

By: Representatives Creekmore IV, Felsher

To: Public Health and Human Services; State Affairs

HOUSE BILL NO. 3

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 BEFORE
18 JULY 1, 2026, AS LONG AS THEY DO NOT UNDERGO A PHYSICAL
19 RELOCATION; TO PROVIDE THAT FROM AND AFTER JULY 1, 2026, THE
20 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER SHALL HAVE AN ACADEMIC
21 EXEMPTION FROM THE CERTIFICATE OF NEED REQUIREMENTS ONLY WITHIN A
22 CERTAIN AREA OF JACKSON, MISSISSIPPI; TO CLARIFY THAT IN ORDER FOR
23 THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER TO QUALIFY FOR SUCH
24 AN ACADEMIC EXEMPTION, THE STATE HEALTH OFFICER MUST DETERMINE
25 THAT 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 before July 1, 2026, as
1248 long as they do not undergo a physical relocation.

1249 From and after July 1, 2026, the University of Mississippi
1250 Medical Center has an academic exemption from the certificate of
1251 need requirements of Section 41-7-171 et seq. only within the
1252 following area in the City of Jackson, Mississippi: starting at
1253 the intersection of Livingston Road and Woodrow Wilson Avenue,
1254 proceeding east along the south curb line of Woodrow Wilson Avenue
1255 until it intersects the west curb line of U.S. Interstate 55,



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

1262 In order to qualify for an academic exemption, under this
1263 subsection, the State Health Officer must determine that the
1264 proposed equipment or facility fulfills a substantial and
1265 meaningful academic function.

1266 (23) (a) The State Department of Health shall conduct a
1267 study to review and make recommendations regarding Section
1268 41-7-171 et seq., to be specifically focused on the following
1269 topics:

1270 (i) The feasibility of exempting small hospitals
1271 from the requirement for a certificate of need for the placement
1272 of dialysis units to reduce the number of transfers for patients
1273 requiring dialysis;

1274 (ii) The feasibility of exempting small hospitals
1275 from the requirement for a certificate of need to operate
1276 geriatric psychiatric units; and

1277 (iii) The feasibility of a new requirement that
1278 acute adult psychiatric units treat a certain percentage of
1279 uninsured patients or pay a periodic fee in lieu thereof.



1280 (b) The department shall make a final report of its
1281 findings and recommendations, including any recommended
1282 legislation and funding needs, to the Legislature before December
1283 1, 2026.

1284 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is
1285 amended as follows:

1286 41-7-173. For the purposes of Section 41-7-171 et seq., the
1287 following words shall have the meanings ascribed herein, unless
1288 the context otherwise requires:

1289 (a) "Affected person" means (i) the applicant; (ii) a
1290 person residing within the geographic area to be served by the
1291 applicant's proposal; (iii) a person who regularly uses health
1292 care facilities or HMOs located in the geographic area of the
1293 proposal which provide similar service to that which is proposed;
1294 (iv) health care facilities and HMOs which have, prior to receipt
1295 of the application under review, formally indicated an intention
1296 to provide service similar to that of the proposal being
1297 considered at a future date; (v) third-party payers who reimburse
1298 health care facilities located in the geographical area of the
1299 proposal; or (vi) any agency that establishes rates for health
1300 care services or HMOs located in the geographic area of the
1301 proposal.

1302 (b) "Certificate of need" means a written order of the
1303 State Department of Health setting forth the affirmative finding
1304 that a proposal in prescribed application form, sufficiently



1305 satisfies the plans, standards and criteria prescribed for such
1306 service or other project by Section 41-7-171 et seq., and by rules
1307 and regulations promulgated thereunder by the State Department of
1308 Health.

1309 (c) (i) "Capital expenditure," when pertaining to
1310 defined major medical equipment, shall mean an expenditure which,
1311 under generally accepted accounting principles consistently
1312 applied, is not properly chargeable as an expense of operation and
1313 maintenance and which exceeds * * * Three Million Dollars
1314 (\$3,000,000.00).

