institutions of Higher Learning approves, the health care provider
1191 that makes the best overall proposal; (c) available to Mississippi
1192 State University for research purposes two-thirds (2/3) of the
1193 time that the linear accelerator and magnetic resonance imaging
1194 unit are operational; and (d) available to the public or private
1195 health care provider selected by Mississippi State University and
1196 approved by the Board of Trustees of State Institutions of Higher
1197 Learning one-third (1/3) of the time for clinical, diagnostic and
1198 treatment purposes. For purposes of this subsection, the
1199 provisions of Section 41-7-193(1) requiring substantial compliance
1200 with the projection of need as reported in the current State
1201 Health Plan are waived.

1202 (17) The State Department of Health shall issue a
1203 certificate of need for the construction of an acute care hospital
1204 in Kemper County, not to exceed twenty-five (25) beds, which shall
1205 be named the "John C. Stennis Memorial Hospital." In issuing the
1206 certificate of need under this subsection, the department shall
1207 give priority to a hospital located in Lauderdale County that has
1208 two hundred fifteen (215) beds. For purposes of this subsection,
1209 the provisions of Section 41-7-193(1) requiring substantial
1210 compliance with the projection of need as reported in the current



1211 State Health Plan and the provisions of Section 41-7-197 requiring
1212 a formal certificate of need hearing process are waived. There
1213 shall be no prohibition or restrictions on participation in the
1214 Medicaid program (Section 43-13-101 et seq.) for the person or
1215 entity receiving the certificate of need authorized under this
1216 subsection or for the beds constructed under the authority of that
1217 certificate of need.

1218 (18) The planning, design, construction, renovation,
1219 addition, furnishing and equipping of a clinical research unit at
1220 any health care facility defined in Section 41-7-173(h) that is
1221 under the direction and control of the University of Mississippi
1222 Medical Center and located in Jackson, Mississippi, and the
1223 addition of new beds or the conversion of beds from one (1)
1224 category to another in any such clinical research unit, shall not
1225 require the issuance of a certificate of need under Section
1226 41-7-171 et seq., notwithstanding any provision in Section
1227 41-7-171 et seq. to the contrary.

1228 (19) [Repealed]

1229 (20) Nothing in this section or in any other provision of
1230 Section 41-7-171 et seq. shall prevent any nursing facility from
1231 designating an appropriate number of existing beds in the facility
1232 as beds for providing care exclusively to patients with
1233 Alzheimer's disease.

1234 (21) Nothing in this section or any other provision of
1235 Section 41-7-171 et seq. shall prevent any health care facility



1236 from the new construction, renovation, conversion or expansion of
1237 new beds in the facility designated as intensive care units,
1238 negative pressure rooms, or isolation rooms pursuant to the
1239 provisions of Sections 41-14-1 through 41-14-11, or Section
1240 41-14-31. For purposes of this subsection, the provisions of
1241 Section 41-7-193(1) requiring substantial compliance with the
1242 projection of need as reported in the current State Health Plan
1243 and the provisions of Section 41-7-197 requiring a formal
1244 certificate of need hearing process are waived.

1245 (22) Except as provided in this subsection (22), the
1246 University of Mississippi Medical Center shall comply with all
1247 provisions of this section.

1248 The University of Mississippi Medical Center need not obtain
1249 a certificate of need for any hospital beds, services, health care
1250 facilities, or medical equipment which have been approved and
1251 continuously operated under a certificate of need exemption for a
1252 teaching hospital, or which are approved before July 1, 2025, so
1253 long as they do not undergo a physical relocation.

1254 Thereafter, the University of Mississippi Medical Center has
1255 an academic exemption from the certificate of need requirements
1256 only within the following area in Jackson, Mississippi: starting
1257 at the intersection of Livingston Road and Woodrow Wilson Avenue,
1258 proceeding east along the south curb line of Woodrow Wilson Avenue
1259 until it intersects the west curb line of U.S. Interstate 55,
1260 proceeding north along the west curb line of U.S. Interstate 55



1261 until it intersects the north curb line of Lakeland Drive,
1262 proceeding west along the north curb line of Lakeland Drive and
1263 extending such curb line west until it intersects Livingston Road,
1264 and proceeding south along the west curb line of Livingston Road
1265 to the point of origin.

