

By: Representatives Creekmore IV, Felsher

To: Public Health and Human Services; State Affairs

HOUSE BILL NO. 3  
(As Passed the House)

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 THAT HAVE BEEN  
16 APPROVED AND CONTINUOUSLY OPERATED UNDER A CERTIFICATE OF NEED  
17 EXEMPTION FOR A TEACHING HOSPITAL, OR THAT ARE APPROVED OR APPLIED  
18 FOR BEFORE THE EFFECTIVE DATE OF THIS ACT, RELOCATION; TO PROVIDE  
19 THAT FROM AND AFTER THE EFFECTIVE DATE OF THIS ACT, THE UNIVERSITY  
20 OF MISSISSIPPI MEDICAL CENTER SHALL HAVE AN ACADEMIC EXEMPTION  
21 FROM THE CERTIFICATE OF NEED REQUIREMENTS ONLY WITHIN A CERTAIN  
22 AREA OF JACKSON, MISSISSIPPI; TO CLARIFY THAT IN ORDER FOR THE  
23 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER TO QUALIFY FOR SUCH AN  
24 ACADEMIC EXEMPTION, THE STATE HEALTH OFFICER MUST DETERMINE THAT  
25 THE PROPOSED EQUIPMENT OR FACILITY FULFILLS A SUBSTANTIAL AND  
26 MEANINGFUL ACADEMIC FUNCTION; TO DIRECT THE STATE DEPARTMENT OF  
27 HEALTH TO CONDUCT A STUDY AND REPORT BY DECEMBER 1, 2026, ON THE  
28 FEASIBILITY OF EXEMPTING SMALL HOSPITALS FROM THE REQUIREMENT FOR  
29 A CERTIFICATE OF NEED FOR THE PLACEMENT OF DIALYSIS UNITS TO  
30 REDUCE THE NUMBER OF TRANSFERS FOR PATIENTS REQUIRING DIALYSIS,  
31 THE FEASIBILITY OF EXEMPTING SMALL HOSPITALS FROM THE REQUIREMENT  
32 FOR A CERTIFICATE OF NEED TO OPERATE GERIATRIC PSYCHIATRIC UNITS,  
33 AND THE FEASIBILITY OF A NEW REQUIREMENT THAT ACUTE ADULT  
34 PSYCHIATRIC UNITS TREAT A CERTAIN PERCENTAGE OF UNINSURED PATIENTS



35 OR PAY A PERIODIC FEE IN LIEU THEREOF; TO AMEND SECTION 41-7-173,  
36 MISSISSIPPI CODE OF 1972, TO INCREASE THE MINIMUM DOLLAR AMOUNTS  
37 OF CAPITAL EXPENDITURES AND MAJOR MEDICAL EQUIPMENT THAT REQUIRE  
38 THE ISSUANCE OF A CERTIFICATE OF NEED; AND FOR RELATED PURPOSES.

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

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

42 41-7-191. (1) No person shall engage in any of the  
43 following activities without obtaining the required certificate of  
44 need:

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

49 (b) The relocation of a health care facility or portion  
50 thereof, or major medical equipment, unless such relocation of a  
51 health care facility or portion thereof, or major medical  
52 equipment, which does not involve a capital expenditure by or on  
53 behalf of a health care facility, is within five thousand two  
54 hundred eighty (5,280) feet from the main entrance of the health  
55 care facility;

56 (c) Any change in the existing bed complement of any  
57 health care facility through the addition or conversion of any  
58 beds or the alteration, modernizing or refurbishing of any unit or  
59 department in which the beds may be located; however, if a health  
60 care facility has voluntarily delicensed some of its existing bed  
61 complement, it may later relicense some or all of its delicensed



62 beds without the necessity of having to acquire a certificate of  
63 need. The State Department of Health shall maintain a record of  
64 the delicensing health care facility and its voluntarily  
65 delicensed beds and continue counting those beds as part of the  
66 state's total bed count for health care planning purposes. If a  
67 health care facility that has voluntarily delicensed some of its  
68 beds later desires to relicense some or all of its voluntarily  
69 delicensed beds, it shall notify the State Department of Health of  
70 its intent to increase the number of its licensed beds. The State  
71 Department of Health shall survey the health care facility within  
72 thirty (30) days of that notice and, if appropriate, issue the  
73 health care facility a new license reflecting the new contingent  
74 of beds. However, in no event may a health care facility that has  
75 voluntarily delicensed some of its beds be reissued a license to  
76 operate beds in excess of its bed count before the voluntary  
77 delicensure of some of its beds without seeking certificate of  
78 need approval;

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

- 83 (i) Open-heart surgery services;  
84 (ii) Cardiac catheterization services;  
85 (iii) Comprehensive inpatient rehabilitation  
86 services;



87 (iv) Licensed psychiatric services;  
88 (v) Licensed chemical dependency services;  
89 (vi) Radiation therapy services;  
90 (vii) Diagnostic imaging services of an invasive  
91 nature, i.e. invasive digital angiography;  
92 (viii) Nursing home care as defined in  
93 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);  
94 (ix) Home health services;  
95 (x) Swing-bed services;  
96 (xi) Ambulatory surgical services;  
97 (xii) Magnetic resonance imaging services;  
98 (xiii) [Deleted]  
99 (xiv) Long-term care hospital services;  
100 (xv) Positron emission tomography (PET) services;  
101 (e) The relocation of one or more health services from  
102 one physical facility or site to another physical facility or  
103 site, unless such relocation, which does not involve a capital  
104 expenditure by or on behalf of a health care facility, (i) is to a  
105 physical facility or site within five thousand two hundred eighty  
106 (5,280) feet from the main entrance of the health care facility  
107 where the health care service is located, or (ii) is the result of  
108 an order of a court of appropriate jurisdiction or a result of  
109 pending litigation in such court, or by order of the State  
110 Department of Health, or by order of any other agency or legal  
111 entity of the state, the federal government, or any political



112 subdivision of either, whose order is also approved by the State  
113 Department of Health;

114 (f) The acquisition or otherwise control of any major  
115 medical equipment for the provision of medical services; however,  
116 (i) the acquisition of any major medical equipment used only for  
117 research purposes, and (ii) the acquisition of major medical  
118 equipment to replace medical equipment for which a facility is  
119 already providing medical services and for which the State  
120 Department of Health has been notified before the date of such  
121 acquisition shall be exempt from this paragraph; an acquisition  
122 for less than fair market value must be reviewed, if the  
123 acquisition at fair market value would be subject to review;

124 (g) Changes of ownership of existing health care  
125 facilities in which a notice of intent is not filed with the State  
126 Department of Health at least thirty (30) days prior to the date  
127 such change of ownership occurs, or a change in services or bed  
128 capacity as prescribed in paragraph (c) or (d) of this subsection  
129 as a result of the change of ownership; an acquisition for less  
130 than fair market value must be reviewed, if the acquisition at  
131 fair market value would be subject to review;

132 (h) The change of ownership of any health care facility  
133 defined in subparagraphs (iv), (vi) and (viii) of Section  
134 41-7-173(h), in which a notice of intent as described in paragraph  
135 (g) has not been filed and if the Executive Director, Division of  
136 Medicaid, Office of the Governor, has not certified in writing



137 that there will be no increase in allowable costs to Medicaid from  
138 revaluation of the assets or from increased interest and  
139 depreciation as a result of the proposed change of ownership;

140 (i) Any activity described in paragraphs (a) through  
141 (h) if undertaken by any person if that same activity would  
142 require certificate of need approval if undertaken by a health  
143 care facility;

144 (j) Any capital expenditure or deferred capital  
145 expenditure by or on behalf of a health care facility not covered  
146 by paragraphs (a) through (h);

147 (k) The contracting of a health care facility as  
148 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
149 to establish a home office, subunit, or branch office in the space  
150 operated as a health care facility through a formal arrangement  
151 with an existing health care facility as defined in subparagraph  
152 (ix) of Section 41-7-173(h);

153 (l) The replacement or relocation of a health care  
154 facility designated as a critical access hospital shall be exempt  
155 from subsection (1) of this section so long as the critical access  
156 hospital complies with all applicable federal law and regulations  
157 regarding such replacement or relocation;

158 (m) Reopening a health care facility that has ceased to  
159 operate for a period of sixty (60) months or more, which reopening  
160 requires a certificate of need for the establishment of a new  
161 health care facility.



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

169           (a) The department may issue a certificate of need to  
170 any person proposing the new construction of any health care  
171 facility defined in subparagraphs (iv) and (vi) of Section  
172 41-7-173(h) as part of a life care retirement facility, in any  
173 county bordering on the Gulf of Mexico in which is located a  
174 National Aeronautics and Space Administration facility, not to  
175 exceed forty (40) beds. From and after July 1, 1999, there shall  
176 be no prohibition or restrictions on participation in the Medicaid  
177 program (Section 43-13-101 et seq.) for the beds in the health  
178 care facility that were authorized under this paragraph (a).

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



186 (c) The department may issue a certificate of need for  
187 the addition to or expansion of any skilled nursing facility that  
188 is part of an existing continuing care retirement community  
189 located in Madison County, provided that the recipient of the  
190 certificate of need agrees in writing that the skilled nursing  
191 facility will not at any time participate in the Medicaid program  
192 (Section 43-13-101 et seq.) or admit or keep any patients in the  
193 skilled nursing facility who are participating in the Medicaid  
194 program. This written agreement by the recipient of the  
195 certificate of need shall be fully binding on any subsequent owner  
196 of the skilled nursing facility, if the ownership of the facility  
197 is transferred at any time after the issuance of the certificate  
198 of need. Agreement that the skilled nursing facility will not  
199 participate in the Medicaid program shall be a condition of the  
200 issuance of a certificate of need to any person under this  
201 paragraph (c), and if such skilled nursing facility at any time  
202 after the issuance of the certificate of need, regardless of the  
203 ownership of the facility, participates in the Medicaid program or  
204 admits or keeps any patients in the facility who are participating  
205 in the Medicaid program, the State Department of Health shall  
206 revoke the certificate of need, if it is still outstanding, and  
207 shall deny or revoke the license of the skilled nursing facility,  
208 at the time that the department determines, after a hearing  
209 complying with due process, that the facility has failed to comply  
210 with any of the conditions upon which the certificate of need was



211 issued, as provided in this paragraph and in the written agreement  
212 by the recipient of the certificate of need. The total number of  
213 beds that may be authorized under the authority of this paragraph  
214 (c) shall not exceed sixty (60) beds.