1315 (ii) "Capital expenditure," when pertaining to
1316 other than major medical equipment, shall mean any expenditure
1317 which under generally accepted accounting principles consistently
1318 applied is not properly chargeable as an expense of operation and
1319 maintenance and which exceeds, for clinical health services, as
1320 defined in paragraph (k) below, * * * Ten Million Dollars
1321 (\$10,000,000.00), * * * or which exceeds, for nonclinical health
1322 services, as defined in paragraph (k) below, * * * Twenty Million
1323 Dollars (\$20,000,000.00).

1324 (iii) A "capital expenditure" shall include the
1325 acquisition, whether by lease, sufferance, gift, devise, legacy,
1326 settlement of a trust or other means, of any facility or part
1327 thereof, or equipment for a facility, the expenditure for which
1328 would have been considered a capital expenditure if acquired by
1329 purchase. Transactions which are separated in time but are



1330 planned to be undertaken within twelve (12) months of each other
1331 and are components of an overall plan for meeting patient care
1332 objectives shall, for purposes of this definition, be viewed in
1333 their entirety without regard to their timing.

1334 (iv) In those instances where a health care
1335 facility or other provider of health services proposes to provide
1336 a service in which the capital expenditure for major medical
1337 equipment or other than major medical equipment or a combination
1338 of the two (2) may have been split between separate parties, the
1339 total capital expenditure required to provide the proposed service
1340 shall be considered in determining the necessity of certificate of
1341 need review and in determining the appropriate certificate of need
1342 review fee to be paid. The capital expenditure associated with
1343 facilities and equipment to provide services in Mississippi shall
1344 be considered regardless of where the capital expenditure was
1345 made, in state or out of state, and regardless of the domicile of
1346 the party making the capital expenditure, in state or out of
1347 state.

1348 (d) "Change of ownership" includes, but is not limited
1349 to, inter vivos gifts, purchases, transfers, lease arrangements,
1350 cash and/or stock transactions or other comparable arrangements
1351 whenever any person or entity acquires or controls a majority
1352 interest of an existing health care facility, and/or the change of
1353 ownership of major medical equipment, a health service, or an
1354 institutional health service. Changes of ownership from



1355 partnerships, single proprietorships or corporations to another
1356 form of ownership are specifically included. However, "change of
1357 ownership" shall not include any inherited interest acquired as a
1358 result of a testamentary instrument or under the laws of descent
1359 and distribution of the State of Mississippi.

1360 (e) "Commencement of construction" means that all of
1361 the following have been completed with respect to a proposal or
1362 project proposing construction, renovating, remodeling or
1363 alteration:

1364 (i) A legally binding written contract has been
1365 consummated by the proponent and a lawfully licensed contractor to
1366 construct and/or complete the intent of the proposal within a
1367 specified period of time in accordance with final architectural
1368 plans which have been approved by the licensing authority of the
1369 State Department of Health;

1370 (ii) Any and all permits and/or approvals deemed
1371 lawfully necessary by all authorities with responsibility for such
1372 have been secured; and

1373 (iii) Actual bona fide undertaking of the subject
1374 proposal has commenced, and a progress payment of at least one
1375 percent (1%) of the total cost price of the contract has been paid
1376 to the contractor by the proponent, and the requirements of this
1377 paragraph (e) have been certified to in writing by the State
1378 Department of Health.



1379 Force account expenditures, such as deposits, securities,
1380 bonds, et cetera, may, in the discretion of the State Department
1381 of Health, be excluded from any or all of the provisions of
1382 defined commencement of construction.

1383 (f) "Consumer" means an individual who is not a
1384 provider of health care as defined in paragraph (q) of this
1385 section.

1386 (g) "Develop," when used in connection with health
1387 services, means to undertake those activities which, on their
1388 completion, will result in the offering of a new institutional
1389 health service or the incurring of a financial obligation as
1390 defined under applicable state law in relation to the offering of
1391 such services.