1266 In order to qualify for an academic exemption, the state
1267 health officer must determine that the proposed equipment or
1268 facility fulfills a substantial and meaningful academic function.

1269 (23) The State Department of Health shall issue a
1270 certificate of need to any psychiatric hospital located in
1271 Jackson, Mississippi, that was providing adult psychiatric
1272 services as of January 1, 2025, under certificate of need
1273 authority that was transferred to it within the past five (5)
1274 years under a change of ownership. The new certificate of need
1275 shall authorize the continuation of these services, provided that
1276 the hospital relinquishes its existing authority to operate under
1277 the certificate of need authority transferred to the hospital as
1278 of the effective date of the new certificate of need.

1279 (24) (a) The State Department of Health shall conduct a
1280 study to review and make recommendations regarding Section
1281 41-7-171 et seq., to be specifically focused on the following
1282 topics:

1283 (i) The feasibility of exempting small hospitals
1284 from the requirement for a certificate of need for the placement



1285 of dialysis units to reduce the number of transfers for patients
1286 requiring dialysis;

1287 (ii) The feasibility of exempting small hospitals
1288 from the requirement for a certificate of need to operate
1289 geriatric psychiatric units; and

1290 (iii) The feasibility of a new requirement that
1291 acute adult psychiatric units treat a certain percentage of
1292 uninsured patients or pay a periodic fee in lieu thereof.

1293 (b) The department shall make a final report of its
1294 findings and recommendations, including any recommended
1295 legislation and funding needs, to the Legislature before December
1296 1, 2025.

1297 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is
1298 amended as follows:

1299 41-7-173. For the purposes of Section 41-7-171 et seq., the
1300 following words shall have the meanings ascribed herein, unless
1301 the context otherwise requires:

1302 (a) "Affected person" means (i) the applicant; (ii) a
1303 person residing within the geographic area to be served by the
1304 applicant's proposal; (iii) a person who regularly uses health
1305 care facilities or HMOs located in the geographic area of the
1306 proposal which provide similar service to that which is proposed;
1307 (iv) health care facilities and HMOs which have, prior to receipt
1308 of the application under review, formally indicated an intention
1309 to provide service similar to that of the proposal being



1310 considered at a future date; (v) third-party payers who reimburse
1311 health care facilities located in the geographical area of the
1312 proposal; or (vi) any agency that establishes rates for health
1313 care services or HMOs located in the geographic area of the
1314 proposal.

1315 (b) "Certificate of need" means a written order of the
1316 State Department of Health setting forth the affirmative finding
1317 that a proposal in prescribed application form, sufficiently
1318 satisfies the plans, standards and criteria prescribed for such
1319 service or other project by Section 41-7-171 et seq., and by rules
1320 and regulations promulgated thereunder by the State Department of
1321 Health.

1322 (c) (i) "Capital expenditure," when pertaining to
1323 defined major medical equipment, shall mean an expenditure which,
1324 under generally accepted accounting principles consistently
1325 applied, is not properly chargeable as an expense of operation and
1326 maintenance and which exceeds * * * Three Million Dollars
1327 (\$3,000,000.00).

1328 (ii) "Capital expenditure," when pertaining to
1329 other than major medical equipment, shall mean any expenditure
1330 which under generally accepted accounting principles consistently
1331 applied is not properly chargeable as an expense of operation and
1332 maintenance and which exceeds, for clinical health services, as
1333 defined in paragraph (k) below, * * * Ten Million Dollars
1334 (\$10,000,000.00), * * * or which exceeds, for nonclinical health



1335 services, as defined in paragraph (k) below, * * * Twenty Million
1336 Dollars (\$20,000,000.00).

