

By: Representatives Felsher, Creekmore IV

To: Public Health and Human  
Services

## HOUSE BILL NO. 569

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE CONDITIONS FOR A CERTIFICATE OF NEED ISSUED FOR A  
3 LONG-TERM CARE HOSPITAL IN HARRISON COUNTY TO ALLOW THE HOSPITAL  
4 TO PARTICIPATE IN THE MEDICAID PROGRAM AS A CROSSOVER PROVIDER;  
5 AND FOR RELATED PURPOSES.

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

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

9 41-7-191. (1) No person shall engage in any of the  
10 following activities without obtaining the required certificate of  
11 need:

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

16 (b) The relocation of a health care facility or portion  
17 thereof, or major medical equipment, unless such relocation of a  
18 health care facility or portion thereof, or major medical  
19 equipment, which does not involve a capital expenditure by or on



20 behalf of a health care facility, is within five thousand two  
21 hundred eighty (5,280) feet from the main entrance of the health  
22 care facility;

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



44 delicensure of some of its beds without seeking certificate of  
45 need approval;

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

50 (i) Open-heart surgery services;

51 (ii) Cardiac catheterization services;

52 (iii) Comprehensive inpatient rehabilitation  
53 services;

54 (iv) Licensed psychiatric services;

55 (v) Licensed chemical dependency services;

56 (vi) Radiation therapy services;

57 (vii) Diagnostic imaging services of an invasive  
58 nature, i.e. invasive digital angiography;

59 (viii) Nursing home care as defined in  
60 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

61 (ix) Home health services;

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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



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

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

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



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

99 (h) The change of ownership of any health care facility  
100 defined in subparagraphs (iv), (vi) and (viii) of Section  
101 41-7-173(h), in which a notice of intent as described in paragraph  
102 (g) has not been filed and if the Executive Director, Division of  
103 Medicaid, Office of the Governor, has not certified in writing  
104 that there will be no increase in allowable costs to Medicaid from  
105 revaluation of the assets or from increased interest and  
106 depreciation as a result of the proposed change of ownership;

107 (i) Any activity described in paragraphs (a) through  
108 (h) if undertaken by any person if that same activity would  
109 require certificate of need approval if undertaken by a health  
110 care facility;

111 (j) Any capital expenditure or deferred capital  
112 expenditure by or on behalf of a health care facility not covered  
113 by paragraphs (a) through (h);

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

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



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

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



293 2001. After this written agreement is executed, the Division of  
294 Medicaid and the State Department of Health shall not certify more  
295 than thirty (30) of the beds in the facility for participation in  
296 the Medicaid program. If the facility violates the terms of the  
297 written agreement by admitting or keeping in the facility on a  
298 regular or continuing basis more than thirty (30) patients who are  
299 participating in the Medicaid program, the State Department of  
300 Health shall revoke the license of the facility, at the time that  
301 the department determines, after a hearing complying with due  
302 process, that the facility has violated the written agreement.

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

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



318 writing that none of the beds at the nursing facility will be  
319 certified for participation in the Medicaid program (Section  
320 43-13-101 et seq.), and that no claim will be submitted for  
321 Medicaid reimbursement in the nursing facility in any day or for  
322 any patient in the nursing facility. This written agreement by  
323 the recipient of the certificate of need shall be a condition of  
324 the issuance of the certificate of need under this paragraph, and  
325 the agreement shall be fully binding on any subsequent owner of  
326 the nursing facility if the ownership of the nursing facility is  
327 transferred at any time after the issuance of the certificate of  
328 need. After this written agreement is executed, the Division of  
329 Medicaid and the State Department of Health shall not certify any  
330 of the beds in the nursing facility for participation in the  
331 Medicaid program. If the nursing facility violates the terms of  
332 the written agreement by admitting or keeping in the nursing  
333 facility on a regular or continuing basis any patients who are  
334 participating in the Medicaid program, the State Department of  
335 Health shall revoke the license of the nursing facility, at the  
336 time that the department determines, after a hearing complying  
337 with due process, that the nursing facility has violated the  
338 condition upon which the certificate of need was issued, as  
339 provided in this paragraph and in the written agreement. If the  
340 certificate of need authorized under this paragraph is not issued  
341 within twelve (12) months after July 1, 2001, the department shall  
342 deny the application for the certificate of need and shall not



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

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



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



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

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



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



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

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

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



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

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



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

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



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

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

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



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

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



567 additional nursing facility beds in that county during the  
568 four-year period, and that county shall be excluded in determining  
569 which counties have the highest need for nursing facility beds in  
570 succeeding fiscal years.

