

*****Adopted***
AMENDMENT No. 1 PROPOSED TO**

House Bill NO. 767

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

23 41-7-191. (1) No person shall engage in any of the
24 following activities without obtaining the required certificate of
25 need:

26 (a) The construction, development or other
27 establishment of a new health care facility;

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

35 (c) A change over a period of two (2) years' time, as
36 established by the State Department of Health, in existing bed
37 complement through the addition of more than ten (10) beds or more

38 than ten percent (10%) of the total bed capacity of a designated
39 licensed category or subcategory of any health care facility,
40 whichever is less, from one physical facility or site to another;
41 the conversion over a period of two (2) years' time, as
42 established by the State Department of Health, of existing bed
43 complement of more than ten (10) beds or more than ten percent
44 (10%) of the total bed capacity of a designated licensed category
45 or subcategory of any such health care facility, whichever is
46 less; or the alteration, modernizing or refurbishing of any unit
47 or department wherein such beds may be located; provided, however,
48 that from and after July 1, 1994, no health care facility shall be
49 authorized to add any beds or convert any beds to another category
50 of beds without a certificate of need under the authority of
51 subsection (1)(c) of this section unless there is a projected need
52 for such beds in the planning district in which the facility is
53 located, as reported in the most current State Health Plan;

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

- 58 (i) Open heart surgery services;
- 59 (ii) Cardiac catheterization services;
- 60 (iii) Comprehensive inpatient rehabilitation
61 services;
- 62 (iv) Licensed psychiatric services;
- 63 (v) Licensed chemical dependency services;
- 64 (vi) Radiation therapy services;
- 65 (vii) Diagnostic imaging services of an invasive
66 nature, i.e. invasive digital angiography;
- 67 (viii) Nursing home care as defined in

68 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

69 (ix) Home health services;

70 (x) Swing-bed services;

71 (xi) Ambulatory surgical services;

72 (xii) Magnetic resonance imaging services;

73 (xiii) Extracorporeal shock wave lithotripsy

74 services;

75 (xiv) Long-term care hospital services;

76 (xv) Positron Emission Tomography (PET) Services;

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

78 one physical facility or site to another physical facility or

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

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

81 physical facility or site within one thousand three hundred twenty

82 (1,320) feet from the main entrance of the health care facility

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

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

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

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

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

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

89 Department of Health;

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

91 medical equipment for the provision of medical services; provided,

92 however, (i) the acquisition of any major medical equipment used

93 only for research purposes, and (ii) the acquisition of major

94 medical equipment to replace medical equipment for which a

95 facility is already providing medical services and for which the

96 State Department of Health has been notified before the date of

97 such acquisition shall be exempt from this paragraph; an

98 acquisition for less than fair market value must be reviewed, if
99 the acquisition at fair market value would be subject to review;

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

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

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

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

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

128 (ix) of Section 41-7-173(h).

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

136 (a) The department may issue a certificate of need to
137 any person proposing the new construction of any health care
138 facility defined in subparagraphs (iv) and (vi) of Section
139 41-7-173(h) as part of a life care retirement facility, in any
140 county bordering on the Gulf of Mexico in which is located a
141 National Aeronautics and Space Administration facility, not to
142 exceed forty (40) beds. From and after July 1, 1999, there shall
143 be no prohibition or restrictions on participation in the Medicaid
144 program (Section 43-13-101 et seq.) for the beds in the health
145 care facility that were authorized under this paragraph (a).

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

153 (c) The department may issue a certificate of need for
154 the addition to or expansion of any skilled nursing facility that
155 is part of an existing continuing care retirement community
156 located in Madison County, provided that the recipient of the
157 certificate of need agrees in writing that the skilled nursing

158 facility will not at any time participate in the Medicaid program
159 (Section 43-13-101 et seq.) or admit or keep any patients in the
160 skilled nursing facility who are participating in the Medicaid
161 program. This written agreement by the recipient of the
162 certificate of need shall be fully binding on any subsequent owner
163 of the skilled nursing facility, if the ownership of the facility
164 is transferred at any time after the issuance of the certificate
165 of need. Agreement that the skilled nursing facility will not
166 participate in the Medicaid program shall be a condition of the
167 issuance of a certificate of need to any person under this
168 paragraph (c), and if such skilled nursing facility at any time
169 after the issuance of the certificate of need, regardless of the
170 ownership of the facility, participates in the Medicaid program or
171 admits or keeps any patients in the facility who are participating
172 in the Medicaid program, the State Department of Health shall
173 revoke the certificate of need, if it is still outstanding, and
174 shall deny or revoke the license of the skilled nursing facility,
175 at the time that the department determines, after a hearing
176 complying with due process, that the facility has failed to comply
177 with any of the conditions upon which the certificate of need was
178 issued, as provided in this paragraph and in the written agreement
179 by the recipient of the certificate of need. The total number of
180 beds that may be authorized under the authority of this paragraph
181 (c) shall not exceed sixty (60) beds.

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

188 for the beds in the nursing facility that were authorized under
189 this paragraph (d).

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

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

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

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

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

223 (i) The department may issue a certificate of need for
224 the new construction of a skilled nursing facility in Leake
225 County, provided that the recipient of the certificate of need
226 agrees in writing that the skilled nursing facility will not at
227 any time participate in the Medicaid program (Section 43-13-101 et
228 seq.) or admit or keep any patients in the skilled nursing
229 facility who are participating in the Medicaid program. This
230 written agreement by the recipient of the certificate of need
231 shall be fully binding on any subsequent owner of the skilled
232 nursing facility, if the ownership of the facility is transferred
233 at any time after the issuance of the certificate of need.