1337 (iii) A "capital expenditure" shall include the
1338 acquisition, whether by lease, sufferance, gift, devise, legacy,
1339 settlement of a trust or other means, of any facility or part
1340 thereof, or equipment for a facility, the expenditure for which
1341 would have been considered a capital expenditure if acquired by
1342 purchase. Transactions which are separated in time but are
1343 planned to be undertaken within twelve (12) months of each other
1344 and are components of an overall plan for meeting patient care
1345 objectives shall, for purposes of this definition, be viewed in
1346 their entirety without regard to their timing.

1347 (iv) In those instances where a health care
1348 facility or other provider of health services proposes to provide
1349 a service in which the capital expenditure for major medical
1350 equipment or other than major medical equipment or a combination
1351 of the two (2) may have been split between separate parties, the
1352 total capital expenditure required to provide the proposed service
1353 shall be considered in determining the necessity of certificate of
1354 need review and in determining the appropriate certificate of need
1355 review fee to be paid. The capital expenditure associated with
1356 facilities and equipment to provide services in Mississippi shall
1357 be considered regardless of where the capital expenditure was
1358 made, in state or out of state, and regardless of the domicile of



1359 the party making the capital expenditure, in state or out of
1360 state.

1361 (d) "Change of ownership" includes, but is not limited
1362 to, inter vivos gifts, purchases, transfers, lease arrangements,
1363 cash and/or stock transactions or other comparable arrangements
1364 whenever any person or entity acquires or controls a majority
1365 interest of an existing health care facility, and/or the change of
1366 ownership of major medical equipment, a health service, or an
1367 institutional health service. Changes of ownership from
1368 partnerships, single proprietorships or corporations to another
1369 form of ownership are specifically included. However, "change of
1370 ownership" shall not include any inherited interest acquired as a
1371 result of a testamentary instrument or under the laws of descent
1372 and distribution of the State of Mississippi.

1373 (e) "Commencement of construction" means that all of
1374 the following have been completed with respect to a proposal or
1375 project proposing construction, renovating, remodeling or
1376 alteration:

1377 (i) A legally binding written contract has been
1378 consummated by the proponent and a lawfully licensed contractor to
1379 construct and/or complete the intent of the proposal within a
1380 specified period of time in accordance with final architectural
1381 plans which have been approved by the licensing authority of the
1382 State Department of Health;



1383 (ii) Any and all permits and/or approvals deemed
1384 lawfully necessary by all authorities with responsibility for such
1385 have been secured; and

1386 (iii) Actual bona fide undertaking of the subject
1387 proposal has commenced, and a progress payment of at least one
1388 percent (1%) of the total cost price of the contract has been paid
1389 to the contractor by the proponent, and the requirements of this
1390 paragraph (e) have been certified to in writing by the State
1391 Department of Health.

1392 Force account expenditures, such as deposits, securities,
1393 bonds, et cetera, may, in the discretion of the State Department
1394 of Health, be excluded from any or all of the provisions of
1395 defined commencement of construction.

1396 (f) "Consumer" means an individual who is not a
1397 provider of health care as defined in paragraph (q) of this
1398 section.

1399 (g) "Develop," when used in connection with health
1400 services, means to undertake those activities which, on their
1401 completion, will result in the offering of a new institutional
1402 health service or the incurring of a financial obligation as
1403 defined under applicable state law in relation to the offering of
1404 such services.

1405 (h) "Health care facility" includes hospitals,
1406 psychiatric hospitals, chemical dependency hospitals, skilled
1407 nursing facilities, end-stage renal disease (ESRD) facilities,



1408 including freestanding hemodialysis units, intermediate care
1409 facilities, ambulatory surgical facilities, intermediate care
1410 facilities for individuals with intellectual disabilities, home
1411 health agencies, psychiatric residential treatment facilities,
1412 pediatric skilled nursing facilities, long-term care hospitals,
1413 comprehensive medical rehabilitation facilities, including
1414 facilities owned or operated by the state or a political
1415 subdivision or instrumentality of the state, but does not include
1416 Christian Science sanatoriums operated or listed and certified by
1417 the First Church of Christ, Scientist, Boston, Massachusetts.
1418 This definition shall not apply to facilities for the private
1419 practice, either independently or by incorporated medical groups,
1420 of physicians, dentists or health care professionals except where
1421 such facilities are an integral part of an institutional health
1422 service. The various health care facilities listed in this
1423 paragraph shall be defined as follows:

1424 (i) "Hospital" means an institution which is
1425 primarily engaged in providing to inpatients, by or under the
1426 supervision of physicians, diagnostic services and therapeutic
1427 services for medical diagnosis, treatment and care of injured,
1428 disabled or sick persons, or rehabilitation services for the
1429 rehabilitation of injured, disabled or sick persons. Such term
1430 does not include psychiatric hospitals.