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

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

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

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



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

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

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



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

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

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



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



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

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



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

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

(a) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a privately owned psychiatric residential treatment facility in Simpson County for the conversion of sixteen (16) intermediate care facility for individuals with intellectual disabilities (ICF-IID) beds to psychiatric residential treatment facility beds, provided that facility agrees in writing that the facility shall give priority for the use of those sixteen (16) beds to



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

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



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

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

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



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



791 violated the condition upon which the certificate of need was  
792 issued, as provided in this paragraph and in the written  
793 agreement.

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

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

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



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

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



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

860 (i) [Deleted]

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



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

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

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



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

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

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



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



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

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

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



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

(6) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) \* \* \* except as a crossover provider. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program except as a crossover provider shall be a condition of the issuance of a certificate of need to any person under this subsection (6), and if such long-term care hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program \* \* \* except as a crossover provider, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the long-term



989 care hospital, at the time that the department determines, after a  
990 hearing complying with due process, that the facility has failed  
991 to comply with any of the conditions upon which the certificate of  
992 need was issued, as provided in this subsection and in the written  
993 agreement by the recipient of the certificate of need. For  
994 purposes of this subsection, the provisions of Section 41-7-193(1)  
995 requiring substantial compliance with the projection of need as  
996 reported in the current State Health Plan are waived.

997       (7) The State Department of Health may issue a certificate  
998 of need to any hospital in the state to utilize a portion of its  
999 beds for the "swing-bed" concept. Any such hospital must be in  
1000 conformance with the federal regulations regarding such swing-bed  
1001 concept at the time it submits its application for a certificate  
1002 of need to the State Department of Health, except that such  
1003 hospital may have more licensed beds or a higher average daily  
1004 census (ADC) than the maximum number specified in federal  
1005 regulations for participation in the swing-bed program. Any  
1006 hospital meeting all federal requirements for participation in the  
1007 swing-bed program which receives such certificate of need shall  
1008 render services provided under the swing-bed concept to any  
1009 patient eligible for Medicare (Title XVIII of the Social Security  
1010 Act) who is certified by a physician to be in need of such  
1011 services, and no such hospital shall permit any patient who is  
1012 eligible for both Medicaid and Medicare or eligible only for  
1013 Medicaid to stay in the swing beds of the hospital for more than



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

(8) The Department of Health shall not grant approval for or issue a certificate of need to any person proposing the new construction of, addition to or expansion of a health care facility as defined in subparagraph (viii) of Section 41-7-173(h),



1039 except as hereinafter provided: The department may issue a  
1040 certificate of need to a nonprofit corporation located in Madison  
1041 County, Mississippi, for the construction, expansion or conversion  
1042 of not more than twenty (20) beds in a community living program  
1043 for developmentally disabled adults in a facility as defined in  
1044 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1045 subsection (8), the provisions of Section 41-7-193(1) requiring  
1046 substantial compliance with the projection of need as reported in  
1047 the current State Health Plan and the provisions of Section  
1048 41-7-197 requiring a formal certificate of need hearing process  
1049 are waived. There shall be no prohibition or restrictions on  
1050 participation in the Medicaid program for the person receiving the  
1051 certificate of need authorized under this subsection (8).

1052 (9) The Department of Health shall not grant approval for or  
1053 issue a certificate of need to any person proposing the  
1054 establishment of, or expansion of the currently approved territory  
1055 of, or the contracting to establish a home office, subunit or  
1056 branch office within the space operated as a health care facility  
1057 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1058 care facility as defined in subparagraph (ix) of Section  
1059 41-7-173(h).

1060 (10) Health care facilities owned and/or operated by the  
1061 state or its agencies are exempt from the restraints in this  
1062 section against issuance of a certificate of need if such addition  
1063 or expansion consists of repairing or renovation necessary to



1064 comply with the state licensure law. This exception shall not  
1065 apply to the new construction of any building by such state  
1066 facility. This exception shall not apply to any health care  
1067 facilities owned and/or operated by counties, municipalities,  
1068 districts, unincorporated areas, other defined persons, or any  
1069 combination thereof.