1392 (h) "Health care facility" includes hospitals,
1393 psychiatric hospitals, chemical dependency hospitals, skilled
1394 nursing facilities, end-stage renal disease (ESRD) facilities,
1395 including freestanding hemodialysis units, intermediate care
1396 facilities, ambulatory surgical facilities, intermediate care
1397 facilities for individuals with intellectual disabilities, home
1398 health agencies, psychiatric residential treatment facilities,
1399 pediatric skilled nursing facilities, long-term care hospitals,
1400 comprehensive medical rehabilitation facilities, including
1401 facilities owned or operated by the state or a political
1402 subdivision or instrumentality of the state, but does not include
1403 Christian Science sanatoriums operated or listed and certified by



1404 the First Church of Christ, Scientist, Boston, Massachusetts.
1405 This definition shall not apply to facilities for the private
1406 practice, either independently or by incorporated medical groups,
1407 of physicians, dentists or health care professionals except where
1408 such facilities are an integral part of an institutional health
1409 service. The various health care facilities listed in this
1410 paragraph shall be defined as follows:

1411 (i) "Hospital" means an institution which is
1412 primarily engaged in providing to inpatients, by or under the
1413 supervision of physicians, diagnostic services and therapeutic
1414 services for medical diagnosis, treatment and care of injured,
1415 disabled or sick persons, or rehabilitation services for the
1416 rehabilitation of injured, disabled or sick persons. Such term
1417 does not include psychiatric hospitals.

1418 (ii) "Psychiatric hospital" means an institution
1419 which is primarily engaged in providing to inpatients, by or under
1420 the supervision of a physician, psychiatric services for the
1421 diagnosis and treatment of persons with mental illness.

1422 (iii) "Chemical dependency hospital" means an
1423 institution which is primarily engaged in providing to inpatients,
1424 by or under the supervision of a physician, medical and related
1425 services for the diagnosis and treatment of chemical dependency
1426 such as alcohol and drug abuse.

1427 (iv) "Skilled nursing facility" means an
1428 institution or a distinct part of an institution which is



1429 primarily engaged in providing to inpatients skilled nursing care
1430 and related services for patients who require medical or nursing
1431 care or rehabilitation services for the rehabilitation of injured,
1432 disabled or sick persons.

1433 (v) "End-stage renal disease (ESRD) facilities"
1434 means kidney disease treatment centers, which includes
1435 freestanding hemodialysis units and limited care facilities. The
1436 term "limited care facility" generally refers to an
1437 off-hospital-premises facility, regardless of whether it is
1438 provider or nonprovider operated, which is engaged primarily in
1439 furnishing maintenance hemodialysis services to stabilized
1440 patients.

1441 (vi) "Intermediate care facility" means an
1442 institution which provides, on a regular basis, health-related
1443 care and services to individuals who do not require the degree of
1444 care and treatment which a hospital or skilled nursing facility is
1445 designed to provide, but who, because of their mental or physical
1446 condition, require health-related care and services (above the
1447 level of room and board).

1448 (vii) "Ambulatory surgical facility" means a
1449 facility primarily organized or established for the purpose of
1450 performing surgery for outpatients and is a separate identifiable
1451 legal entity from any other health care facility. Such term does
1452 not include the offices of private physicians or dentists, whether



1453 for individual or group practice, and does not include any
1454 abortion facility as defined in Section 41-75-1(f).

1455 (viii) "Intermediate care facility for individuals
1456 with intellectual disabilities" means an intermediate care
1457 facility that provides health or rehabilitative services in a
1458 planned program of activities to persons with an intellectual
1459 disability, also including, but not limited to, cerebral palsy and
1460 other conditions covered by the Federal Developmentally Disabled
1461 Assistance and Bill of Rights Act, Public Law 94-103.

1462 (ix) "Home health agency" means a public or
1463 privately owned agency or organization, or a subdivision of such
1464 an agency or organization, properly authorized to conduct business
1465 in Mississippi, which is primarily engaged in providing to
1466 individuals at the written direction of a licensed physician, in
1467 the individual's place of residence, skilled nursing services
1468 provided by or under the supervision of a registered nurse
1469 licensed to practice in Mississippi, and one or more of the
1470 following services or items:

- 1471 1. Physical, occupational or speech therapy;
- 1472 2. Medical social services;
- 1473 3. Part-time or intermittent services of a
1474 home health aide;
- 1475 4. Other services as approved by the
1476 licensing agency for home health agencies;



1477 5. Medical supplies, other than drugs and
1478 biologicals, and the use of medical appliances; or

1479 6. Medical services provided by an intern or
1480 resident-in-training at a hospital under a teaching program of
1481 such hospital.