1431 (ii) "Psychiatric hospital" means an institution
1432 which is primarily engaged in providing to inpatients, by or under



1433 the supervision of a physician, psychiatric services for the
1434 diagnosis and treatment of persons with mental illness.

1435 (iii) "Chemical dependency hospital" means an
1436 institution which is primarily engaged in providing to inpatients,
1437 by or under the supervision of a physician, medical and related
1438 services for the diagnosis and treatment of chemical dependency
1439 such as alcohol and drug abuse.

1440 (iv) "Skilled nursing facility" means an
1441 institution or a distinct part of an institution which is
1442 primarily engaged in providing to inpatients skilled nursing care
1443 and related services for patients who require medical or nursing
1444 care or rehabilitation services for the rehabilitation of injured,
1445 disabled or sick persons.

1446 (v) "End-stage renal disease (ESRD) facilities"
1447 means kidney disease treatment centers, which includes
1448 freestanding hemodialysis units and limited care facilities. The
1449 term "limited care facility" generally refers to an
1450 off-hospital-premises facility, regardless of whether it is
1451 provider or nonprovider operated, which is engaged primarily in
1452 furnishing maintenance hemodialysis services to stabilized
1453 patients.

1454 (vi) "Intermediate care facility" means an
1455 institution which provides, on a regular basis, health-related
1456 care and services to individuals who do not require the degree of
1457 care and treatment which a hospital or skilled nursing facility is



1458 designed to provide, but who, because of their mental or physical
1459 condition, require health-related care and services (above the
1460 level of room and board).

1461 (vii) "Ambulatory surgical facility" means a
1462 facility primarily organized or established for the purpose of
1463 performing surgery for outpatients and is a separate identifiable
1464 legal entity from any other health care facility. Such term does
1465 not include the offices of private physicians or dentists, whether
1466 for individual or group practice, and does not include any
1467 abortion facility as defined in Section 41-75-1(f).

1468 (viii) "Intermediate care facility for individuals
1469 with intellectual disabilities" means an intermediate care
1470 facility that provides health or rehabilitative services in a
1471 planned program of activities to persons with an intellectual
1472 disability, also including, but not limited to, cerebral palsy and
1473 other conditions covered by the Federal Developmentally Disabled
1474 Assistance and Bill of Rights Act, Public Law 94-103.

1475 (ix) "Home health agency" means a public or
1476 privately owned agency or organization, or a subdivision of such
1477 an agency or organization, properly authorized to conduct business
1478 in Mississippi, which is primarily engaged in providing to
1479 individuals at the written direction of a licensed physician, in
1480 the individual's place of residence, skilled nursing services
1481 provided by or under the supervision of a registered nurse



1482 licensed to practice in Mississippi, and one or more of the
1483 following services or items:

- 1484 1. Physical, occupational or speech therapy;
- 1485 2. Medical social services;
- 1486 3. Part-time or intermittent services of a
1487 home health aide;
- 1488 4. Other services as approved by the
1489 licensing agency for home health agencies;
- 1490 5. Medical supplies, other than drugs and
1491 biologicals, and the use of medical appliances; or
- 1492 6. Medical services provided by an intern or
1493 resident-in-training at a hospital under a teaching program of
1494 such hospital.

1495 Further, all skilled nursing services and those services
1496 listed in items 1 through 4 of this subparagraph (ix) must be
1497 provided directly by the licensed home health agency. For
1498 purposes of this subparagraph, "directly" means either through an
1499 agency employee or by an arrangement with another individual not
1500 defined as a health care facility.