234 Agreement that the skilled nursing facility will not participate
235 in the Medicaid program shall be a condition of the issuance of a
236 certificate of need to any person under this paragraph (i), and if
237 such skilled nursing facility at any time after the issuance of
238 the certificate of need, regardless of the ownership of the
239 facility, participates in the Medicaid program or admits or keeps
240 any patients in the facility who are participating in the Medicaid
241 program, the State Department of Health shall revoke the
242 certificate of need, if it is still outstanding, and shall deny or
243 revoke the license of the skilled nursing facility, at the time
244 that the department determines, after a hearing complying with due
245 process, that the facility has failed to comply with any of the
246 conditions upon which the certificate of need was issued, as
247 provided in this paragraph and in the written agreement by the

248 recipient of the certificate of need. The provision of Section
249 43-7-193(1) regarding substantial compliance of the projection of
250 need as reported in the current State Health Plan is waived for
251 the purposes of this paragraph. The total number of nursing
252 facility beds that may be authorized by any certificate of need
253 issued under this paragraph (i) shall not exceed sixty (60) beds.
254 If the skilled nursing facility authorized by the certificate of
255 need issued under this paragraph is not constructed and fully
256 operational within eighteen (18) months after July 1, 1994, the
257 State Department of Health, after a hearing complying with due
258 process, shall revoke the certificate of need, if it is still
259 outstanding, and shall not issue a license for the skilled nursing
260 facility at any time after the expiration of the eighteen-month
261 period.

262 (j) The department may issue certificates of need to
263 allow any existing freestanding long-term care facility in
264 Tishomingo County and Hancock County that on July 1, 1995, is
265 licensed with fewer than sixty (60) beds. For the purposes of
266 this paragraph (j), the provision of Section 41-7-193(1) requiring
267 substantial compliance with the projection of need as reported in
268 the current State Health Plan is waived. From and after July 1,
269 1999, there shall be no prohibition or restrictions on
270 participation in the Medicaid program (Section 43-13-101 et seq.)
271 for the beds in the long-term care facilities that were authorized
272 under this paragraph (j).

273 (k) The department may issue a certificate of need for
274 the construction of a nursing facility at a continuing care
275 retirement community in Lowndes County, provided that the
276 recipient of the certificate of need agrees in writing that the
277 nursing facility will not at any time participate in the Medicaid

278 program (Section 43-13-101 et seq.) or admit or keep any patients
279 in the nursing facility who are participating in the Medicaid
280 program. This written agreement by the recipient of the
281 certificate of need shall be fully binding on any subsequent owner
282 of the nursing facility, if the ownership of the facility is
283 transferred at any time after the issuance of the certificate of
284 need. Agreement that the nursing facility will not participate in
285 the Medicaid program shall be a condition of the issuance of a
286 certificate of need to any person under this paragraph (k), and if
287 such nursing facility at any time after the issuance of the
288 certificate of need, regardless of the ownership of the facility,
289 participates in the Medicaid program or admits or keeps any
290 patients in the facility who are participating in the Medicaid
291 program, the State Department of Health shall revoke the
292 certificate of need, if it is still outstanding, and shall deny or
293 revoke the license of the nursing facility, at the time that the
294 department determines, after a hearing complying with due process,
295 that the facility has failed to comply with any of the conditions
296 upon which the certificate of need was issued, as provided in this
297 paragraph and in the written agreement by the recipient of the
298 certificate of need. The total number of beds that may be
299 authorized under the authority of this paragraph (k) shall not
300 exceed sixty (60) beds.

301 (1) Provided that funds are specifically appropriated
302 therefor by the Legislature, the department may issue a
303 certificate of need to a rehabilitation hospital in Hinds County
304 for the construction of a sixty-bed long-term care nursing
305 facility dedicated to the care and treatment of persons with
306 severe disabilities including persons with spinal cord and
307 closed-head injuries and ventilator-dependent patients. The

308 provision of Section 41-7-193(1) regarding substantial compliance
309 with projection of need as reported in the current State Health
310 Plan is hereby waived for the purpose of this paragraph.

311 (m) The State Department of Health may issue a
312 certificate of need to a county-owned hospital in the Second
313 Judicial District of Panola County for the conversion of not more
314 than seventy-two (72) hospital beds to nursing facility beds,
315 provided that the recipient of the certificate of need agrees in
316 writing that none of the beds at the nursing facility will be
317 certified for participation in the Medicaid program (Section
318 43-13-101 et seq.), and that no claim will be submitted for
319 Medicaid reimbursement in the nursing facility in any day or for
320 any patient in the nursing facility. This written agreement by
321 the recipient of the certificate of need shall be a condition of
322 the issuance of the certificate of need under this paragraph, and
323 the agreement shall be fully binding on any subsequent owner of
324 the nursing facility if the ownership of the nursing facility is
325 transferred at any time after the issuance of the certificate of
326 need. After this written agreement is executed, the Division of
327 Medicaid and the State Department of Health shall not certify any
328 of the beds in the nursing facility for participation in the
329 Medicaid program. If the nursing facility violates the terms of
330 the written agreement by admitting or keeping in the nursing
331 facility on a regular or continuing basis any patients who are
332 participating in the Medicaid program, the State Department of
333 Health shall revoke the license of the nursing facility, at the
334 time that the department determines, after a hearing complying
335 with due process, that the nursing facility has violated the
336 condition upon which the certificate of need was issued, as
337 provided in this paragraph and in the written agreement. If the

338 certificate of need authorized under this paragraph is not issued
339 within twelve (12) months after July 1, 2001, the department shall
340 deny the application for the certificate of need and shall not
341 issue the certificate of need at any time after the twelve-month
342 period, unless the issuance is contested. If the certificate of
343 need is issued and substantial construction of the nursing
344 facility beds has not commenced within eighteen (18) months after
345 July 1, 2001, the State Department of Health, after a hearing
346 complying with due process, shall revoke the certificate of need
347 if it is still outstanding, and the department shall not issue a
348 license for the nursing facility at any time after the
349 eighteen-month period. Provided, however, that if the issuance of
350 the certificate of need is contested, the department shall require
351 substantial construction of the nursing facility beds within six
352 (6) months after final adjudication on the issuance of the
353 certificate of need.