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

223 (e) The State Department of Health may issue a  
224 certificate of need for the construction of a nursing facility or  
225 the conversion of beds to nursing facility beds at a personal care  
226 facility for the elderly in Lowndes County that is owned and  
227 operated by a Mississippi nonprofit corporation, not to exceed  
228 sixty (60) beds. From and after July 1, 1999, there shall be no  
229 prohibition or restrictions on participation in the Medicaid  
230 program (Section 43-13-101 et seq.) for the beds in the nursing  
231 facility that were authorized under this paragraph (e).

232 (f) The State Department of Health may issue a  
233 certificate of need for conversion of a county hospital facility  
234 in Itawamba County to a nursing facility, not to exceed sixty (60)  
235 beds, including any necessary construction, renovation or



236 expansion. From and after July 1, 1999, there shall be no  
237 prohibition or restrictions on participation in the Medicaid  
238 program (Section 43-13-101 et seq.) for the beds in the nursing  
239 facility that were authorized under this paragraph (f).

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

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

256 (i) The department may issue a certificate of need for  
257 the new construction of a skilled nursing facility in Leake  
258 County, provided that the recipient of the certificate of need  
259 agrees in writing that the skilled nursing facility will not at  
260 any time participate in the Medicaid program (Section 43-13-101 et



261 seq.) or admit or keep any patients in the skilled nursing  
262 facility who are participating in the Medicaid program. This  
263 written agreement by the recipient of the certificate of need  
264 shall be fully binding on any subsequent owner of the skilled  
265 nursing facility, if the ownership of the facility is transferred  
266 at any time after the issuance of the certificate of need.  
267 Agreement that the skilled nursing facility will not participate  
268 in the Medicaid program shall be a condition of the issuance of a  
269 certificate of need to any person under this paragraph (i), and if  
270 such skilled nursing facility at any time after the issuance of  
271 the certificate of need, regardless of the ownership of the  
272 facility, participates in the Medicaid program or admits or keeps  
273 any patients in the facility who are participating in the Medicaid  
274 program, the State Department of Health shall revoke the  
275 certificate of need, if it is still outstanding, and shall deny or  
276 revoke the license of the skilled nursing facility, at the time  
277 that the department determines, after a hearing complying with due  
278 process, that the facility has failed to comply with any of the  
279 conditions upon which the certificate of need was issued, as  
280 provided in this paragraph and in the written agreement by the  
281 recipient of the certificate of need. The provision of Section  
282 41-7-193(1) regarding substantial compliance of the projection of  
283 need as reported in the current State Health Plan is waived for  
284 the purposes of this paragraph. The total number of nursing  
285 facility beds that may be authorized by any certificate of need



286 issued under this paragraph (i) shall not exceed sixty (60) beds.  
287 If the skilled nursing facility authorized by the certificate of  
288 need issued under this paragraph is not constructed and fully  
289 operational within eighteen (18) months after July 1, 1994, the  
290 State Department of Health, after a hearing complying with due  
291 process, shall revoke the certificate of need, if it is still  
292 outstanding, and shall not issue a license for the skilled nursing  
293 facility at any time after the expiration of the eighteen-month  
294 period.

295 (j) The department may issue certificates of need to  
296 allow any existing freestanding long-term care facility in  
297 Tishomingo County and Hancock County that on July 1, 1995, is  
298 licensed with fewer than sixty (60) beds. For the purposes of  
299 this paragraph (j), the provisions of Section 41-7-193(1)  
300 requiring substantial compliance with the projection of need as  
301 reported in the current State Health Plan are waived. From and  
302 after July 1, 1999, there shall be no prohibition or restrictions  
303 on participation in the Medicaid program (Section 43-13-101 et  
304 seq.) for the beds in the long-term care facilities that were  
305 authorized under this paragraph (j).

306 (k) The department may issue a certificate of need for  
307 the construction of a nursing facility at a continuing care  
308 retirement community in Lowndes County. The total number of beds  
309 that may be authorized under the authority of this paragraph (k)  
310 shall not exceed sixty (60) beds. From and after July 1, 2001,



311 the prohibition on the facility participating in the Medicaid  
312 program (Section 43-13-101 et seq.) that was a condition of  
313 issuance of the certificate of need under this paragraph (k) shall  
314 be revised as follows: The nursing facility may participate in  
315 the Medicaid program from and after July 1, 2001, if the owner of  
316 the facility on July 1, 2001, agrees in writing that no more than  
317 thirty (30) of the beds at the facility will be certified for  
318 participation in the Medicaid program, and that no claim will be  
319 submitted for Medicaid reimbursement for more than thirty (30)  
320 patients in the facility in any month or for any patient in the  
321 facility who is in a bed that is not Medicaid-certified. This  
322 written agreement by the owner of the facility shall be a  
323 condition of licensure of the facility, and the agreement shall be  
324 fully binding on any subsequent owner of the facility if the  
325 ownership of the facility is transferred at any time after July 1,  
326 2001. After this written agreement is executed, the Division of  
327 Medicaid and the State Department of Health shall not certify more  
328 than thirty (30) of the beds in the facility for participation in  
329 the Medicaid program. If the facility violates the terms of the  
330 written agreement by admitting or keeping in the facility on a  
331 regular or continuing basis more than thirty (30) patients who are  
332 participating in the Medicaid program, the State Department of  
333 Health shall revoke the license of the facility, at the time that  
334 the department determines, after a hearing complying with due  
335 process, that the facility has violated the written agreement.



336 (1) Provided that funds are specifically appropriated  
337 therefor by the Legislature, the department may issue a  
338 certificate of need to a rehabilitation hospital in Hinds County  
339 for the construction of a sixty-bed long-term care nursing  
340 facility dedicated to the care and treatment of persons with  
341 severe disabilities including persons with spinal cord and  
342 closed-head injuries and ventilator dependent patients. The  
343 provisions of Section 41-7-193(1) regarding substantial compliance  
344 with projection of need as reported in the current State Health  
345 Plan are waived for the purpose of this paragraph.

346 (m) The State Department of Health may issue a  
347 certificate of need to a county-owned hospital in the Second  
348 Judicial District of Panola County for the conversion of not more  
349 than seventy-two (72) hospital beds to nursing facility beds,  
350 provided that the recipient of the certificate of need agrees in  
351 writing that none of the beds at the nursing facility will be  
352 certified for participation in the Medicaid program (Section  
353 43-13-101 et seq.), and that no claim will be submitted for  
354 Medicaid reimbursement in the nursing facility in any day or for  
355 any patient in the nursing facility. This written agreement by  
356 the recipient of the certificate of need shall be a condition of  
357 the issuance of the certificate of need under this paragraph, and  
358 the agreement shall be fully binding on any subsequent owner of  
359 the nursing facility if the ownership of the nursing facility is  
360 transferred at any time after the issuance of the certificate of



361 need. After this written agreement is executed, the Division of  
362 Medicaid and the State Department of Health shall not certify any  
363 of the beds in the nursing facility for participation in the  
364 Medicaid program. If the nursing facility violates the terms of  
365 the written agreement by admitting or keeping in the nursing  
366 facility on a regular or continuing basis any patients who are  
367 participating in the Medicaid program, the State Department of  
368 Health shall revoke the license of the nursing facility, at the  
369 time that the department determines, after a hearing complying  
370 with due process, that the nursing facility has violated the  
371 condition upon which the certificate of need was issued, as  
372 provided in this paragraph and in the written agreement. If the  
373 certificate of need authorized under this paragraph is not issued  
374 within twelve (12) months after July 1, 2001, the department shall  
375 deny the application for the certificate of need and shall not  
376 issue the certificate of need at any time after the twelve-month  
377 period, unless the issuance is contested. If the certificate of  
378 need is issued and substantial construction of the nursing  
379 facility beds has not commenced within eighteen (18) months after  
380 July 1, 2001, the State Department of Health, after a hearing  
381 complying with due process, shall revoke the certificate of need  
382 if it is still outstanding, and the department shall not issue a  
383 license for the nursing facility at any time after the  
384 eighteen-month period. However, if the issuance of the  
385 certificate of need is contested, the department shall require



386 substantial construction of the nursing facility beds within six  
387 (6) months after final adjudication on the issuance of the  
388 certificate of need.