1482 Further, all skilled nursing services and those services
1483 listed in items 1 through 4 of this subparagraph (ix) must be
1484 provided directly by the licensed home health agency. For
1485 purposes of this subparagraph, "directly" means either through an
1486 agency employee or by an arrangement with another individual not
1487 defined as a health care facility.

1488 This subparagraph (ix) shall not apply to health care
1489 facilities which had contracts for the above services with a home
1490 health agency on January 1, 1990.

1491 (x) "Psychiatric residential treatment facility"
1492 means any nonhospital establishment with permanent licensed
1493 facilities which provides a twenty-four-hour program of care by
1494 qualified therapists, including, but not limited to, duly licensed
1495 mental health professionals, psychiatrists, psychologists,
1496 psychotherapists and licensed certified social workers, for
1497 emotionally disturbed children and adolescents referred to such
1498 facility by a court, local school district or by the Department of
1499 Human Services, who are not in an acute phase of illness requiring
1500 the services of a psychiatric hospital, and are in need of such
1501 restorative treatment services. For purposes of this



1502 subparagraph, the term "emotionally disturbed" means a condition
1503 exhibiting one or more of the following characteristics over a
1504 long period of time and to a marked degree, which adversely
1505 affects educational performance:

1506 1. An inability to learn which cannot be
1507 explained by intellectual, sensory or health factors;

1508 2. An inability to build or maintain
1509 satisfactory relationships with peers and teachers;

1510 3. Inappropriate types of behavior or
1511 feelings under normal circumstances;

1512 4. A general pervasive mood of unhappiness or
1513 depression; or

1514 5. A tendency to develop physical symptoms or
1515 fears associated with personal or school problems. An
1516 establishment furnishing primarily domiciliary care is not within
1517 this definition.

1518 (xi) "Pediatric skilled nursing facility" means an
1519 institution or a distinct part of an institution that is primarily
1520 engaged in providing to inpatients skilled nursing care and
1521 related services for persons under twenty-one (21) years of age
1522 who require medical or nursing care or rehabilitation services for
1523 the rehabilitation of injured, disabled or sick persons.

1524 (xii) "Long-term care hospital" means a
1525 freestanding, Medicare-certified hospital that has an average
1526 length of inpatient stay greater than twenty-five (25) days, which



1527 is primarily engaged in providing chronic or long-term medical
1528 care to patients who do not require more than three (3) hours of
1529 rehabilitation or comprehensive rehabilitation per day, and has a
1530 transfer agreement with an acute care medical center and a
1531 comprehensive medical rehabilitation facility. Long-term care
1532 hospitals shall not use rehabilitation, comprehensive medical
1533 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
1534 nursing home, skilled nursing facility or sub-acute care facility
1535 in association with its name.

1536 (xiii) "Comprehensive medical rehabilitation
1537 facility" means a hospital or hospital unit that is licensed
1538 and/or certified as a comprehensive medical rehabilitation
1539 facility which provides specialized programs that are accredited
1540 by the Commission on Accreditation of Rehabilitation Facilities
1541 and supervised by a physician board certified or board eligible in
1542 physiatry or other doctor of medicine or osteopathy with at least
1543 two (2) years of training in the medical direction of a
1544 comprehensive rehabilitation program that:

1545 1. Includes evaluation and treatment of
1546 individuals with physical disabilities;

1547 2. Emphasizes education and training of
1548 individuals with disabilities;

1549 3. Incorporates at least the following core
1550 disciplines:

1551 a. Physical Therapy;



- 1552 b. Occupational Therapy;
- 1553 c. Speech and Language Therapy;
- 1554 d. Rehabilitation Nursing; and
- 1555 4. Incorporates at least three (3) of the
- 1556 following disciplines:
- 1557 a. Psychology;
- 1558 b. Audiology;
- 1559 c. Respiratory Therapy;
- 1560 d. Therapeutic Recreation;
- 1561 e. Orthotics;
- 1562 f. Prosthetics;
- 1563 g. Special Education;
- 1564 h. Vocational Rehabilitation;
- 1565 i. Psychotherapy;
- 1566 j. Social Work;
- 1567 k. Rehabilitation Engineering.

1568 These specialized programs include, but are not limited to:

1569 spinal cord injury programs, head injury programs and infant and

1570 early childhood development programs.