1501 This subparagraph (ix) shall not apply to health care
1502 facilities which had contracts for the above services with a home
1503 health agency on January 1, 1990.

1504 (x) "Psychiatric residential treatment facility"
1505 means any nonhospital establishment with permanent licensed
1506 facilities which provides a twenty-four-hour program of care by



1507 qualified therapists, including, but not limited to, duly licensed
1508 mental health professionals, psychiatrists, psychologists,
1509 psychotherapists and licensed certified social workers, for
1510 emotionally disturbed children and adolescents referred to such
1511 facility by a court, local school district or by the Department of
1512 Human Services, who are not in an acute phase of illness requiring
1513 the services of a psychiatric hospital, and are in need of such
1514 restorative treatment services. For purposes of this
1515 subparagraph, the term "emotionally disturbed" means a condition
1516 exhibiting one or more of the following characteristics over a
1517 long period of time and to a marked degree, which adversely
1518 affects educational performance:

- 1519 1. An inability to learn which cannot be
1520 explained by intellectual, sensory or health factors;
- 1521 2. An inability to build or maintain
1522 satisfactory relationships with peers and teachers;
- 1523 3. Inappropriate types of behavior or
1524 feelings under normal circumstances;
- 1525 4. A general pervasive mood of unhappiness or
1526 depression; or
- 1527 5. A tendency to develop physical symptoms or
1528 fears associated with personal or school problems. An
1529 establishment furnishing primarily domiciliary care is not within
1530 this definition.



1531 (xi) "Pediatric skilled nursing facility" means an
1532 institution or a distinct part of an institution that is primarily
1533 engaged in providing to inpatients skilled nursing care and
1534 related services for persons under twenty-one (21) years of age
1535 who require medical or nursing care or rehabilitation services for
1536 the rehabilitation of injured, disabled or sick persons.

1537 (xii) "Long-term care hospital" means a
1538 freestanding, Medicare-certified hospital that has an average
1539 length of inpatient stay greater than twenty-five (25) days, which
1540 is primarily engaged in providing chronic or long-term medical
1541 care to patients who do not require more than three (3) hours of
1542 rehabilitation or comprehensive rehabilitation per day, and has a
1543 transfer agreement with an acute care medical center and a
1544 comprehensive medical rehabilitation facility. Long-term care
1545 hospitals shall not use rehabilitation, comprehensive medical
1546 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
1547 nursing home, skilled nursing facility or sub-acute care facility
1548 in association with its name.

1549 (xiii) "Comprehensive medical rehabilitation
1550 facility" means a hospital or hospital unit that is licensed
1551 and/or certified as a comprehensive medical rehabilitation
1552 facility which provides specialized programs that are accredited
1553 by the Commission on Accreditation of Rehabilitation Facilities
1554 and supervised by a physician board certified or board eligible in
1555 psychiatry or other doctor of medicine or osteopathy with at least



1556 two (2) years of training in the medical direction of a
1557 comprehensive rehabilitation program that:

1558 1. Includes evaluation and treatment of
1559 individuals with physical disabilities;

1560 2. Emphasizes education and training of
1561 individuals with disabilities;

1562 3. Incorporates at least the following core
1563 disciplines:

1564 a. Physical Therapy;

1565 b. Occupational Therapy;

1566 c. Speech and Language Therapy;

1567 d. Rehabilitation Nursing; and

1568 4. Incorporates at least three (3) of the
1569 following disciplines:

1570 a. Psychology;

1571 b. Audiology;

1572 c. Respiratory Therapy;

1573 d. Therapeutic Recreation;

1574 e. Orthotics;

1575 f. Prosthetics;

1576 g. Special Education;

1577 h. Vocational Rehabilitation;

1578 i. Psychotherapy;

1579 j. Social Work;

1580 k. Rehabilitation Engineering.



1581 These specialized programs include, but are not limited to:
1582 spinal cord injury programs, head injury programs and infant and
1583 early childhood development programs.