389 (n) The department may issue a certificate of need for  
390 the new construction, addition or conversion of skilled nursing  
391 facility beds in Madison County, provided that the recipient of  
392 the certificate of need agrees in writing that the skilled nursing  
393 facility will not at any time participate in the Medicaid program  
394 (Section 43-13-101 et seq.) or admit or keep any patients in the  
395 skilled nursing facility who are participating in the Medicaid  
396 program. This written agreement by the recipient of the  
397 certificate of need shall be fully binding on any subsequent owner  
398 of the skilled nursing facility, if the ownership of the facility  
399 is transferred at any time after the issuance of the certificate  
400 of need. Agreement that the skilled nursing facility will not  
401 participate in the Medicaid program shall be a condition of the  
402 issuance of a certificate of need to any person under this  
403 paragraph (n), and if such skilled nursing facility at any time  
404 after the issuance of the certificate of need, regardless of the  
405 ownership of the facility, participates in the Medicaid program or  
406 admits or keeps any patients in the facility who are participating  
407 in the Medicaid program, the State Department of Health shall  
408 revoke the certificate of need, if it is still outstanding, and  
409 shall deny or revoke the license of the skilled nursing facility,  
410 at the time that the department determines, after a hearing



411 complying with due process, that the facility has failed to comply  
412 with any of the conditions upon which the certificate of need was  
413 issued, as provided in this paragraph and in the written agreement  
414 by the recipient of the certificate of need. The total number of  
415 nursing facility beds that may be authorized by any certificate of  
416 need issued under this paragraph (n) shall not exceed sixty (60)  
417 beds. If the certificate of need authorized under this paragraph  
418 is not issued within twelve (12) months after July 1, 1998, the  
419 department shall deny the application for the certificate of need  
420 and shall not issue the certificate of need at any time after the  
421 twelve-month period, unless the issuance is contested. If the  
422 certificate of need is issued and substantial construction of the  
423 nursing facility beds has not commenced within eighteen (18)  
424 months after July 1, 1998, the State Department of Health, after a  
425 hearing complying with due process, shall revoke the certificate  
426 of need if it is still outstanding, and the department shall not  
427 issue a license for the nursing facility at any time after the  
428 eighteen-month period. However, if the issuance of the  
429 certificate of need is contested, the department shall require  
430 substantial construction of the nursing facility beds within six  
431 (6) months after final adjudication on the issuance of the  
432 certificate of need.

433           (o) The department may issue a certificate of need for  
434 the new construction, addition or conversion of skilled nursing  
435 facility beds in Leake County, provided that the recipient of the



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



461 beds. If the certificate of need authorized under this paragraph  
462 is not issued within twelve (12) months after July 1, 2001, the  
463 department shall deny the application for the certificate of need  
464 and shall not issue the certificate of need at any time after the  
465 twelve-month period, unless the issuance is contested. If the  
466 certificate of need is issued and substantial construction of the  
467 nursing facility beds has not commenced within eighteen (18)  
468 months after July 1, 2001, the State Department of Health, after a  
469 hearing complying with due process, shall revoke the certificate  
470 of need if it is still outstanding, and the department shall not  
471 issue a license for the nursing facility at any time after the  
472 eighteen-month period. However, if the issuance of the  
473 certificate of need is contested, the department shall require  
474 substantial construction of the nursing facility beds within six  
475 (6) months after final adjudication on the issuance of the  
476 certificate of need.

477 (p) The department may issue a certificate of need for  
478 the construction of a municipally owned nursing facility within  
479 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
480 beds, provided that the recipient of the certificate of need  
481 agrees in writing that the skilled nursing facility will not at  
482 any time participate in the Medicaid program (Section 43-13-101 et  
483 seq.) or admit or keep any patients in the skilled nursing  
484 facility who are participating in the Medicaid program. This  
485 written agreement by the recipient of the certificate of need



486 shall be fully binding on any subsequent owner of the skilled  
487 nursing facility, if the ownership of the facility is transferred  
488 at any time after the issuance of the certificate of need.  
489 Agreement that the skilled nursing facility will not participate  
490 in the Medicaid program shall be a condition of the issuance of a  
491 certificate of need to any person under this paragraph (p), and if  
492 such skilled nursing facility at any time after the issuance of  
493 the certificate of need, regardless of the ownership of the  
494 facility, participates in the Medicaid program or admits or keeps  
495 any patients in the facility who are participating in the Medicaid  
496 program, the State Department of Health shall revoke the  
497 certificate of need, if it is still outstanding, and shall deny or  
498 revoke the license of the skilled nursing facility, at the time  
499 that the department determines, after a hearing complying with due  
500 process, that the facility has failed to comply with any of the  
501 conditions upon which the certificate of need was issued, as  
502 provided in this paragraph and in the written agreement by the  
503 recipient of the certificate of need. The provision of Section  
504 41-7-193(1) regarding substantial compliance of the projection of  
505 need as reported in the current State Health Plan is waived for  
506 the purposes of this paragraph. If the certificate of need  
507 authorized under this paragraph is not issued within twelve (12)  
508 months after July 1, 1998, the department shall deny the  
509 application for the certificate of need and shall not issue the  
510 certificate of need at any time after the twelve-month period,



511 unless the issuance is contested. If the certificate of need is  
512 issued and substantial construction of the nursing facility beds  
513 has not commenced within eighteen (18) months after July 1, 1998,  
514 the State Department of Health, after a hearing complying with due  
515 process, shall revoke the certificate of need if it is still  
516 outstanding, and the department shall not issue a license for the  
517 nursing facility at any time after the eighteen-month period.  
518 However, if the issuance of the certificate of need is contested,  
519 the department shall require substantial construction of the  
520 nursing facility beds within six (6) months after final  
521 adjudication on the issuance of the certificate of need.

522 (q) (i) Beginning on July 1, 1999, the State  
523 Department of Health shall issue certificates of need during each  
524 of the next four (4) fiscal years for the construction or  
525 expansion of nursing facility beds or the conversion of other beds  
526 to nursing facility beds in each county in the state having a need  
527 for fifty (50) or more additional nursing facility beds, as shown  
528 in the fiscal year 1999 State Health Plan, in the manner provided  
529 in this paragraph (q). The total number of nursing facility beds  
530 that may be authorized by any certificate of need authorized under  
531 this paragraph (q) shall not exceed sixty (60) beds.

532 (ii) Subject to the provisions of subparagraph  
533 (v), during each of the next four (4) fiscal years, the department  
534 shall issue six (6) certificates of need for new nursing facility  
535 beds, as follows: During fiscal years 2000, 2001 and 2002, one



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

555 (iii) Subject to the provisions of subparagraph  
556 (v), the certificate of need issued under subparagraph (ii) for  
557 nursing facility beds in each Long-Term Care Planning District  
558 during each fiscal year shall first be available for nursing  
559 facility beds in the county in the district having the highest  
560 need for those beds, as shown in the fiscal year 1999 State Health



561 Plan. If there are no applications for a certificate of need for  
562 nursing facility beds in the county having the highest need for  
563 those beds by the date specified by the department, then the  
564 certificate of need shall be available for nursing facility beds  
565 in other counties in the district in descending order of the need  
566 for those beds, from the county with the second highest need to  
567 the county with the lowest need, until an application is received  
568 for nursing facility beds in an eligible county in the district.

569 (iv) Subject to the provisions of subparagraph  
570 (v), the certificate of need issued under subparagraph (ii) for  
571 nursing facility beds in the two (2) counties from the state at  
572 large during each fiscal year shall first be available for nursing  
573 facility beds in the two (2) counties that have the highest need  
574 in the state for those beds, as shown in the fiscal year 1999  
575 State Health Plan, when considering the need on a statewide basis  
576 and without regard to the Long-Term Care Planning Districts in  
577 which the counties are located. If there are no applications for  
578 a certificate of need for nursing facility beds in either of the  
579 two (2) counties having the highest need for those beds on a  
580 statewide basis by the date specified by the department, then the  
581 certificate of need shall be available for nursing facility beds  
582 in other counties from the state at large in descending order of  
583 the need for those beds on a statewide basis, from the county with  
584 the second highest need to the county with the lowest need, until



585 an application is received for nursing facility beds in an  
586 eligible county from the state at large.

587 (v) If a certificate of need is authorized to be  
588 issued under this paragraph (q) for nursing facility beds in a  
589 county on the basis of the need in the Long-Term Care Planning  
590 District during any fiscal year of the four-year period, a  
591 certificate of need shall not also be available under this  
592 paragraph (q) for additional nursing facility beds in that county  
593 on the basis of the need in the state at large, and that county  
594 shall be excluded in determining which counties have the highest  
595 need for nursing facility beds in the state at large for that  
596 fiscal year. After a certificate of need has been issued under  
597 this paragraph (q) for nursing facility beds in a county during  
598 any fiscal year of the four-year period, a certificate of need  
599 shall not be available again under this paragraph (q) for  
600 additional nursing facility beds in that county during the  
601 four-year period, and that county shall be excluded in determining  
602 which counties have the highest need for nursing facility beds in  
603 succeeding fiscal years.

604 (vi) If more than one (1) application is made for  
605 a certificate of need for nursing home facility beds available  
606 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
607 County, and one (1) of the applicants is a county-owned hospital  
608 located in the county where the nursing facility beds are  
609 available, the department shall give priority to the county-owned



610 hospital in granting the certificate of need if the following  
611 conditions are met:

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

615                   2. The county-owned hospital's qualifications  
616 for the certificate of need, as shown in its application and as  
617 determined by the department, are at least equal to the  
618 qualifications of the other applicants for the certificate of  
619 need.

620                   (r) (i) Beginning on July 1, 1999, the State  
621 Department of Health shall issue certificates of need during each  
622 of the next two (2) fiscal years for the construction or expansion  
623 of nursing facility beds or the conversion of other beds to  
624 nursing facility beds in each of the four (4) Long-Term Care  
625 Planning Districts designated in the fiscal year 1999 State Health  
626 Plan, to provide care exclusively to patients with Alzheimer's  
627 disease.

628                   (ii) Not more than twenty (20) beds may be  
629 authorized by any certificate of need issued under this paragraph  
630 (r), and not more than a total of sixty (60) beds may be  
631 authorized in any Long-Term Care Planning District by all  
632 certificates of need issued under this paragraph (r). However,  
633 the total number of beds that may be authorized by all  
634 certificates of need issued under this paragraph (r) during any



635 fiscal year shall not exceed one hundred twenty (120) beds, and  
636 the total number of beds that may be authorized in any Long-Term  
637 Care Planning District during any fiscal year shall not exceed  
638 forty (40) beds. Of the certificates of need that are issued for  
639 each Long-Term Care Planning District during the next two (2)  
640 fiscal years, at least one (1) shall be issued for beds in the  
641 northern part of the district, at least one (1) shall be issued  
642 for beds in the central part of the district, and at least one (1)  
643 shall be issued for beds in the southern part of the district.