1070       (11) The new construction, renovation or expansion of or  
1071 addition to any health care facility defined in subparagraph (ii)  
1072 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1073 facility), subparagraph (vi) (intermediate care facility),  
1074 subparagraph (viii) (intermediate care facility for individuals  
1075 with intellectual disabilities) and subparagraph (x) (psychiatric  
1076 residential treatment facility) of Section 41-7-173(h) which is  
1077 owned by the State of Mississippi and under the direction and  
1078 control of the State Department of Mental Health, and the addition  
1079 of new beds or the conversion of beds from one category to another  
1080 in any such defined health care facility which is owned by the  
1081 State of Mississippi and under the direction and control of the  
1082 State Department of Mental Health, shall not require the issuance  
1083 of a certificate of need under Section 41-7-171 et seq.,  
1084 notwithstanding any provision in Section 41-7-171 et seq. to the  
1085 contrary.

1086       (12) The new construction, renovation or expansion of or  
1087 addition to any veterans homes or domiciliaries for eligible  
1088 veterans of the State of Mississippi as authorized under Section



1089 35-1-19 shall not require the issuance of a certificate of need,  
1090 notwithstanding any provision in Section 41-7-171 et seq. to the  
1091 contrary.

1092 (13) The repair or the rebuilding of an existing, operating  
1093 health care facility that sustained significant damage from a  
1094 natural disaster that occurred after April 15, 2014, in an area  
1095 that is proclaimed a disaster area or subject to a state of  
1096 emergency by the Governor or by the President of the United States  
1097 shall be exempt from all of the requirements of the Mississippi  
1098 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
1099 rules and regulations promulgated under that law, subject to the  
1100 following conditions:

1101 (a) The repair or the rebuilding of any such damaged  
1102 health care facility must be within one (1) mile of the  
1103 pre-disaster location of the campus of the damaged health care  
1104 facility, except that any temporary post-disaster health care  
1105 facility operating location may be within five (5) miles of the  
1106 pre-disaster location of the damaged health care facility;

1107 (b) The repair or the rebuilding of the damaged health  
1108 care facility (i) does not increase or change the complement of  
1109 its bed capacity that it had before the Governor's or the  
1110 President's proclamation, (ii) does not increase or change its  
1111 levels and types of health care services that it provided before  
1112 the Governor's or the President's proclamation, and (iii) does not  
1113 rebuild in a different county; however, this paragraph does not



1114 restrict or prevent a health care facility from decreasing its bed  
1115 capacity that it had before the Governor's or the President's  
1116 proclamation, or from decreasing the levels of or decreasing or  
1117 eliminating the types of health care services that it provided  
1118 before the Governor's or the President's proclamation, when the  
1119 damaged health care facility is repaired or rebuilt;

1120           (c) The exemption from Certificate of Need Law provided  
1121 under this subsection (13) is valid for only five (5) years from  
1122 the date of the Governor's or the President's proclamation. If  
1123 actual construction has not begun within that five-year period,  
1124 the exemption provided under this subsection is inapplicable; and

1125           (d) The Division of Health Facilities Licensure and  
1126 Certification of the State Department of Health shall provide the  
1127 same oversight for the repair or the rebuilding of the damaged  
1128 health care facility that it provides to all health care facility  
1129 construction projects in the state.

1130           For the purposes of this subsection (13), "significant  
1131 damage" to a health care facility means damage to the health care  
1132 facility requiring an expenditure of at least One Million Dollars  
1133 (\$1,000,000.00).

1134           (14) The State Department of Health shall issue a  
1135 certificate of need to any hospital which is currently licensed  
1136 for two hundred fifty (250) or more acute care beds and is located  
1137 in any general hospital service area not having a comprehensive  
1138 cancer center, for the establishment and equipping of such a



1139 center which provides facilities and services for outpatient  
1140 radiation oncology therapy, outpatient medical oncology therapy,  
1141 and appropriate support services including the provision of  
1142 radiation therapy services. The provisions of Section 41-7-193(1)  
1143 regarding substantial compliance with the projection of need as  
1144 reported in the current State Health Plan are waived for the  
1145 purpose of this subsection.

1146 (15) The State Department of Health may authorize the  
1147 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1148 North Panola Community Hospital to the South Panola Community  
1149 Hospital. The authorization for the transfer of those beds shall  
1150 be exempt from the certificate of need review process.