1584 (i) "Health maintenance organization" or "HMO" means a
1585 public or private organization organized under the laws of this
1586 state or the federal government which:

1587 (i) Provides or otherwise makes available to
1588 enrolled participants health care services, including
1589 substantially the following basic health care services: usual
1590 physician services, hospitalization, laboratory, x-ray, emergency
1591 and preventive services, and out-of-area coverage;

1592 (ii) Is compensated (except for copayments) for
1593 the provision of the basic health care services listed in
1594 subparagraph (i) of this paragraph to enrolled participants on a
1595 predetermined basis; and

1596 (iii) Provides physician services primarily:

1597 1. Directly through physicians who are either
1598 employees or partners of such organization; or

1599 2. Through arrangements with individual
1600 physicians or one or more groups of physicians (organized on a
1601 group practice or individual practice basis).

1602 (j) "Health service area" means a geographic area of
1603 the state designated in the State Health Plan as the area to be
1604 used in planning for specified health facilities and services and



1605 to be used when considering certificate of need applications to
1606 provide health facilities and services.

1607 (k) "Health services" means clinically related (i.e.,
1608 diagnostic, treatment or rehabilitative) services and includes
1609 alcohol, drug abuse, mental health and home health care services.
1610 "Clinical health services" shall only include those activities
1611 which contemplate any change in the existing bed complement of any
1612 health care facility through the addition or conversion of any
1613 beds, under Section 41-7-191(1)(c) or propose to offer any health
1614 services if those services have not been provided on a regular
1615 basis by the proposed provider of such services within the period
1616 of twelve (12) months prior to the time such services would be
1617 offered, under Section 41-7-191(1)(d). "Nonclinical health
1618 services" shall be all other services which do not involve any
1619 change in the existing bed complement or offering health services
1620 as described above.

1621 (l) "Institutional health services" shall mean health
1622 services provided in or through health care facilities and shall
1623 include the entities in or through which such services are
1624 provided.

1625 (m) "Major medical equipment" means medical equipment
1626 designed for providing medical or any health-related service which
1627 costs in excess of * * * Three Million Dollars (\$3,000,000.00).
1628 However, this definition shall not be applicable to clinical
1629 laboratories if they are determined by the State Department of



1630 Health to be independent of any physician's office, hospital or
1631 other health care facility or otherwise not so defined by federal
1632 or state law, or rules and regulations promulgated thereunder.

1633 (n) "State Department of Health" or "department" shall
1634 mean the state agency created under Section 41-3-15, which shall
1635 be considered to be the State Health Planning and Development
1636 Agency, as defined in paragraph (u) of this section.

1637 (o) "Offer," when used in connection with health
1638 services, means that it has been determined by the State
1639 Department of Health that the health care facility is capable of
1640 providing specified health services.

1641 (p) "Person" means an individual, a trust or estate,
1642 partnership, corporation (including associations, joint-stock
1643 companies and insurance companies), the state or a political
1644 subdivision or instrumentality of the state.

1645 (q) "Provider" shall mean any person who is a provider
1646 or representative of a provider of health care services requiring
1647 a certificate of need under Section 41-7-171 et seq., or who has
1648 any financial or indirect interest in any provider of services.

1649 (r) "Radiation therapy services" means the treatment of
1650 cancer and other diseases using ionizing radiation of either high
1651 energy photons (x-rays or gamma rays) or charged particles
1652 (electrons, protons or heavy nuclei). However, for purposes of a
1653 certificate of need, radiation therapy services shall not include



1654 low energy, superficial, external beam x-ray treatment of
1655 superficial skin lesions.

1656 (s) "Secretary" means the Secretary of Health and Human
1657 Services, and any officer or employee of the Department of Health
1658 and Human Services to whom the authority involved has been
1659 delegated.

1660 (t) "State Health Plan" means the sole and official
1661 statewide health plan for Mississippi which identifies priority
1662 state health needs and establishes standards and criteria for
1663 health-related activities which require certificate of need review
1664 in compliance with Section 41-7-191.

1665 (u) "State Health Planning and Development Agency"
1666 means the agency of state government designated to perform health
1667 planning and resource development programs for the State of
1668 Mississippi.

1669 **SECTION 3.** This act shall take effect and be in force from
1670 and after its passage.