644 (iii) The State Department of Health, in  
645 consultation with the Department of Mental Health and the Division  
646 of Medicaid, shall develop and prescribe the staffing levels,  
647 space requirements and other standards and requirements that must  
648 be met with regard to the nursing facility beds authorized under  
649 this paragraph (r) to provide care exclusively to patients with  
650 Alzheimer's disease.

651 (s) The State Department of Health may issue a  
652 certificate of need to a nonprofit skilled nursing facility using  
653 the Green House model of skilled nursing care and located in Yazoo  
654 City, Yazoo County, Mississippi, for the construction, expansion  
655 or conversion of not more than nineteen (19) nursing facility  
656 beds. For purposes of this paragraph (s), the provisions of  
657 Section 41-7-193(1) requiring substantial compliance with the  
658 projection of need as reported in the current State Health Plan  
659 and the provisions of Section 41-7-197 requiring a formal



660 certificate of need hearing process are waived. There shall be no  
661 prohibition or restrictions on participation in the Medicaid  
662 program for the person receiving the certificate of need  
663 authorized under this paragraph (s).

664 (t) The State Department of Health shall issue  
665 certificates of need to the owner of a nursing facility in  
666 operation at the time of Hurricane Katrina in Hancock County that  
667 was not operational on December 31, 2005, because of damage  
668 sustained from Hurricane Katrina to authorize the following: (i)  
669 the construction of a new nursing facility in Harrison County;  
670 (ii) the relocation of forty-nine (49) nursing facility beds from  
671 the Hancock County facility to the new Harrison County facility;  
672 (iii) the establishment of not more than twenty (20) non-Medicaid  
673 nursing facility beds at the Hancock County facility; and (iv) the  
674 establishment of not more than twenty (20) non-Medicaid beds at  
675 the new Harrison County facility. The certificates of need that  
676 authorize the non-Medicaid nursing facility beds under  
677 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
678 subject to the following conditions: The owner of the Hancock  
679 County facility and the new Harrison County facility must agree in  
680 writing that no more than fifty (50) of the beds at the Hancock  
681 County facility and no more than forty-nine (49) of the beds at  
682 the Harrison County facility will be certified for participation  
683 in the Medicaid program, and that no claim will be submitted for  
684 Medicaid reimbursement for more than fifty (50) patients in the



685 Hancock County facility in any month, or for more than forty-nine  
686 (49) patients in the Harrison County facility in any month, or for  
687 any patient in either facility who is in a bed that is not  
688 Medicaid-certified. This written agreement by the owner of the  
689 nursing facilities shall be a condition of the issuance of the  
690 certificates of need under this paragraph (t), and the agreement  
691 shall be fully binding on any later owner or owners of either  
692 facility if the ownership of either facility is transferred at any  
693 time after the certificates of need are issued. After this  
694 written agreement is executed, the Division of Medicaid and the  
695 State Department of Health shall not certify more than fifty (50)  
696 of the beds at the Hancock County facility or more than forty-nine  
697 (49) of the beds at the Harrison County facility for participation  
698 in the Medicaid program. If the Hancock County facility violates  
699 the terms of the written agreement by admitting or keeping in the  
700 facility on a regular or continuing basis more than fifty (50)  
701 patients who are participating in the Medicaid program, or if the  
702 Harrison County facility violates the terms of the written  
703 agreement by admitting or keeping in the facility on a regular or  
704 continuing basis more than forty-nine (49) patients who are  
705 participating in the Medicaid program, the State Department of  
706 Health shall revoke the license of the facility that is in  
707 violation of the agreement, at the time that the department  
708 determines, after a hearing complying with due process, that the  
709 facility has violated the agreement.



710           (u) The State Department of Health shall issue a  
711 certificate of need to a nonprofit venture for the establishment,  
712 construction and operation of a skilled nursing facility of not  
713 more than sixty (60) beds to provide skilled nursing care for  
714 ventilator dependent or otherwise medically dependent pediatric  
715 patients who require medical and nursing care or rehabilitation  
716 services to be located in a county in which an academic medical  
717 center and a children's hospital are located, and for any  
718 construction and for the acquisition of equipment related to those  
719 beds. The facility shall be authorized to keep such ventilator  
720 dependent or otherwise medically dependent pediatric patients  
721 beyond age twenty-one (21) in accordance with regulations of the  
722 State Board of Health. For purposes of this paragraph (u), the  
723 provisions of Section 41-7-193(1) requiring substantial compliance  
724 with the projection of need as reported in the current State  
725 Health Plan are waived, and the provisions of Section 41-7-197  
726 requiring a formal certificate of need hearing process are waived.  
727 The beds authorized by this paragraph shall be counted as  
728 pediatric skilled nursing facility beds for health planning  
729 purposes under Section 41-7-171 et seq. There shall be no  
730 prohibition of or restrictions on participation in the Medicaid  
731 program for the person receiving the certificate of need  
732 authorized by this paragraph.

733           (3) The State Department of Health may grant approval for  
734 and issue certificates of need to any person proposing the new



735 construction of, addition to, conversion of beds of or expansion  
736 of any health care facility defined in subparagraph (x)  
737 (psychiatric residential treatment facility) of Section  
738 41-7-173(h). The total number of beds which may be authorized by  
739 such certificates of need shall not exceed three hundred  
740 thirty-four (334) beds for the entire state.

741 (a) Of the total number of beds authorized under this  
742 subsection, the department shall issue a certificate of need to a  
743 privately owned psychiatric residential treatment facility in  
744 Simpson County for the conversion of sixteen (16) intermediate  
745 care facility for individuals with intellectual disabilities  
746 (ICF-IID) beds to psychiatric residential treatment facility beds,  
747 provided that facility agrees in writing that the facility shall  
748 give priority for the use of those sixteen (16) beds to  
749 Mississippi residents who are presently being treated in  
750 out-of-state facilities.

751 (b) Of the total number of beds authorized under this  
752 subsection, the department may issue a certificate or certificates  
753 of need for the construction or expansion of psychiatric  
754 residential treatment facility beds or the conversion of other  
755 beds to psychiatric residential treatment facility beds in Warren  
756 County, not to exceed sixty (60) psychiatric residential treatment  
757 facility beds, provided that the facility agrees in writing that  
758 no more than thirty (30) of the beds at the psychiatric  
759 residential treatment facility will be certified for participation



760 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
761 any patients other than those who are participating only in the  
762 Medicaid program of another state, and that no claim will be  
763 submitted to the Division of Medicaid for Medicaid reimbursement  
764 for more than thirty (30) patients in the psychiatric residential  
765 treatment facility in any day or for any patient in the  
766 psychiatric residential treatment facility who is in a bed that is  
767 not Medicaid-certified. This written agreement by the recipient  
768 of the certificate of need shall be a condition of the issuance of  
769 the certificate of need under this paragraph, and the agreement  
770 shall be fully binding on any subsequent owner of the psychiatric  
771 residential treatment facility if the ownership of the facility is  
772 transferred at any time after the issuance of the certificate of  
773 need. After this written agreement is executed, the Division of  
774 Medicaid and the State Department of Health shall not certify more  
775 than thirty (30) of the beds in the psychiatric residential  
776 treatment facility for participation in the Medicaid program for  
777 the use of any patients other than those who are participating  
778 only in the Medicaid program of another state. If the psychiatric  
779 residential treatment facility violates the terms of the written  
780 agreement by admitting or keeping in the facility on a regular or  
781 continuing basis more than thirty (30) patients who are  
782 participating in the Mississippi Medicaid program, the State  
783 Department of Health shall revoke the license of the facility, at  
784 the time that the department determines, after a hearing complying



785 with due process, that the facility has violated the condition  
786 upon which the certificate of need was issued, as provided in this  
787 paragraph and in the written agreement.

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

792 (c) Of the total number of beds authorized under this  
793 subsection, the department shall issue a certificate of need to a  
794 hospital currently operating Medicaid-certified acute psychiatric  
795 beds for adolescents in DeSoto County, for the establishment of a  
796 forty-bed psychiatric residential treatment facility in DeSoto  
797 County \* \* \*. There shall be no prohibition or restrictions on  
798 participation in the Medicaid program (Section 43-13-101 et seq.)  
799 for the person(s) receiving the certificate of need authorized  
800 under this paragraph (c) or for the beds converted pursuant to the  
801 authority of that certificate of need that would not apply to any  
802 other psychiatric residential treatment facility.

803 (d) Of the total number of beds authorized under this  
804 subsection, the department may issue a certificate or certificates  
805 of need for the construction or expansion of psychiatric  
806 residential treatment facility beds or the conversion of other  
807 beds to psychiatric treatment facility beds, not to exceed thirty  
808 (30) psychiatric residential treatment facility beds, in either



809 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
810 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

819 (f) The department shall issue a certificate of need to  
820 a one-hundred-thirty-four-bed specialty hospital located on  
821 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
822 at 5900 Highway 39 North in Meridian (Lauderdale County),  
823 Mississippi, for the addition, construction or expansion of  
824 child/adolescent psychiatric residential treatment facility beds  
825 in Lauderdale County. As a condition of issuance of the  
826 certificate of need under this paragraph, the facility shall give  
827 priority in admissions to the child/adolescent psychiatric  
828 residential treatment facility beds authorized under this  
829 paragraph to patients who otherwise would require out-of-state  
830 placement. The Division of Medicaid, in conjunction with the  
831 Department of Human Services, shall furnish the facility a list of  
832 all out-of-state patients on a quarterly basis. Furthermore,  
833 notice shall also be provided to the parent, custodial parent or



834 guardian of each out-of-state patient notifying them of the  
835 priority status granted by this paragraph. For purposes of this  
836 paragraph, the provisions of Section 41-7-193(1) requiring  
837 substantial compliance with the projection of need as reported in  
838 the current State Health Plan are waived. The total number of  
839 child/adolescent psychiatric residential treatment facility beds  
840 that may be authorized under the authority of this paragraph shall  
841 be sixty (60) beds. There shall be no prohibition or restrictions  
842 on participation in the Medicaid program (Section 43-13-101 et  
843 seq.) for the person receiving the certificate of need authorized  
844 under this paragraph or for the beds converted pursuant to the  
845 authority of that certificate of need.