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

368 paragraph (n), and if such skilled nursing facility at any time
369 after the issuance of the certificate of need, regardless of the
370 ownership of the facility, participates in the Medicaid program or
371 admits or keeps any patients in the facility who are participating
372 in the Medicaid program, the State Department of Health shall
373 revoke the certificate of need, if it is still outstanding, and
374 shall deny or revoke the license of the skilled nursing facility,
375 at the time that the department determines, after a hearing
376 complying with due process, that the facility has failed to comply
377 with any of the conditions upon which the certificate of need was
378 issued, as provided in this paragraph and in the written agreement
379 by the recipient of the certificate of need. The total number of
380 nursing facility beds that may be authorized by any certificate of
381 need issued under this paragraph (n) shall not exceed sixty (60)
382 beds. If the certificate of need authorized under this paragraph
383 is not issued within twelve (12) months after July 1, 1998, the
384 department shall deny the application for the certificate of need
385 and shall not issue the certificate of need at any time after the
386 twelve-month period, unless the issuance is contested. If the
387 certificate of need is issued and substantial construction of the
388 nursing facility beds has not commenced within eighteen (18)
389 months after the effective date of July 1, 1998, the State
390 Department of Health, after a hearing complying with due process,
391 shall revoke the certificate of need if it is still outstanding,
392 and the department shall not issue a license for the nursing
393 facility at any time after the eighteen-month period. Provided,
394 however, that if the issuance of the certificate of need is
395 contested, the department shall require substantial construction
396 of the nursing facility beds within six (6) months after final
397 adjudication on the issuance of the certificate of need.

398 (o) The department may issue a certificate of need for
399 the new construction, addition or conversion of skilled nursing
400 facility beds in Leake County, provided that the recipient of the
401 certificate of need agrees in writing that the skilled nursing
402 facility will not at any time participate in the Medicaid program
403 (Section 43-13-101 et seq.) or admit or keep any patients in the
404 skilled nursing facility who are participating in the Medicaid
405 program. This written agreement by the recipient of the
406 certificate of need shall be fully binding on any subsequent owner
407 of the skilled nursing facility, if the ownership of the facility
408 is transferred at any time after the issuance of the certificate
409 of need. Agreement that the skilled nursing facility will not
410 participate in the Medicaid program shall be a condition of the
411 issuance of a certificate of need to any person under this
412 paragraph (o), and if such skilled nursing facility at any time
413 after the issuance of the certificate of need, regardless of the
414 ownership of the facility, participates in the Medicaid program or
415 admits or keeps any patients in the facility who are participating
416 in the Medicaid program, the State Department of Health shall
417 revoke the certificate of need, if it is still outstanding, and
418 shall deny or revoke the license of the skilled nursing facility,
419 at the time that the department determines, after a hearing
420 complying with due process, that the facility has failed to comply
421 with any of the conditions upon which the certificate of need was
422 issued, as provided in this paragraph and in the written agreement
423 by the recipient of the certificate of need. The total number of
424 nursing facility beds that may be authorized by any certificate of
425 need issued under this paragraph (o) shall not exceed sixty (60)
426 beds. If the certificate of need authorized under this paragraph
427 is not issued within twelve (12) months after July 1, 2001, the

428 department shall deny the application for the certificate of need
429 and shall not issue the certificate of need at any time after the
430 twelve-month period, unless the issuance is contested. If the
431 certificate of need is issued and substantial construction of the
432 nursing facility beds has not commenced within eighteen (18)
433 months after the effective date of July 1, 2001, the State
434 Department of Health, after a hearing complying with due process,
435 shall revoke the certificate of need if it is still outstanding,
436 and the department shall not issue a license for the nursing
437 facility at any time after the eighteen-month period. Provided,
438 however, that if the issuance of the certificate of need is
439 contested, the department shall require substantial construction
440 of the nursing facility beds within six (6) months after final
441 adjudication on the issuance of the certificate of need.

442 (p) The department may issue a certificate of need for
443 the construction of a municipally-owned nursing facility within
444 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
445 beds, provided that the recipient of the certificate of need
446 agrees in writing that the skilled nursing facility will not at
447 any time participate in the Medicaid program (Section 43-13-101 et
448 seq.) or admit or keep any patients in the skilled nursing
449 facility who are participating in the Medicaid program. This
450 written agreement by the recipient of the certificate of need
451 shall be fully binding on any subsequent owner of the skilled
452 nursing facility, if the ownership of the facility is transferred
453 at any time after the issuance of the certificate of need.
454 Agreement that the skilled nursing facility will not participate
455 in the Medicaid program shall be a condition of the issuance of a
456 certificate of need to any person under this paragraph (p), and if
457 such skilled nursing facility at any time after the issuance of

458 the certificate of need, regardless of the ownership of the
459 facility, participates in the Medicaid program or admits or keeps
460 any patients in the facility who are participating in the Medicaid
461 program, the State Department of Health shall revoke the
462 certificate of need, if it is still outstanding, and shall deny or
463 revoke the license of the skilled nursing facility, at the time
464 that the department determines, after a hearing complying with due
465 process, that the facility has failed to comply with any of the
466 conditions upon which the certificate of need was issued, as
467 provided in this paragraph and in the written agreement by the
468 recipient of the certificate of need. The provision of Section
469 43-7-193(1) regarding substantial compliance of the projection of
470 need as reported in the current State Health Plan is waived for
471 the purposes of this paragraph. If the certificate of need
472 authorized under this paragraph is not issued within twelve (12)
473 months after July 1, 1998, the department shall deny the
474 application for the certificate of need and shall not issue the
475 certificate of need at any time after the twelve-month period,
476 unless the issuance is contested. If the certificate of need is
477 issued and substantial construction of the nursing facility beds
478 has not commenced within eighteen (18) months after July 1, 1998,
479 the State Department of Health, after a hearing complying with due
480 process, shall revoke the certificate of need if it is still
481 outstanding, and the department shall not issue a license for the
482 nursing facility at any time after the eighteen-month period.
483 Provided, however, that if the issuance of the certificate of need
484 is contested, the department shall require substantial
485 construction of the nursing facility beds within six (6) months
486 after final adjudication on the issuance of the certificate of
487 need.