1151 (16) The State Department of Health shall issue any  
1152 certificates of need necessary for Mississippi State University  
1153 and a public or private health care provider to jointly acquire  
1154 and operate a linear accelerator and a magnetic resonance imaging  
1155 unit. Those certificates of need shall cover all capital  
1156 expenditures related to the project between Mississippi State  
1157 University and the health care provider, including, but not  
1158 limited to, the acquisition of the linear accelerator, the  
1159 magnetic resonance imaging unit and other radiological modalities;  
1160 the offering of linear accelerator and magnetic resonance imaging  
1161 services; and the cost of construction of facilities in which to  
1162 locate these services. The linear accelerator and the magnetic  
1163 resonance imaging unit shall be (a) located in the City of



1164 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1165 Mississippi State University and the public or private health care  
1166 provider selected by Mississippi State University through a  
1167 request for proposals (RFP) process in which Mississippi State  
1168 University selects, and the Board of Trustees of State  
1169 Institutions of Higher Learning approves, the health care provider  
1170 that makes the best overall proposal; (c) available to Mississippi  
1171 State University for research purposes two-thirds (2/3) of the  
1172 time that the linear accelerator and magnetic resonance imaging  
1173 unit are operational; and (d) available to the public or private  
1174 health care provider selected by Mississippi State University and  
1175 approved by the Board of Trustees of State Institutions of Higher  
1176 Learning one-third (1/3) of the time for clinical, diagnostic and  
1177 treatment purposes. For purposes of this subsection, the  
1178 provisions of Section 41-7-193(1) requiring substantial compliance  
1179 with the projection of need as reported in the current State  
1180 Health Plan are waived.

1181       (17) The State Department of Health shall issue a  
1182 certificate of need for the construction of an acute care hospital  
1183 in Kemper County, not to exceed twenty-five (25) beds, which shall  
1184 be named the "John C. Stennis Memorial Hospital." In issuing the  
1185 certificate of need under this subsection, the department shall  
1186 give priority to a hospital located in Lauderdale County that has  
1187 two hundred fifteen (215) beds. For purposes of this subsection,  
1188 the provisions of Section 41-7-193(1) requiring substantial



1189 compliance with the projection of need as reported in the current  
1190 State Health Plan and the provisions of Section 41-7-197 requiring  
1191 a formal certificate of need hearing process are waived. There  
1192 shall be no prohibition or restrictions on participation in the  
1193 Medicaid program (Section 43-13-101 et seq.) for the person or  
1194 entity receiving the certificate of need authorized under this  
1195 subsection or for the beds constructed under the authority of that  
1196 certificate of need.

1197       (18) The planning, design, construction, renovation,  
1198 addition, furnishing and equipping of a clinical research unit at  
1199 any health care facility defined in Section 41-7-173(h) that is  
1200 under the direction and control of the University of Mississippi  
1201 Medical Center and located in Jackson, Mississippi, and the  
1202 addition of new beds or the conversion of beds from one (1)  
1203 category to another in any such clinical research unit, shall not  
1204 require the issuance of a certificate of need under Section  
1205 41-7-171 et seq., notwithstanding any provision in Section  
1206 41-7-171 et seq. to the contrary.

1207       (19) [Repealed]

1208       (20) Nothing in this section or in any other provision of  
1209 Section 41-7-171 et seq. shall prevent any nursing facility from  
1210 designating an appropriate number of existing beds in the facility  
1211 as beds for providing care exclusively to patients with  
1212 Alzheimer's disease.



1213           (21) Nothing in this section or any other provision of  
1214 Section 41-7-171 et seq. shall prevent any health care facility  
1215 from the new construction, renovation, conversion or expansion of  
1216 new beds in the facility designated as intensive care units,  
1217 negative pressure rooms, or isolation rooms pursuant to the  
1218 provisions of Sections 41-14-1 through 41-14-11, or Section  
1219 41-14-31. For purposes of this subsection, the provisions of  
1220 Section 41-7-193(1) requiring substantial compliance with the  
1221 projection of need as reported in the current State Health Plan  
1222 and the provisions of Section 41-7-197 requiring a formal  
1223 certificate of need hearing process are waived.

1224           **SECTION 2.** This act shall take effect and be in force from  
1225 and after its passage, and the amendments to subsection (6) of  
1226 41-7-191 in this act shall be retroactive to July 1, 2023.