846 (4) (a) From and after March 25, 2021, the department may  
847 issue a certificate of need to any person for the new construction  
848 of any hospital, psychiatric hospital or chemical dependency  
849 hospital that will contain any child/adolescent psychiatric or  
850 child/adolescent chemical dependency beds, or for the conversion  
851 of any other health care facility to a hospital, psychiatric  
852 hospital or chemical dependency hospital that will contain any  
853 child/adolescent psychiatric or child/adolescent chemical  
854 dependency beds. There shall be no prohibition or restrictions on  
855 participation in the Medicaid program (Section 43-13-101 et seq.)  
856 for the person(s) receiving the certificate(s) of need authorized  
857 under this paragraph (a) or for the beds converted pursuant to the  
858 authority of that certificate of need. In issuing any new



859 certificate of need for any child/adolescent psychiatric or  
860 child/adolescent chemical dependency beds, either by new  
861 construction or conversion of beds of another category, the  
862 department shall give preference to beds which will be located in  
863 an area of the state which does not have such beds located in it,  
864 and to a location more than sixty-five (65) miles from existing  
865 beds. Upon receiving 2020 census data, the department may amend  
866 the State Health Plan regarding child/adolescent psychiatric and  
867 child/adolescent chemical dependency beds to reflect the need  
868 based on new census data.

869 (i) [Deleted]

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



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

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



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

923                   (v) The department may issue a certificate of need  
924 to any county hospital located in Leflore County for the  
925 construction or expansion of adult psychiatric beds or the  
926 conversion of other beds to adult psychiatric beds, not to exceed  
927 twenty (20) beds, provided that the recipient of the certificate  
928 of need agrees in writing that the adult psychiatric beds will not  
929 at any time be certified for participation in the Medicaid program  
930 and that the hospital will not admit or keep any patients who are  
931 participating in the Medicaid program in any of such adult  
932 psychiatric beds. This written agreement by the recipient of the



933 certificate of need shall be fully binding on any subsequent owner  
934 of the hospital if the ownership of the hospital is transferred at  
935 any time after the issuance of the certificate of need. Agreement  
936 that the adult psychiatric beds will not be certified for  
937 participation in the Medicaid program shall be a condition of the  
938 issuance of a certificate of need to any person under this  
939 subparagraph (v), and if such hospital at any time after the  
940 issuance of the certificate of need, regardless of the ownership  
941 of the hospital, has any of such adult psychiatric beds certified  
942 for participation in the Medicaid program or admits or keeps any  
943 Medicaid patients in such adult psychiatric beds, the State  
944 Department of Health shall revoke the certificate of need, if it  
945 is still outstanding, and shall deny or revoke the license of the  
946 hospital at the time that the department determines, after a  
947 hearing complying with due process, that the hospital has failed  
948 to comply with any of the conditions upon which the certificate of  
949 need was issued, as provided in this subparagraph and in the  
950 written agreement by the recipient of the certificate of need.

951 (vi) The department may issue a certificate or  
952 certificates of need for the expansion of child psychiatric beds  
953 or the conversion of other beds to child psychiatric beds at the  
954 University of Mississippi Medical Center. For purposes of this  
955 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
956 substantial compliance with the projection of need as reported in  
957 the current State Health Plan are waived. The total number of



958 beds that may be authorized under the authority of this  
959 subparagraph shall not exceed fifteen (15) beds. There shall be  
960 no prohibition or restrictions on participation in the Medicaid  
961 program (Section 43-13-101 et seq.) for the hospital receiving the  
962 certificate of need authorized under this subparagraph or for the  
963 beds converted pursuant to the authority of that certificate of  
964 need.

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

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

976 (6) The State Department of Health shall issue a certificate  
977 of need to a Mississippi corporation qualified to manage a  
978 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
979 Harrison County, not to exceed eighty (80) beds, including any  
980 necessary renovation or construction required for licensure and  
981 certification, provided that the recipient of the certificate of  
982 need agrees in writing that the long-term care hospital will not



983 at any time participate in the Medicaid program (Section 43-13-101  
984 et seq.) \* \* \* except as a crossover provider. This written  
985 agreement by the recipient of the certificate of need shall be  
986 fully binding on any subsequent owner of the long-term care  
987 hospital, if the ownership of the facility is transferred at any  
988 time after the issuance of the certificate of need. Agreement  
989 that the long-term care hospital will not participate in the  
990 Medicaid program except as a crossover provider shall be a  
991 condition of the issuance of a certificate of need to any person  
992 under this subsection (6), and if such long-term care hospital at  
993 any time after the issuance of the certificate of need, regardless  
994 of the ownership of the facility, participates in the Medicaid  
995 program \* \* \* except as a crossover provider, the State Department  
996 of Health shall revoke the certificate of need, if it is still  
997 outstanding, and shall deny or revoke the license of the long-term  
998 care hospital, at the time that the department determines, after a  
999 hearing complying with due process, that the facility has failed  
1000 to comply with any of the conditions upon which the certificate of  
1001 need was issued, as provided in this subsection and in the written  
1002 agreement by the recipient of the certificate of need. For  
1003 purposes of this subsection, the provisions of Section 41-7-193(1)  
1004 requiring substantial compliance with the projection of need as  
1005 reported in the current State Health Plan are waived. This  
1006 subsection (6) shall be retroactive to July 1, 2023.



1007 (7) The State Department of Health may issue a certificate  
1008 of need to any hospital in the state to utilize a portion of its  
1009 beds for the "swing-bed" concept. Any such hospital must be in  
1010 conformance with the federal regulations regarding such swing-bed  
1011 concept at the time it submits its application for a certificate  
1012 of need to the State Department of Health, except that such  
1013 hospital may have more licensed beds or a higher average daily  
1014 census (ADC) than the maximum number specified in federal  
1015 regulations for participation in the swing-bed program. Any  
1016 hospital meeting all federal requirements for participation in the  
1017 swing-bed program which receives such certificate of need shall  
1018 render services provided under the swing-bed concept to any  
1019 patient eligible for Medicare (Title XVIII of the Social Security  
1020 Act) who is certified by a physician to be in need of such  
1021 services, and no such hospital shall permit any patient who is  
1022 eligible for both Medicaid and Medicare or eligible only for  
1023 Medicaid to stay in the swing beds of the hospital for more than  
1024 thirty (30) days per admission unless the hospital receives prior  
1025 approval for such patient from the Division of Medicaid, Office of  
1026 the Governor. Any hospital having more licensed beds or a higher  
1027 average daily census (ADC) than the maximum number specified in  
1028 federal regulations for participation in the swing-bed program  
1029 which receives such certificate of need shall develop a procedure  
1030 to ensure that before a patient is allowed to stay in the swing  
1031 beds of the hospital, there are no vacant nursing home beds



1032 available for that patient located within a fifty-mile radius of  
1033 the hospital. When any such hospital has a patient staying in the  
1034 swing beds of the hospital and the hospital receives notice from a  
1035 nursing home located within such radius that there is a vacant bed  
1036 available for that patient, the hospital shall transfer the  
1037 patient to the nursing home within a reasonable time after receipt  
1038 of the notice. Any hospital which is subject to the requirements  
1039 of the two (2) preceding sentences of this subsection may be  
1040 suspended from participation in the swing-bed program for a  
1041 reasonable period of time by the State Department of Health if the  
1042 department, after a hearing complying with due process, determines  
1043 that the hospital has failed to comply with any of those  
1044 requirements.

1045 (8) The Department of Health shall not grant approval for or  
1046 issue a certificate of need to any person proposing the new  
1047 construction of, addition to or expansion of a health care  
1048 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1049 except as hereinafter provided: The department may issue a  
1050 certificate of need to a nonprofit corporation located in Madison  
1051 County, Mississippi, for the construction, expansion or conversion  
1052 of not more than twenty (20) beds in a community living program  
1053 for developmentally disabled adults in a facility as defined in  
1054 subparagraph (viii) of Section 41-7-173(h). Effective July 1,  
1055 2026, the department shall issue a certificate of need to the same  
1056 nonprofit corporation located in Madison County, Mississippi, for



1057 the construction, expansion or conversion of an additional twenty  
1058 (20) beds in a community living program for developmentally  
1059 disabled adults in a facility as defined in subparagraph (viii) of  
1060 Section 41-7-173(h). For purposes of this subsection (8), the  
1061 provisions of Section 41-7-193(1) requiring substantial compliance  
1062 with the projection of need as reported in the current State  
1063 Health Plan and the provisions of Section 41-7-197 requiring a  
1064 formal certificate of need hearing process are waived. There  
1065 shall be no prohibition or restrictions on participation in the  
1066 Medicaid program for the person receiving the certificate of need  
1067 authorized under this subsection (8).

1068 (9) The Department of Health shall not grant approval for or  
1069 issue a certificate of need to any person proposing the  
1070 establishment of, or expansion of the currently approved territory  
1071 of, or the contracting to establish a home office, subunit or  
1072 branch office within the space operated as a health care facility  
1073 as defined in Section 41-7-173(h) (i) through (viii) by a health  
1074 care facility as defined in subparagraph (ix) of Section  
1075 41-7-173(h).

1076 (10) Health care facilities owned and/or operated by the  
1077 state or its agencies are exempt from the restraints in this  
1078 section against issuance of a certificate of need if such addition  
1079 or expansion consists of repairing or renovation necessary to  
1080 comply with the state licensure law. This exception shall not  
1081 apply to the new construction of any building by such state



1082 facility. This exception shall not apply to any health care  
1083 facilities owned and/or operated by counties, municipalities,  
1084 districts, unincorporated areas, other defined persons, or any  
1085 combination thereof.