488 (q) (i) Beginning on July 1, 1999, the State
489 Department of Health shall issue certificates of need during each
490 of the next four (4) fiscal years for the construction or
491 expansion of nursing facility beds or the conversion of other beds
492 to nursing facility beds in each county in the state having a need
493 for fifty (50) or more additional nursing facility beds, as shown
494 in the fiscal year 1999 State Health Plan, in the manner provided
495 in this paragraph (q). The total number of nursing facility beds
496 that may be authorized by any certificate of need authorized under
497 this paragraph (q) shall not exceed sixty (60) beds.

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

518 the department also shall issue a certificate of need for new
519 nursing facility beds in Amite County and a certificate of need
520 for new nursing facility beds in Carroll County.

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

535 (iv) Subject to the provisions of subparagraph
536 (v), the certificate of need issued under subparagraph (ii) for
537 nursing facility beds in the two (2) counties from the state at
538 large during each fiscal year shall first be available for nursing
539 facility beds in the two (2) counties that have the highest need
540 in the state for those beds, as shown in the fiscal year 1999
541 State Health Plan, when considering the need on a statewide basis
542 and without regard to the Long-Term Care Planning Districts in
543 which the counties are located. If there are no applications for
544 a certificate of need for nursing facility beds in either of the
545 two (2) counties having the highest need for those beds on a
546 statewide basis by the date specified by the department, then the
547 certificate of need shall be available for nursing facility beds

548 in other counties from the state at large in descending order of
549 the need for those beds on a statewide basis, from the county with
550 the second highest need to the county with the lowest need, until
551 an application is received for nursing facility beds in an
552 eligible county from the state at large.

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

570 (vi) If more than one (1) application is made for
571 a certificate of need for nursing home facility beds available
572 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
573 county, and one (1) of the applicants is a county-owned hospital,
574 the department shall give priority to the county-owned hospital in
575 granting the certificate of need.

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

578 of the next two (2) fiscal years for the construction or expansion
579 of nursing facility beds or the conversion of other beds to
580 nursing facility beds in each of the four (4) Long-Term Care
581 Planning Districts designated in the fiscal year 1999 State Health
582 Plan, to provide care exclusively to patients with Alzheimer's
583 disease.

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

600 (iii) The State Department of Health, in
601 consultation with the Department of Mental Health and the Division
602 of Medicaid, shall develop and prescribe the staffing levels,
603 space requirements and other standards and requirements that must
604 be met with regard to the nursing facility beds authorized under
605 this paragraph (r) to provide care exclusively to patients with
606 Alzheimer's disease.

607 (3) The State Department of Health may grant approval for

608 and issue certificates of need to any person proposing the new
609 construction of, addition to, conversion of beds of or expansion
610 of any health care facility defined in subparagraph (x)
611 (psychiatric residential treatment facility) of Section
612 41-7-173(h). The total number of beds which may be authorized by
613 such certificates of need shall not exceed three hundred thirty
614 (330) beds for the entire state.

615 (a) Of the total number of beds authorized under this
616 subsection, the department shall issue a certificate of need to a
617 privately owned psychiatric residential treatment facility in
618 Simpson County for the conversion of sixteen (16) intermediate
619 care facility for the mentally retarded (ICF-MR) beds to
620 psychiatric residential treatment facility beds, provided that
621 facility agrees in writing that the facility shall give priority
622 for the use of those sixteen (16) beds to Mississippi residents
623 who are presently being treated in out-of-state facilities.

624 (b) Of the total number of beds authorized under this
625 subsection, the department may issue a certificate or certificates
626 of need for the construction or expansion of psychiatric
627 residential treatment facility beds or the conversion of other
628 beds to psychiatric residential treatment facility beds in Warren
629 County, not to exceed sixty (60) psychiatric residential treatment
630 facility beds, provided that the facility agrees in writing that
631 no more than thirty (30) of the beds at the psychiatric
632 residential treatment facility will be certified for participation
633 in the Medicaid program (Section 43-13-101 et seq.) for the use of
634 any patients other than those who are participating only in the
635 Medicaid program of another state, and that no claim will be
636 submitted to the Division of Medicaid for Medicaid reimbursement
637 for more than thirty (30) patients in the psychiatric residential

638 treatment facility in any day or for any patient in the
639 psychiatric residential treatment facility who is in a bed that is
640 not Medicaid-certified. This written agreement by the recipient
641 of the certificate of need shall be a condition of the issuance of
642 the certificate of need under this paragraph, and the agreement
643 shall be fully binding on any subsequent owner of the psychiatric
644 residential treatment facility if the ownership of the facility is
645 transferred at any time after the issuance of the certificate of
646 need. After this written agreement is executed, the Division of
647 Medicaid and the State Department of Health shall not certify more
648 than thirty (30) of the beds in the psychiatric residential
649 treatment facility for participation in the Medicaid program for
650 the use of any patients other than those who are participating
651 only in the Medicaid program of another state. If the psychiatric
652 residential treatment facility violates the terms of the written
653 agreement by admitting or keeping in the facility on a regular or
654 continuing basis more than thirty (30) patients who are
655 participating in the Mississippi Medicaid program, the State
656 Department of Health shall revoke the license of the facility, at
657 the time that the department determines, after a hearing complying
658 with due process, that the facility has violated the condition
659 upon which the certificate of need was issued, as provided in this
660 paragraph and in the written agreement.