1571 (i) "Health maintenance organization" or "HMO" means a

1572 public or private organization organized under the laws of this

1573 state or the federal government which:

1574 (i) Provides or otherwise makes available to

1575 enrolled participants health care services, including

1576 substantially the following basic health care services: usual



1577 physician services, hospitalization, laboratory, x-ray, emergency
1578 and preventive services, and out-of-area coverage;

1579 (ii) Is compensated (except for copayments) for
1580 the provision of the basic health care services listed in
1581 subparagraph (i) of this paragraph to enrolled participants on a
1582 predetermined basis; and

1583 (iii) Provides physician services primarily:

1584 1. Directly through physicians who are either
1585 employees or partners of such organization; or

1586 2. Through arrangements with individual
1587 physicians or one or more groups of physicians (organized on a
1588 group practice or individual practice basis).

1589 (j) "Health service area" means a geographic area of
1590 the state designated in the State Health Plan as the area to be
1591 used in planning for specified health facilities and services and
1592 to be used when considering certificate of need applications to
1593 provide health facilities and services.

1594 (k) "Health services" means clinically related (i.e.,
1595 diagnostic, treatment or rehabilitative) services and includes
1596 alcohol, drug abuse, mental health and home health care services.

1597 "Clinical health services" shall only include those activities
1598 which contemplate any change in the existing bed complement of any
1599 health care facility through the addition or conversion of any
1600 beds, under Section 41-7-191(1)(c) or propose to offer any health
1601 services if those services have not been provided on a regular



1602 basis by the proposed provider of such services within the period
1603 of twelve (12) months prior to the time such services would be
1604 offered, under Section 41-7-191(1)(d). "Nonclinical health
1605 services" shall be all other services which do not involve any
1606 change in the existing bed complement or offering health services
1607 as described above.

1608 (l) "Institutional health services" shall mean health
1609 services provided in or through health care facilities and shall
1610 include the entities in or through which such services are
1611 provided.

1612 (m) "Major medical equipment" means medical equipment
1613 designed for providing medical or any health-related service which
1614 costs in excess of * * * Three Million Dollars (\$3,000,000.00).
1615 However, this definition shall not be applicable to clinical
1616 laboratories if they are determined by the State Department of
1617 Health to be independent of any physician's office, hospital or
1618 other health care facility or otherwise not so defined by federal
1619 or state law, or rules and regulations promulgated thereunder.

1620 (n) "State Department of Health" or "department" shall
1621 mean the state agency created under Section 41-3-15, which shall
1622 be considered to be the State Health Planning and Development
1623 Agency, as defined in paragraph (u) of this section.

1624 (o) "Offer," when used in connection with health
1625 services, means that it has been determined by the State



1626 Department of Health that the health care facility is capable of
1627 providing specified health services.

1628 (p) "Person" means an individual, a trust or estate,
1629 partnership, corporation (including associations, joint-stock
1630 companies and insurance companies), the state or a political
1631 subdivision or instrumentality of the state.

1632 (q) "Provider" shall mean any person who is a provider
1633 or representative of a provider of health care services requiring
1634 a certificate of need under Section 41-7-171 et seq., or who has
1635 any financial or indirect interest in any provider of services.

1636 (r) "Radiation therapy services" means the treatment of
1637 cancer and other diseases using ionizing radiation of either high
1638 energy photons (x-rays or gamma rays) or charged particles
1639 (electrons, protons or heavy nuclei). However, for purposes of a
1640 certificate of need, radiation therapy services shall not include
1641 low energy, superficial, external beam x-ray treatment of
1642 superficial skin lesions.

1643 (s) "Secretary" means the Secretary of Health and Human
1644 Services, and any officer or employee of the Department of Health
1645 and Human Services to whom the authority involved has been
1646 delegated.

1647 (t) "State Health Plan" means the sole and official
1648 statewide health plan for Mississippi which identifies priority
1649 state health needs and establishes standards and criteria for



1650 health-related activities which require certificate of need review
1651 in compliance with Section 41-7-191.

1652 (u) "State Health Planning and Development Agency"
1653 means the agency of state government designated to perform health
1654 planning and resource development programs for the State of
1655 Mississippi.

1656 **SECTION 3.** This act shall take effect and be in force from
1657 and after its passage.