1086 (11) The new construction, renovation or expansion of or  
1087 addition to any health care facility defined in subparagraph (ii)  
1088 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1089 facility), subparagraph (vi) (intermediate care facility),  
1090 subparagraph (viii) (intermediate care facility for individuals  
1091 with intellectual disabilities) and subparagraph (x) (psychiatric  
1092 residential treatment facility) of Section 41-7-173(h) which is  
1093 owned by the State of Mississippi and under the direction and  
1094 control of the State Department of Mental Health, and the addition  
1095 of new beds or the conversion of beds from one category to another  
1096 in any such defined health care facility which is owned by the  
1097 State of Mississippi and under the direction and control of the  
1098 State Department of Mental Health, shall not require the issuance  
1099 of a certificate of need under Section 41-7-171 et seq.,  
1100 notwithstanding any provision in Section 41-7-171 et seq. to the  
1101 contrary.

1102 (12) The new construction, renovation or expansion of or  
1103 addition to any veterans homes or domiciliaries for eligible  
1104 veterans of the State of Mississippi as authorized under Section  
1105 35-1-19 shall not require the issuance of a certificate of need,



1106 notwithstanding any provision in Section 41-7-171 et seq. to the  
1107 contrary.

1108 (13) The repair or the rebuilding of an existing, operating  
1109 health care facility that sustained significant damage from a  
1110 natural disaster that occurred after April 15, 2014, in an area  
1111 that is proclaimed a disaster area or subject to a state of  
1112 emergency by the Governor or by the President of the United States  
1113 shall be exempt from all of the requirements of the Mississippi  
1114 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1115 rules and regulations promulgated under that law, subject to the  
1116 following conditions:

1117 (a) The repair or the rebuilding of any such damaged  
1118 health care facility must be within one (1) mile of the  
1119 pre-disaster location of the campus of the damaged health care  
1120 facility, except that any temporary post-disaster health care  
1121 facility operating location may be within five (5) miles of the  
1122 pre-disaster location of the damaged health care facility;

1123 (b) The repair or the rebuilding of the damaged health  
1124 care facility (i) does not increase or change the complement of  
1125 its bed capacity that it had before the Governor's or the  
1126 President's proclamation, (ii) does not increase or change its  
1127 levels and types of health care services that it provided before  
1128 the Governor's or the President's proclamation, and (iii) does not  
1129 rebuild in a different county; however, this paragraph does not  
1130 restrict or prevent a health care facility from decreasing its bed



1131 capacity that it had before the Governor's or the President's  
1132 proclamation, or from decreasing the levels of or decreasing or  
1133 eliminating the types of health care services that it provided  
1134 before the Governor's or the President's proclamation, when the  
1135 damaged health care facility is repaired or rebuilt;

1136 (c) The exemption from Certificate of Need Law provided  
1137 under this subsection (13) is valid for only five (5) years from  
1138 the date of the Governor's or the President's proclamation. If  
1139 actual construction has not begun within that five-year period,  
1140 the exemption provided under this subsection is inapplicable; and

1141 (d) The Division of Health Facilities Licensure and  
1142 Certification of the State Department of Health shall provide the  
1143 same oversight for the repair or the rebuilding of the damaged  
1144 health care facility that it provides to all health care facility  
1145 construction projects in the state.

1146 For the purposes of this subsection (13), "significant  
1147 damage" to a health care facility means damage to the health care  
1148 facility requiring an expenditure of at least One Million Dollars  
1149 (\$1,000,000.00).

1150 (14) The State Department of Health shall issue a  
1151 certificate of need to any hospital which is currently licensed  
1152 for two hundred fifty (250) or more acute care beds and is located  
1153 in any general hospital service area not having a comprehensive  
1154 cancer center, for the establishment and equipping of such a  
1155 center which provides facilities and services for outpatient



1156 radiation oncology therapy, outpatient medical oncology therapy,  
1157 and appropriate support services including the provision of  
1158 radiation therapy services. The provisions of Section 41-7-193(1)  
1159 regarding substantial compliance with the projection of need as  
1160 reported in the current State Health Plan are waived for the  
1161 purpose of this subsection.

1162 (15) The State Department of Health may authorize the  
1163 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1164 North Panola Community Hospital to the South Panola Community  
1165 Hospital. The authorization for the transfer of those beds shall  
1166 be exempt from the certificate of need review process.

1167 (16) The State Department of Health shall issue any  
1168 certificates of need necessary for Mississippi State University  
1169 and a public or private health care provider to jointly acquire  
1170 and operate a linear accelerator and a magnetic resonance imaging  
1171 unit. Those certificates of need shall cover all capital  
1172 expenditures related to the project between Mississippi State  
1173 University and the health care provider, including, but not  
1174 limited to, the acquisition of the linear accelerator, the  
1175 magnetic resonance imaging unit and other radiological modalities;  
1176 the offering of linear accelerator and magnetic resonance imaging  
1177 services; and the cost of construction of facilities in which to  
1178 locate these services. The linear accelerator and the magnetic  
1179 resonance imaging unit shall be (a) located in the City of  
1180 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by



1181 Mississippi State University and the public or private health care  
1182 provider selected by Mississippi State University through a  
1183 request for proposals (RFP) process in which Mississippi State  
1184 University selects, and the Board of Trustees of State  
1185 Institutions of Higher Learning approves, the health care provider  
1186 that makes the best overall proposal; (c) available to Mississippi  
1187 State University for research purposes two-thirds (2/3) of the  
1188 time that the linear accelerator and magnetic resonance imaging  
1189 unit are operational; and (d) available to the public or private  
1190 health care provider selected by Mississippi State University and  
1191 approved by the Board of Trustees of State Institutions of Higher  
1192 Learning one-third (1/3) of the time for clinical, diagnostic and  
1193 treatment purposes. For purposes of this subsection, the  
1194 provisions of Section 41-7-193(1) requiring substantial compliance  
1195 with the projection of need as reported in the current State  
1196 Health Plan are waived.

1197 (17) The State Department of Health shall issue a  
1198 certificate of need for the construction of an acute care hospital  
1199 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1200 be named the "John C. Stennis Memorial Hospital." In issuing the  
1201 certificate of need under this subsection, the department shall  
1202 give priority to a hospital located in Lauderdale County that has  
1203 two hundred fifteen (215) beds. For purposes of this subsection,  
1204 the provisions of Section 41-7-193(1) requiring substantial  
1205 compliance with the projection of need as reported in the current



1206 State Health Plan and the provisions of Section 41-7-197 requiring  
1207 a formal certificate of need hearing process are waived. There  
1208 shall be no prohibition or restrictions on participation in the  
1209 Medicaid program (Section 43-13-101 et seq.) for the person or  
1210 entity receiving the certificate of need authorized under this  
1211 subsection or for the beds constructed under the authority of that  
1212 certificate of need.

1213 (18) The planning, design, construction, renovation,  
1214 addition, furnishing and equipping of a clinical research unit at  
1215 any health care facility defined in Section 41-7-173(h) that is  
1216 under the direction and control of the University of Mississippi  
1217 Medical Center and located in Jackson, Mississippi, and the  
1218 addition of new beds or the conversion of beds from one (1)  
1219 category to another in any such clinical research unit, shall not  
1220 require the issuance of a certificate of need under Section  
1221 41-7-171 et seq., notwithstanding any provision in Section  
1222 41-7-171 et seq. to the contrary.

1223 (19) [Repealed]

1224 (20) Nothing in this section or in any other provision of  
1225 Section 41-7-171 et seq. shall prevent any nursing facility from  
1226 designating an appropriate number of existing beds in the facility  
1227 as beds for providing care exclusively to patients with  
1228 Alzheimer's disease.

1229 (21) Nothing in this section or any other provision of  
1230 Section 41-7-171 et seq. shall prevent any health care facility



1231 from the new construction, renovation, conversion or expansion of  
1232 new beds in the facility designated as intensive care units,  
1233 negative pressure rooms, or isolation rooms pursuant to the  
1234 provisions of Sections 41-14-1 through 41-14-11, or Section  
1235 41-14-31. For purposes of this subsection, the provisions of  
1236 Section 41-7-193(1) requiring substantial compliance with the  
1237 projection of need as reported in the current State Health Plan  
1238 and the provisions of Section 41-7-197 requiring a formal  
1239 certificate of need hearing process are waived.

1240 (22) Except as provided in this subsection (22), the  
1241 University of Mississippi Medical Center shall comply with all of  
1242 the provisions of Section 41-7-171 et seq.

1243 The University of Mississippi Medical Center need not obtain  
1244 a certificate of need for any hospital beds, services, health care  
1245 facilities, or medical equipment that have been approved and  
1246 continuously operated under a certificate of need exemption for a  
1247 teaching hospital, or that are approved or applied for before the  
1248 effective date of this act, as long as they do not undergo a  
1249 physical relocation.

1250 From and after the effective date of this act, the University  
1251 of Mississippi Medical Center has an academic exemption from the  
1252 certificate of need requirements of Section 41-7-171 et seq. only  
1253 within the following area in the City of Jackson, Mississippi:  
1254 starting at the intersection of Livingston Road and Woodrow Wilson  
1255 Avenue, proceeding east along the south curb line of Woodrow



1256 Wilson Avenue until it intersects the west curb line of U.S.  
1257 Interstate 55, proceeding north along the west curb line of U.S.  
1258 Interstate 55 until it intersects the north curb line of Lakeland  
1259 Drive, proceeding west along the north curb line of Lakeland Drive  
1260 and extending such curb line west until it intersects Livingston  
1261 Road, and proceeding south along the west curb line of Livingston  
1262 Road to the point of origin.

1263 In order to qualify for an academic exemption, under this  
1264 subsection, the State Health Officer must determine that the  
1265 proposed equipment or facility fulfills a substantial and  
1266 meaningful academic function.