661 The State Department of Health, on or before July 1, 2001,
662 shall transfer the certificate of need authorized under the
663 authority of this paragraph (b) to River Region Health System.

664 (c) Of the total number of beds authorized under this
665 subsection, the department shall issue a certificate of need to a
666 hospital currently operating Medicaid-certified acute psychiatric
667 beds for adolescents in DeSoto County, for the establishment of a

668 forty-bed psychiatric residential treatment facility in DeSoto
669 County, provided that the hospital agrees in writing (i) that the
670 hospital shall give priority for the use of those forty (40) beds
671 to Mississippi residents who are presently being treated in
672 out-of-state facilities, and (ii) that no more than fifteen (15)
673 of the beds at the psychiatric residential treatment facility will
674 be certified for participation in the Medicaid program (Section
675 43-13-101 et seq.), and that no claim will be submitted for
676 Medicaid reimbursement for more than fifteen (15) patients in the
677 psychiatric residential treatment facility in any day or for any
678 patient in the psychiatric residential treatment facility who is
679 in a bed that is not Medicaid-certified. This written agreement
680 by the recipient of the certificate of need shall be a condition
681 of the issuance of the certificate of need under this paragraph,
682 and the agreement shall be fully binding on any subsequent owner
683 of the psychiatric residential treatment facility if the ownership
684 of the facility is transferred at any time after the issuance of
685 the certificate of need. After this written agreement is
686 executed, the Division of Medicaid and the State Department of
687 Health shall not certify more than fifteen (15) of the beds in the
688 psychiatric residential treatment facility for participation in
689 the Medicaid program. If the psychiatric residential treatment
690 facility violates the terms of the written agreement by admitting
691 or keeping in the facility on a regular or continuing basis more
692 than fifteen (15) patients who are participating in the Medicaid
693 program, the State Department of Health shall revoke the license
694 of the facility, at the time that the department determines, after
695 a hearing complying with due process, that the facility has
696 violated the condition upon which the certificate of need was
697 issued, as provided in this paragraph and in the written

698 agreement.

699 (d) Of the total number of beds authorized under this
700 subsection, the department may issue a certificate or certificates
701 of need for the construction or expansion of psychiatric
702 residential treatment facility beds or the conversion of other
703 beds to psychiatric treatment facility beds, not to exceed thirty
704 (30) psychiatric residential treatment facility beds, in either
705 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
706 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

707 (e) Of the total number of beds authorized under this
708 subsection (3) the department shall issue a certificate of need to
709 a privately owned, nonprofit psychiatric residential treatment
710 facility in Hinds County for an eight-bed expansion of the
711 facility, provided that the facility agrees in writing that the
712 facility shall give priority for the use of those eight (8) beds
713 to Mississippi residents who are presently being treated in
714 out-of-state facilities.

715 (f) The department shall issue a certificate of need to
716 a one-hundred-thirty-four-bed specialty hospital located on
717 twenty-nine and forty-four one-hundredths (29.44) commercial acres
718 at 5900 Highway 39 North in Meridian (Lauderdale County),
719 Mississippi, for the addition, construction or expansion of
720 child/adolescent psychiatric residential treatment facility beds
721 in Lauderdale County. As a condition of issuance of the
722 certificate of need under this paragraph, the facility shall give
723 priority in admissions to the child/adolescent psychiatric
724 residential treatment facility beds authorized under this
725 paragraph to patients who otherwise would require out-of-state
726 placement. The Division of Medicaid, in conjunction with the
727 Department of Human Services, shall furnish the facility a list of

728 all out-of-state patients on a quarterly basis. Furthermore,
729 notice shall also be provided to the parent, custodial parent or
730 guardian of each out-of-state patient notifying them of the
731 priority status granted by this paragraph. For purposes of this
732 paragraph, the provisions of Section 41-7-193(1) requiring
733 substantial compliance with the projection of need as reported in
734 the current State Health Plan are waived. The total number of
735 child/adolescent psychiatric residential treatment facility beds
736 that may be authorized under the authority of this paragraph shall
737 be sixty (60) beds. There shall be no prohibition or restrictions
738 on participation in the Medicaid program (Section 43-13-101 et
739 seq.) for the person receiving the certificate of need authorized
740 under this paragraph or for the beds converted pursuant to the
741 authority of that certificate of need.

742 (4) (a) From and after July 1, 1993, the department shall
743 not issue a certificate of need to any person for the new
744 construction of any hospital, psychiatric hospital or chemical
745 dependency hospital that will contain any child/adolescent
746 psychiatric or child/adolescent chemical dependency beds, or for
747 the conversion of any other health care facility to a hospital,
748 psychiatric hospital or chemical dependency hospital that will
749 contain any child/adolescent psychiatric or child/adolescent
750 chemical dependency beds, or for the addition of any
751 child/adolescent psychiatric or child/adolescent chemical
752 dependency beds in any hospital, psychiatric hospital or chemical
753 dependency hospital, or for the conversion of any beds of another
754 category in any hospital, psychiatric hospital or chemical
755 dependency hospital to child/adolescent psychiatric or
756 child/adolescent chemical dependency beds, except as hereinafter
757 authorized:

758 (i) The department may issue certificates of need
759 to any person for any purpose described in this subsection,
760 provided that the hospital, psychiatric hospital or chemical
761 dependency hospital does not participate in the Medicaid program
762 (Section 43-13-101 et seq.) at the time of the application for the
763 certificate of need and the owner of the hospital, psychiatric
764 hospital or chemical dependency hospital agrees in writing that
765 the hospital, psychiatric hospital or chemical dependency hospital
766 will not at any time participate in the Medicaid program or admit
767 or keep any patients who are participating in the Medicaid program
768 in the hospital, psychiatric hospital or chemical dependency
769 hospital. This written agreement by the recipient of the
770 certificate of need shall be fully binding on any subsequent owner
771 of the hospital, psychiatric hospital or chemical dependency
772 hospital, if the ownership of the facility is transferred at any
773 time after the issuance of the certificate of need. Agreement
774 that the hospital, psychiatric hospital or chemical dependency
775 hospital will not participate in the Medicaid program shall be a
776 condition of the issuance of a certificate of need to any person
777 under this subparagraph (a)(i), and if such hospital, psychiatric
778 hospital or chemical dependency hospital at any time after the
779 issuance of the certificate of need, regardless of the ownership
780 of the facility, participates in the Medicaid program or admits or
781 keeps any patients in the hospital, psychiatric hospital or
782 chemical dependency hospital who are participating in the Medicaid
783 program, the State Department of Health shall revoke the
784 certificate of need, if it is still outstanding, and shall deny or
785 revoke the license of the hospital, psychiatric hospital or
786 chemical dependency hospital, at the time that the department
787 determines, after a hearing complying with due process, that the

788 hospital, psychiatric hospital or chemical dependency hospital has
789 failed to comply with any of the conditions upon which the
790 certificate of need was issued, as provided in this subparagraph
791 and in the written agreement by the recipient of the certificate
792 of need.

793 (ii) The department may issue a certificate of
794 need for the conversion of existing beds in a county hospital in
795 Choctaw County from acute care beds to child/adolescent chemical
796 dependency beds. For purposes of this subparagraph, the
797 provisions of Section 41-7-193(1) requiring substantial compliance
798 with the projection of need as reported in the current State
799 Health Plan is waived. The total number of beds that may be
800 authorized under authority of this subparagraph shall not exceed
801 twenty (20) beds. There shall be no prohibition or restrictions
802 on participation in the Medicaid program (Section 43-13-101 et
803 seq.) for the hospital receiving the certificate of need
804 authorized under this subparagraph (a)(ii) or for the beds
805 converted pursuant to the authority of that certificate of need.

806 (iii) The department may issue a certificate or
807 certificates of need for the construction or expansion of
808 child/adolescent psychiatric beds or the conversion of other beds
809 to child/adolescent psychiatric beds in Warren County. For
810 purposes of this subparagraph, the provisions of Section
811 41-7-193(1) requiring substantial compliance with the projection
812 of need as reported in the current State Health Plan are waived.
813 The total number of beds that may be authorized under the
814 authority of this subparagraph shall not exceed twenty (20) beds.

815 There shall be no prohibition or restrictions on participation in
816 the Medicaid program (Section 43-13-101 et seq.) for the person
817 receiving the certificate of need authorized under this

818 subparagraph (a)(iii) or for the beds converted pursuant to the
819 authority of that certificate of need.

820 The State Department of Health, on or before July 1, 2001,
821 shall transfer the certificate of need authorized under this
822 subparagraph (iii) to River Region Health System.

823 (iv) The department shall issue a certificate of
824 need to the Region 7 Mental Health/Retardation Commission for the
825 construction or expansion of child/adolescent psychiatric beds or
826 the conversion of other beds to child/adolescent psychiatric beds
827 in any of the counties served by the commission. For purposes of
828 this subparagraph, the provisions of Section 41-7-193(1) requiring
829 substantial compliance with the projection of need as reported in
830 the current State Health Plan is waived. The total number of beds
831 that may be authorized under the authority of this subparagraph
832 shall not exceed twenty (20) beds. There shall be no prohibition
833 or restrictions on participation in the Medicaid program (Section
834 43-13-101 et seq.) for the person receiving the certificate of
835 need authorized under this subparagraph (a)(iv) or for the beds
836 converted pursuant to the authority of that certificate of need.

837 (v) The department may issue a certificate of need
838 to any county hospital located in Leflore County for the
839 construction or expansion of adult psychiatric beds or the
840 conversion of other beds to adult psychiatric beds, not to exceed
841 twenty (20) beds, provided that the recipient of the certificate
842 of need agrees in writing that the adult psychiatric beds will not
843 at any time be certified for participation in the Medicaid program
844 and that the hospital will not admit or keep any patients who are
845 participating in the Medicaid program in any of such adult
846 psychiatric beds. This written agreement by the recipient of the
847 certificate of need shall be fully binding on any subsequent owner

848 of the hospital if the ownership of the hospital is transferred at
849 any time after the issuance of the certificate of need. Agreement
850 that the adult psychiatric beds will not be certified for
851 participation in the Medicaid program shall be a condition of the
852 issuance of a certificate of need to any person under this
853 subparagraph (a)(v), and if such hospital at any time after the
854 issuance of the certificate of need, regardless of the ownership
855 of the hospital, has any of such adult psychiatric beds certified
856 for participation in the Medicaid program or admits or keeps any
857 Medicaid patients in such adult psychiatric beds, the State
858 Department of Health shall revoke the certificate of need, if it
859 is still outstanding, and shall deny or revoke the license of the
860 hospital at the time that the department determines, after a
861 hearing complying with due process, that the hospital has failed
862 to comply with any of the conditions upon which the certificate of
863 need was issued, as provided in this subparagraph and in the
864 written agreement by the recipient of the certificate of need.

865 (vi) The department may issue a certificate or
866 certificates of need for the expansion of child psychiatric beds
867 or the conversion of other beds to child psychiatric beds at the
868 University of Mississippi Medical Center. For purposes of this
869 subparagraph (a)(vi), the provision of Section 41-7-193(1)
870 requiring substantial compliance with the projection of need as
871 reported in the current State Health Plan is waived. The total
872 number of beds that may be authorized under the authority of this
873 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
874 shall be no prohibition or restrictions on participation in the
875 Medicaid program (Section 43-13-101 et seq.) for the hospital
876 receiving the certificate of need authorized under this
877 subparagraph (a)(vi) or for the beds converted pursuant to the

878 authority of that certificate of need.