1267 (23) (a) The State Department of Health shall conduct a  
1268 study to review and make recommendations regarding Section  
1269 41-7-171 et seq., to be specifically focused on the following  
1270 topics:

1271 (i) The feasibility of exempting small hospitals  
1272 from the requirement for a certificate of need for the placement  
1273 of dialysis units to reduce the number of transfers for patients  
1274 requiring dialysis;

1275 (ii) The feasibility of exempting small hospitals  
1276 from the requirement for a certificate of need to operate  
1277 geriatric psychiatric units; and

1278 (iii) The feasibility of a new requirement that  
1279 acute adult psychiatric units treat a certain percentage of  
1280 uninsured patients or pay a periodic fee in lieu thereof.



1281           (b) The department shall make a final report of its  
1282 findings and recommendations, including any recommended  
1283 legislation and funding needs, to the Legislature before December  
1284 1, 2026.

1285           **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is  
1286 amended as follows:

1287           41-7-173. For the purposes of Section 41-7-171 et seq., the  
1288 following words shall have the meanings ascribed herein, unless  
1289 the context otherwise requires:

1290           (a) "Affected person" means (i) the applicant; (ii) a  
1291 person residing within the geographic area to be served by the  
1292 applicant's proposal; (iii) a person who regularly uses health  
1293 care facilities or HMOs located in the geographic area of the  
1294 proposal which provide similar service to that which is proposed;  
1295 (iv) health care facilities and HMOs which have, prior to receipt  
1296 of the application under review, formally indicated an intention  
1297 to provide service similar to that of the proposal being  
1298 considered at a future date; (v) third-party payers who reimburse  
1299 health care facilities located in the geographical area of the  
1300 proposal; or (vi) any agency that establishes rates for health  
1301 care services or HMOs located in the geographic area of the  
1302 proposal.

1303           (b) "Certificate of need" means a written order of the  
1304 State Department of Health setting forth the affirmative finding  
1305 that a proposal in prescribed application form, sufficiently



1306 satisfies the plans, standards and criteria prescribed for such  
1307 service or other project by Section 41-7-171 et seq., and by rules  
1308 and regulations promulgated thereunder by the State Department of  
1309 Health.

1310 (c) (i) "Capital expenditure," when pertaining to  
1311 defined major medical equipment, shall mean an expenditure which,  
1312 under generally accepted accounting principles consistently  
1313 applied, is not properly chargeable as an expense of operation and  
1314 maintenance and which exceeds \* \* \* Three Million Dollars  
1315 (\$3,000,000.00).

1316 (ii) "Capital expenditure," when pertaining to  
1317 other than major medical equipment, shall mean any expenditure  
1318 which under generally accepted accounting principles consistently  
1319 applied is not properly chargeable as an expense of operation and  
1320 maintenance and which exceeds, for clinical health services, as  
1321 defined in paragraph (k) below, \* \* \* Ten Million Dollars  
1322 (\$10,000,000.00), \* \* \* or which exceeds, for nonclinical health  
1323 services, as defined in paragraph (k) below, \* \* \* Twenty Million  
1324 Dollars (\$20,000,000.00).

1325 (iii) A "capital expenditure" shall include the  
1326 acquisition, whether by lease, sufferance, gift, devise, legacy,  
1327 settlement of a trust or other means, of any facility or part  
1328 thereof, or equipment for a facility, the expenditure for which  
1329 would have been considered a capital expenditure if acquired by  
1330 purchase. Transactions which are separated in time but are



1331 planned to be undertaken within twelve (12) months of each other  
1332 and are components of an overall plan for meeting patient care  
1333 objectives shall, for purposes of this definition, be viewed in  
1334 their entirety without regard to their timing.

1335 (iv) In those instances where a health care  
1336 facility or other provider of health services proposes to provide  
1337 a service in which the capital expenditure for major medical  
1338 equipment or other than major medical equipment or a combination  
1339 of the two (2) may have been split between separate parties, the  
1340 total capital expenditure required to provide the proposed service  
1341 shall be considered in determining the necessity of certificate of  
1342 need review and in determining the appropriate certificate of need  
1343 review fee to be paid. The capital expenditure associated with  
1344 facilities and equipment to provide services in Mississippi shall  
1345 be considered regardless of where the capital expenditure was  
1346 made, in state or out of state, and regardless of the domicile of  
1347 the party making the capital expenditure, in state or out of  
1348 state.

1349 (d) "Change of ownership" includes, but is not limited  
1350 to, inter vivos gifts, purchases, transfers, lease arrangements,  
1351 cash and/or stock transactions or other comparable arrangements  
1352 whenever any person or entity acquires or controls a majority  
1353 interest of an existing health care facility, and/or the change of  
1354 ownership of major medical equipment, a health service, or an  
1355 institutional health service. Changes of ownership from



1356 partnerships, single proprietorships or corporations to another  
1357 form of ownership are specifically included. However, "change of  
1358 ownership" shall not include any inherited interest acquired as a  
1359 result of a testamentary instrument or under the laws of descent  
1360 and distribution of the State of Mississippi.

1361 (e) "Commencement of construction" means that all of  
1362 the following have been completed with respect to a proposal or  
1363 project proposing construction, renovating, remodeling or  
1364 alteration:

1365 (i) A legally binding written contract has been  
1366 consummated by the proponent and a lawfully licensed contractor to  
1367 construct and/or complete the intent of the proposal within a  
1368 specified period of time in accordance with final architectural  
1369 plans which have been approved by the licensing authority of the  
1370 State Department of Health;

1371 (ii) Any and all permits and/or approvals deemed  
1372 lawfully necessary by all authorities with responsibility for such  
1373 have been secured; and

1374 (iii) Actual bona fide undertaking of the subject  
1375 proposal has commenced, and a progress payment of at least one  
1376 percent (1%) of the total cost price of the contract has been paid  
1377 to the contractor by the proponent, and the requirements of this  
1378 paragraph (e) have been certified to in writing by the State  
1379 Department of Health.



1380 Force account expenditures, such as deposits, securities,  
1381 bonds, et cetera, may, in the discretion of the State Department  
1382 of Health, be excluded from any or all of the provisions of  
1383 defined commencement of construction.

1384 (f) "Consumer" means an individual who is not a  
1385 provider of health care as defined in paragraph (q) of this  
1386 section.

1387 (g) "Develop," when used in connection with health  
1388 services, means to undertake those activities which, on their  
1389 completion, will result in the offering of a new institutional  
1390 health service or the incurring of a financial obligation as  
1391 defined under applicable state law in relation to the offering of  
1392 such services.

1393 (h) "Health care facility" includes hospitals,  
1394 psychiatric hospitals, chemical dependency hospitals, skilled  
1395 nursing facilities, end-stage renal disease (ESRD) facilities,  
1396 including freestanding hemodialysis units, intermediate care  
1397 facilities, ambulatory surgical facilities, intermediate care  
1398 facilities for individuals with intellectual disabilities, home  
1399 health agencies, psychiatric residential treatment facilities,  
1400 pediatric skilled nursing facilities, long-term care hospitals,  
1401 comprehensive medical rehabilitation facilities, including  
1402 facilities owned or operated by the state or a political  
1403 subdivision or instrumentality of the state, but does not include  
1404 Christian Science sanatoriums operated or listed and certified by



1405 the First Church of Christ, Scientist, Boston, Massachusetts.  
1406 This definition shall not apply to facilities for the private  
1407 practice, either independently or by incorporated medical groups,  
1408 of physicians, dentists or health care professionals except where  
1409 such facilities are an integral part of an institutional health  
1410 service. The various health care facilities listed in this  
1411 paragraph shall be defined as follows:

1412 (i) "Hospital" means an institution which is  
1413 primarily engaged in providing to inpatients, by or under the  
1414 supervision of physicians, diagnostic services and therapeutic  
1415 services for medical diagnosis, treatment and care of injured,  
1416 disabled or sick persons, or rehabilitation services for the  
1417 rehabilitation of injured, disabled or sick persons. Such term  
1418 does not include psychiatric hospitals.

1419 (ii) "Psychiatric hospital" means an institution  
1420 which is primarily engaged in providing to inpatients, by or under  
1421 the supervision of a physician, psychiatric services for the  
1422 diagnosis and treatment of persons with mental illness.

1423 (iii) "Chemical dependency hospital" means an  
1424 institution which is primarily engaged in providing to inpatients,  
1425 by or under the supervision of a physician, medical and related  
1426 services for the diagnosis and treatment of chemical dependency  
1427 such as alcohol and drug abuse.

1428 (iv) "Skilled nursing facility" means an  
1429 institution or a distinct part of an institution which is



1430 primarily engaged in providing to inpatients skilled nursing care  
1431 and related services for patients who require medical or nursing  
1432 care or rehabilitation services for the rehabilitation of injured,  
1433 disabled or sick persons.

1434 (v) "End-stage renal disease (ESRD) facilities"  
1435 means kidney disease treatment centers, which includes  
1436 freestanding hemodialysis units and limited care facilities. The  
1437 term "limited care facility" generally refers to an  
1438 off-hospital-premises facility, regardless of whether it is  
1439 provider or nonprovider operated, which is engaged primarily in  
1440 furnishing maintenance hemodialysis services to stabilized  
1441 patients.

1442 (vi) "Intermediate care facility" means an  
1443 institution which provides, on a regular basis, health-related  
1444 care and services to individuals who do not require the degree of  
1445 care and treatment which a hospital or skilled nursing facility is  
1446 designed to provide, but who, because of their mental or physical  
1447 condition, require health-related care and services (above the  
1448 level of room and board).

1449 (vii) "Ambulatory surgical facility" means a  
1450 facility primarily organized or established for the purpose of  
1451 performing surgery for outpatients and is a separate identifiable  
1452 legal entity from any other health care facility. Such term does  
1453 not include the offices of private physicians or dentists, whether



1454 for individual or group practice, and does not include any  
1455 abortion facility as defined in Section 41-75-1(f).

1456 (viii) "Intermediate care facility for individuals  
1457 with intellectual disabilities" means an intermediate care  
1458 facility that provides health or rehabilitative services in a  
1459 planned program of activities to persons with an intellectual  
1460 disability, also including, but not limited to, cerebral palsy and  
1461 other conditions covered by the Federal Developmentally Disabled  
1462 Assistance and Bill of Rights Act, Public Law 94-103.

1463 (ix) "Home health agency" means a public or  
1464 privately owned agency or organization, or a subdivision of such  
1465 an agency or organization, properly authorized to conduct business  
1466 in Mississippi, which is primarily engaged in providing to  
1467 individuals at the written direction of a licensed physician, in  
1468 the individual's place of residence, skilled nursing services  
1469 provided by or under the supervision of a registered nurse  
1470 licensed to practice in Mississippi, and one or more of the  
1471 following services or items:

- 1472 1. Physical, occupational or speech therapy;
- 1473 2. Medical social services;
- 1474 3. Part-time or intermittent services of a  
1475 home health aide;
- 1476 4. Other services as approved by the  
1477 licensing agency for home health agencies;



1478                   5. Medical supplies, other than drugs and  
1479 biologicals, and the use of medical appliances; or

1480                   6. Medical services provided by an intern or  
1481 resident-in-training at a hospital under a teaching program of  
1482 such hospital.

1483           Further, all skilled nursing services and those services  
1484 listed in items 1 through 4 of this subparagraph (ix) must be  
1485 provided directly by the licensed home health agency. For  
1486 purposes of this subparagraph, "directly" means either through an  
1487 agency employee or by an arrangement with another individual not  
1488 defined as a health care facility.

1489           This subparagraph (ix) shall not apply to health care  
1490 facilities which had contracts for the above services with a home  
1491 health agency on January 1, 1990.

1492                   (x) "Psychiatric residential treatment facility"  
1493 means any nonhospital establishment with permanent licensed  
1494 facilities which provides a twenty-four-hour program of care by  
1495 qualified therapists, including, but not limited to, duly licensed  
1496 mental health professionals, psychiatrists, psychologists,  
1497 psychotherapists and licensed certified social workers, for  
1498 emotionally disturbed children and adolescents referred to such  
1499 facility by a court, local school district or by the Department of  
1500 Human Services, who are not in an acute phase of illness requiring  
1501 the services of a psychiatric hospital, and are in need of such  
1502 restorative treatment services. For purposes of this



1503 subparagraph, the term "emotionally disturbed" means a condition  
1504 exhibiting one or more of the following characteristics over a  
1505 long period of time and to a marked degree, which adversely  
1506 affects educational performance:

1507                   1. An inability to learn which cannot be  
1508 explained by intellectual, sensory or health factors;

1509                   2. An inability to build or maintain  
1510 satisfactory relationships with peers and teachers;

1511                   3. Inappropriate types of behavior or  
1512 feelings under normal circumstances;

1513                   4. A general pervasive mood of unhappiness or  
1514 depression; or

1515                   5. A tendency to develop physical symptoms or  
1516 fears associated with personal or school problems. An  
1517 establishment furnishing primarily domiciliary care is not within  
1518 this definition.

1519                   (xi) "Pediatric skilled nursing facility" means an  
1520 institution or a distinct part of an institution that is primarily  
1521 engaged in providing to inpatients skilled nursing care and  
1522 related services for persons under twenty-one (21) years of age  
1523 who require medical or nursing care or rehabilitation services for  
1524 the rehabilitation of injured, disabled or sick persons.

1525                   (xii) "Long-term care hospital" means a  
1526 freestanding, Medicare-certified hospital that has an average  
1527 length of inpatient stay greater than twenty-five (25) days, which



1528 is primarily engaged in providing chronic or long-term medical  
1529 care to patients who do not require more than three (3) hours of  
1530 rehabilitation or comprehensive rehabilitation per day, and has a  
1531 transfer agreement with an acute care medical center and a  
1532 comprehensive medical rehabilitation facility. Long-term care  
1533 hospitals shall not use rehabilitation, comprehensive medical  
1534 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
1535 nursing home, skilled nursing facility or sub-acute care facility  
1536 in association with its name.

1537 (xiii) "Comprehensive medical rehabilitation  
1538 facility" means a hospital or hospital unit that is licensed  
1539 and/or certified as a comprehensive medical rehabilitation  
1540 facility which provides specialized programs that are accredited  
1541 by the Commission on Accreditation of Rehabilitation Facilities  
1542 and supervised by a physician board certified or board eligible in  
1543 physiatry or other doctor of medicine or osteopathy with at least  
1544 two (2) years of training in the medical direction of a  
1545 comprehensive rehabilitation program that:

1546 1. Includes evaluation and treatment of  
1547 individuals with physical disabilities;

1548 2. Emphasizes education and training of  
1549 individuals with disabilities;

1550 3. Incorporates at least the following core  
1551 disciplines:

1552 a. Physical Therapy;



- 1553                                   b. Occupational Therapy;
- 1554                                   c. Speech and Language Therapy;
- 1555                                   d. Rehabilitation Nursing; and
- 1556                           4. Incorporates at least three (3) of the
- 1557 following disciplines:
- 1558                                   a. Psychology;
- 1559                                   b. Audiology;
- 1560                                   c. Respiratory Therapy;
- 1561                                   d. Therapeutic Recreation;
- 1562                                   e. Orthotics;
- 1563                                   f. Prosthetics;
- 1564                                   g. Special Education;
- 1565                                   h. Vocational Rehabilitation;
- 1566                                   i. Psychotherapy;
- 1567                                   j. Social Work;
- 1568                                   k. Rehabilitation Engineering.

1569           These specialized programs include, but are not limited to:

1570 spinal cord injury programs, head injury programs and infant and

1571 early childhood development programs.

1572                   (i) "Health maintenance organization" or "HMO" means a

1573 public or private organization organized under the laws of this

1574 state or the federal government which:

1575                           (i) Provides or otherwise makes available to

1576 enrolled participants health care services, including

1577 substantially the following basic health care services: usual



1578 physician services, hospitalization, laboratory, x-ray, emergency  
1579 and preventive services, and out-of-area coverage;

1580 (ii) Is compensated (except for copayments) for  
1581 the provision of the basic health care services listed in  
1582 subparagraph (i) of this paragraph to enrolled participants on a  
1583 predetermined basis; and

1584 (iii) Provides physician services primarily:

1585 1. Directly through physicians who are either  
1586 employees or partners of such organization; or

1587 2. Through arrangements with individual  
1588 physicians or one or more groups of physicians (organized on a  
1589 group practice or individual practice basis).

1590 (j) "Health service area" means a geographic area of  
1591 the state designated in the State Health Plan as the area to be  
1592 used in planning for specified health facilities and services and  
1593 to be used when considering certificate of need applications to  
1594 provide health facilities and services.

1595 (k) "Health services" means clinically related (i.e.,  
1596 diagnostic, treatment or rehabilitative) services and includes  
1597 alcohol, drug abuse, mental health and home health care services.

1598 "Clinical health services" shall only include those activities  
1599 which contemplate any change in the existing bed complement of any  
1600 health care facility through the addition or conversion of any  
1601 beds, under Section 41-7-191(1)(c) or propose to offer any health  
1602 services if those services have not been provided on a regular



1603 basis by the proposed provider of such services within the period  
1604 of twelve (12) months prior to the time such services would be  
1605 offered, under Section 41-7-191(1)(d). "Nonclinical health  
1606 services" shall be all other services which do not involve any  
1607 change in the existing bed complement or offering health services  
1608 as described above.

1609 (l) "Institutional health services" shall mean health  
1610 services provided in or through health care facilities and shall  
1611 include the entities in or through which such services are  
1612 provided.

1613 (m) "Major medical equipment" means medical equipment  
1614 designed for providing medical or any health-related service which  
1615 costs in excess of \* \* \* Three Million Dollars (\$3,000,000.00).  
1616 However, this definition shall not be applicable to clinical  
1617 laboratories if they are determined by the State Department of  
1618 Health to be independent of any physician's office, hospital or  
1619 other health care facility or otherwise not so defined by federal  
1620 or state law, or rules and regulations promulgated thereunder.

1621 (n) "State Department of Health" or "department" shall  
1622 mean the state agency created under Section 41-3-15, which shall  
1623 be considered to be the State Health Planning and Development  
1624 Agency, as defined in paragraph (u) of this section.

1625 (o) "Offer," when used in connection with health  
1626 services, means that it has been determined by the State



1627 Department of Health that the health care facility is capable of  
1628 providing specified health services.

1629 (p) "Person" means an individual, a trust or estate,  
1630 partnership, corporation (including associations, joint-stock  
1631 companies and insurance companies), the state or a political  
1632 subdivision or instrumentality of the state.

1633 (q) "Provider" shall mean any person who is a provider  
1634 or representative of a provider of health care services requiring  
1635 a certificate of need under Section 41-7-171 et seq., or who has  
1636 any financial or indirect interest in any provider of services.

1637 (r) "Radiation therapy services" means the treatment of  
1638 cancer and other diseases using ionizing radiation of either high  
1639 energy photons (x-rays or gamma rays) or charged particles  
1640 (electrons, protons or heavy nuclei). However, for purposes of a  
1641 certificate of need, radiation therapy services shall not include  
1642 low energy, superficial, external beam x-ray treatment of  
1643 superficial skin lesions.

1644 (s) "Secretary" means the Secretary of Health and Human  
1645 Services, and any officer or employee of the Department of Health  
1646 and Human Services to whom the authority involved has been  
1647 delegated.

1648 (t) "State Health Plan" means the sole and official  
1649 statewide health plan for Mississippi which identifies priority  
1650 state health needs and establishes standards and criteria for



1651 health-related activities which require certificate of need review  
1652 in compliance with Section 41-7-191.

1653 (u) "State Health Planning and Development Agency"  
1654 means the agency of state government designated to perform health  
1655 planning and resource development programs for the State of  
1656 Mississippi.

1657 **SECTION 3.** This act shall take effect and be in force from  
1658 and after its passage.