879 (b) From and after July 1, 1990, no hospital,
880 psychiatric hospital or chemical dependency hospital shall be
881 authorized to add any child/adolescent psychiatric or
882 child/adolescent chemical dependency beds or convert any beds of
883 another category to child/adolescent psychiatric or
884 child/adolescent chemical dependency beds without a certificate of
885 need under the authority of subsection (1)(c) of this section.

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

889 (6) The State Department of Health shall issue a certificate
890 of need to a Mississippi corporation qualified to manage a
891 long-term care hospital as defined in Section 41-7-173(h)(xii) in
892 Harrison County, not to exceed eighty (80) beds, including any
893 necessary renovation or construction required for licensure and
894 certification, provided that the recipient of the certificate of
895 need agrees in writing that the long-term care hospital will not
896 at any time participate in the Medicaid program (Section 43-13-101
897 et seq.) or admit or keep any patients in the long-term care
898 hospital who are participating in the Medicaid program. This
899 written agreement by the recipient of the certificate of need
900 shall be fully binding on any subsequent owner of the long-term
901 care hospital, if the ownership of the facility is transferred at
902 any time after the issuance of the certificate of need. Agreement
903 that the long-term care hospital will not participate in the
904 Medicaid program shall be a condition of the issuance of a
905 certificate of need to any person under this subsection (6), and
906 if such long-term care hospital at any time after the issuance of
907 the certificate of need, regardless of the ownership of the

908 facility, participates in the Medicaid program or admits or keeps
909 any patients in the facility who are participating in the Medicaid
910 program, the State Department of Health shall revoke the
911 certificate of need, if it is still outstanding, and shall deny or
912 revoke the license of the long-term care hospital, at the time
913 that the department determines, after a hearing complying with due
914 process, that the facility has failed to comply with any of the
915 conditions upon which the certificate of need was issued, as
916 provided in this subsection and in the written agreement by the
917 recipient of the certificate of need. For purposes of this
918 subsection, the provision of Section 41-7-193(1) requiring
919 substantial compliance with the projection of need as reported in
920 the current State Health Plan is hereby waived.

921 (7) The State Department of Health may issue a certificate
922 of need to any hospital in the state to utilize a portion of its
923 beds for the "swing-bed" concept. Any such hospital must be in
924 conformance with the federal regulations regarding such swing-bed
925 concept at the time it submits its application for a certificate
926 of need to the State Department of Health, except that such
927 hospital may have more licensed beds or a higher average daily
928 census (ADC) than the maximum number specified in federal
929 regulations for participation in the swing-bed program. Any
930 hospital meeting all federal requirements for participation in the
931 swing-bed program which receives such certificate of need shall
932 render services provided under the swing-bed concept to any
933 patient eligible for Medicare (Title XVIII of the Social Security
934 Act) who is certified by a physician to be in need of such
935 services, and no such hospital shall permit any patient who is
936 eligible for both Medicaid and Medicare or eligible only for
937 Medicaid to stay in the swing beds of the hospital for more than

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

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

963 (9) The Department of Health shall not grant approval for or
964 issue a certificate of need to any person proposing the
965 establishment of, or expansion of the currently approved territory
966 of, or the contracting to establish a home office, subunit or
967 branch office within the space operated as a health care facility

968 as defined in Section 41-7-173(h)(i) through (viii) by a health
969 care facility as defined in subparagraph (ix) of Section
970 41-7-173(h).

971 (10) Health care facilities owned and/or operated by the
972 state or its agencies are exempt from the restraints in this
973 section against issuance of a certificate of need if such addition
974 or expansion consists of repairing or renovation necessary to
975 comply with the state licensure law. This exception shall not
976 apply to the new construction of any building by such state
977 facility. This exception shall not apply to any health care
978 facilities owned and/or operated by counties, municipalities,
979 districts, unincorporated areas, other defined persons, or any
980 combination thereof.

981 (11) The new construction, renovation or expansion of or
982 addition to any health care facility defined in subparagraph (ii)
983 (psychiatric hospital), subparagraph (iv) (skilled nursing
984 facility), subparagraph (vi) (intermediate care facility),
985 subparagraph (viii) (intermediate care facility for the mentally
986 retarded) and subparagraph (x) (psychiatric residential treatment
987 facility) of Section 41-7-173(h) which is owned by the State of
988 Mississippi and under the direction and control of the State
989 Department of Mental Health, and the addition of new beds or the
990 conversion of beds from one category to another in any such
991 defined health care facility which is owned by the State of
992 Mississippi and under the direction and control of the State
993 Department of Mental Health, shall not require the issuance of a
994 certificate of need under Section 41-7-171 et seq.,
995 notwithstanding any provision in Section 41-7-171 et seq. to the
996 contrary.

997 (12) The new construction, renovation or expansion of or

998 addition to any veterans homes or domiciliaries for eligible
999 veterans of the State of Mississippi as authorized under Section
1000 35-1-19 shall not require the issuance of a certificate of need,
1001 notwithstanding any provision in Section 41-7-171 et seq. to the
1002 contrary.

1003 (13) The new construction of a nursing facility or nursing
1004 facility beds or the conversion of other beds to nursing facility
1005 beds shall not require the issuance of a certificate of need,
1006 notwithstanding any provision in Section 41-7-171 et seq. to the
1007 contrary, if the conditions of this subsection are met.

1008 (a) Before any construction or conversion may be
1009 undertaken without a certificate of need, the owner of the nursing
1010 facility, in the case of an existing facility, or the applicant to
1011 construct a nursing facility, in the case of new construction,
1012 first must file a written notice of intent and sign a written
1013 agreement with the State Department of Health that the entire
1014 nursing facility will not at any time participate in or have any
1015 beds certified for participation in the Medicaid program (Section
1016 43-13-101 et seq.), will not admit or keep any patients in the
1017 nursing facility who are participating in the Medicaid program,
1018 and will not submit any claim for Medicaid reimbursement for any
1019 patient in the facility. This written agreement by the owner or
1020 applicant shall be a condition of exercising the authority under
1021 this subsection without a certificate of need, and the agreement
1022 shall be fully binding on any subsequent owner of the nursing
1023 facility if the ownership of the facility is transferred at any
1024 time after the agreement is signed. After the written agreement
1025 is signed, the Division of Medicaid and the State Department of
1026 Health shall not certify any beds in the nursing facility for
1027 participation in the Medicaid program. If the nursing facility

1028 violates the terms of the written agreement by participating in
1029 the Medicaid program, having any beds certified for participation
1030 in the Medicaid program, admitting or keeping any patient in the
1031 facility who is participating in the Medicaid program, or
1032 submitting any claim for Medicaid reimbursement for any patient in
1033 the facility, the State Department of Health shall revoke the
1034 license of the nursing facility at the time that the department
1035 determines, after a hearing complying with due process, that the
1036 facility has violated the terms of the written agreement.

1037 (b) For the purposes of this subsection, participation
1038 in the Medicaid program by a nursing facility includes Medicaid
1039 reimbursement of coinsurance and deductibles for recipients who
1040 are qualified Medicare beneficiaries and/or those who are dually
1041 eligible. Any nursing facility exercising the authority under
1042 this subsection may not bill or submit a claim to the Division of
1043 Medicaid for services to qualified Medicare beneficiaries and/or
1044 those who are dually eligible.

1045 (c) The new construction of a nursing facility or
1046 nursing facility beds or the conversion of other beds to nursing
1047 facility beds described in this section must be either a part of a
1048 completely new continuing care retirement community, as described
1049 in the latest edition of the Mississippi State Health Plan, or an
1050 addition to existing personal care and independent living
1051 components, and so that the completed project will be a continuing
1052 care retirement community, containing (i) independent living
1053 accommodations, (ii) personal care beds, and (iii) the nursing
1054 home facility beds. The three (3) components must be located on a
1055 single site and be operated as one (1) inseparable facility. The
1056 nursing facility component must contain a minimum of thirty (30)
1057 beds. Any nursing facility beds authorized by this section will

1058 not be counted against the bed need set forth in the State Health
1059 Plan, as identified in Section 41-7-171, et seq.

1060 This subsection (13) shall stand repealed from and after July
1061 1, 2005.

1062 (14) The State Department of Health shall issue a
1063 certificate of need to any hospital which is currently licensed
1064 for two hundred fifty (250) or more acute care beds and is located
1065 in any general hospital service area not having a comprehensive
1066 cancer center, for the establishment and equipping of such a
1067 center which provides facilities and services for outpatient
1068 radiation oncology therapy, outpatient medical oncology therapy,
1069 and appropriate support services including the provision of
1070 radiation therapy services. The provision of Section 41-7-193(1)
1071 regarding substantial compliance with the projection of need as
1072 reported in the current State Health Plan is waived for the
1073 purpose of this subsection.

1074 (15) Nothing in this section or in any other provision of
1075 Section 41-7-171 et seq. shall prevent any nursing facility from
1076 designating an appropriate number of existing beds in the facility
1077 as beds for providing care exclusively to patients with
1078 Alzheimer's disease.

1079 (16) The State Department of Health may authorize the
1080 transfer of hospital beds, not to exceed sixty (60) beds, from the
1081 North Panola Community Hospital to the South Panola Community
1082 Hospital. The authorization for the transfer of those beds shall
1083 be exempt from the certificate of need review process.

1084 SECTION 2. This act shall take effect and be in force from
1085 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR ADDITIONAL
3 ADOLESCENT PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS IN
4 LAUDERDALE COUNTY; TO DIRECT THE STATE DEPARTMENT OF HEALTH TO
5 TRANSFER CERTAIN CERTIFICATES OF NEED AUTHORIZING PSYCHIATRIC
6 RESIDENTIAL TREATMENT FACILITY BEDS AND CHILD/ADOLESCENT
7 PSYCHIATRIC BEDS IN WARREN COUNTY; TO PROVIDE THAT CERTAIN
8 COUNTY-OWNED HOSPITALS SHALL HAVE PRIORITY IN APPLYING FOR
9 CERTIFICATES OF NEED FOR NURSING FACILITY BEDS; TO ALLOW THE STATE
10 DEPARTMENT OF HEALTH TO AUTHORIZE THE TRANSFER OF UP TO 60
11 HOSPITAL BEDS FROM THE NORTH PANOLA COMMUNITY HOSPITAL TO THE
12 SOUTH PANOLA COMMUNITY HOSPITAL AND TO PROVIDE THAT THE
13 AUTHORIZATION FOR THE TRANSFER OF THOSE BEDS SHALL BE EXEMPT FROM
14 THE CERTIFICATE OF NEED REVIEW PROCESS; TO REVISE THE EXEMPTION
15 FROM THE REQUIREMENT FOR A CERTIFICATE OF NEED FOR THE RELOCATION
16 OF A HEALTH CARE FACILITY OR MAJOR MEDICAL EQUIPMENT; TO EXTEND
17 THE AUTOMATIC REPEALER ON THE EXEMPTION FROM THE REQUIREMENT OF A
18 CERTIFICATE OF NEED FOR CERTAIN PRIVATE-PAY RETIREMENT FACILITIES;
19 AND FOR RELATED PURPOSES.