

By: Senator(s) Ross, Moffatt, Michel

To: Public Health and Welfare

SENATE BILL NO. 2488

1 AN ACT TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ACUTE CARE HOSPITALS AND AMBULATORY SURGICAL  
3 FACILITIES SHALL NOT BE SUBJECT TO THE PROVISIONS OF THE  
4 MISSISSIPPI HEALTH CARE CERTIFICATE OF NEED LAW AND ARE EXEMPT  
5 FROM THE CERTIFICATE OF NEED PROCESS; TO AMEND SECTION 41-7-191,  
6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE OFFERING OF CERTAIN  
7 HEALTH SERVICES BY HOSPITALS ARE NOT SUBJECT TO CERTIFICATE OF  
8 NEED REQUIREMENTS AND ARE EXEMPT FROM THE CERTIFICATE OF NEED  
9 PROCESS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is  
12 amended as follows:

13 41-7-173. For the purposes of Section 41-7-171 et seq., the  
14 following words shall have the meanings ascribed herein, unless  
15 the context otherwise requires:

16 (a) "Affected person" means (i) the applicant; (ii) a  
17 person residing within the geographic area to be served by the  
18 applicant's proposal; (iii) a person who regularly uses health  
19 care facilities or HMO's located in the geographic area of the  
20 proposal which provide similar service to that which is proposed;  
21 (iv) health care facilities and HMO's which have, prior to receipt  
22 of the application under review, formally indicated an intention  
23 to provide service similar to that of the proposal being  
24 considered at a future date; (v) third-party payers who reimburse  
25 health care facilities located in the geographical area of the  
26 proposal; or (vi) any agency that establishes rates for health  
27 care services or HMO's located in the geographic area of the  
28 proposal.

29 (b) "Certificate of need" means a written order of the  
30 State Department of Health setting forth the affirmative finding

31 that a proposal in prescribed application form, sufficiently  
32 satisfies the plans, standards and criteria prescribed for such  
33 service or other project by Section 41-7-171 et seq., and by rules  
34 and regulations promulgated thereunder by the State Department of  
35 Health.

36 (c) (i) "Capital expenditure" when pertaining to  
37 defined major medical equipment, shall mean an expenditure which,  
38 under generally accepted accounting principles consistently  
39 applied, is not properly chargeable as an expense of operation and  
40 maintenance and which exceeds One Million Five Hundred Thousand  
41 Dollars (\$1,500,000.00).

42 (ii) "Capital expenditure," when pertaining to  
43 other than major medical equipment, shall mean any expenditure  
44 which under generally accepted accounting principles consistently  
45 applied is not properly chargeable as an expense of operation and  
46 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

47 (iii) A "capital expenditure" shall include the  
48 acquisition, whether by lease, sufferance, gift, devise, legacy,  
49 settlement of a trust or other means, of any facility or part  
50 thereof, or equipment for a facility, the expenditure for which  
51 would have been considered a capital expenditure if acquired by  
52 purchase. Transactions which are separated in time but are  
53 planned to be undertaken within twelve (12) months of each other  
54 and are components of an overall plan for meeting patient care  
55 objectives shall, for purposes of this definition, be viewed in  
56 their entirety without regard to their timing.

57 (iv) In those instances where a health care  
58 facility or other provider of health services proposes to provide  
59 a service in which the capital expenditure for major medical  
60 equipment or other than major medical equipment or a combination  
61 of the two (2) may have been split between separate parties, the  
62 total capital expenditure required to provide the proposed service  
63 shall be considered in determining the necessity of certificate of

64 need review and in determining the appropriate certificate of need  
65 review fee to be paid. The capital expenditure associated with  
66 facilities and equipment to provide services in Mississippi shall  
67 be considered regardless of where the capital expenditure was  
68 made, in state or out of state, and regardless of the domicile of  
69 the party making the capital expenditure, in state or out of  
70 state.

71           (d) "Change of ownership" includes, but is not limited  
72 to, inter vivos gifts, purchases, transfers, lease arrangements,  
73 cash and/or stock transactions or other comparable arrangements  
74 whenever any person or entity acquires or controls a majority  
75 interest of the facility or service. Changes of ownership from  
76 partnerships, single proprietorships or corporations to another  
77 form of ownership are specifically included. However, "change of  
78 ownership" shall not include any inherited interest acquired as a  
79 result of a testamentary instrument or under the laws of descent  
80 and distribution of the State of Mississippi.

81           (e) "Commencement of construction" means that all of  
82 the following have been completed with respect to a proposal or  
83 project proposing construction, renovating, remodeling or  
84 alteration:

85           (i) A legally binding written contract has been  
86 consummated by the proponent and a lawfully licensed contractor to  
87 construct and/or complete the intent of the proposal within a  
88 specified period of time in accordance with final architectural  
89 plans which have been approved by the licensing authority of the  
90 State Department of Health;

91           (ii) Any and all permits and/or approvals deemed  
92 lawfully necessary by all authorities with responsibility for such  
93 have been secured; and

94           (iii) Actual bona fide undertaking of the subject  
95 proposal has commenced, and a progress payment of at least one  
96 percent (1%) of the total cost price of the contract has been paid

97 to the contractor by the proponent, and the requirements of this  
98 paragraph (e) have been certified to in writing by the State  
99 Department of Health.

100 Force account expenditures, such as deposits, securities,  
101 bonds, et cetera, may, in the discretion of the State Department  
102 of Health, be excluded from any or all of the provisions of  
103 defined commencement of construction.

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

107 (g) "Develop," when used in connection with health  
108 services, means to undertake those activities which, on their  
109 completion, will result in the offering of a new institutional  
110 health service or the incurring of a financial obligation as  
111 defined under applicable state law in relation to the offering of  
112 such services.

113 (h) "Health care facility" includes \* \* \* psychiatric  
114 hospitals, chemical dependency hospitals, skilled nursing  
115 facilities, end stage renal disease (ESRD) facilities, including  
116 freestanding hemodialysis units, intermediate care  
117 facilities, \* \* \* intermediate care facilities for the mentally  
118 retarded, home health agencies, psychiatric residential treatment  
119 facilities, pediatric skilled nursing facilities, long-term care  
120 hospitals, comprehensive medical rehabilitation facilities,  
121 including facilities owned or operated by the state or a political  
122 subdivision or instrumentality of the state, but does not include  
123 Christian Science sanatoriums operated or listed and certified by  
124 the First Church of Christ, Scientist, Boston, Massachusetts.  
125 This definition shall not apply to facilities for the private  
126 practice, either independently or by incorporated medical groups,  
127 of physicians, dentists or health care professionals except where  
128 such facilities are an integral part of an institutional health  
129 service. This definition shall not apply to acute care hospitals

130 or ambulatory surgical facilities, which are exempt from the  
131 certificate of need process. The various health care facilities  
132 listed in this paragraph shall be defined as follows:

133                   (i) (Deleted)

134                   (ii) "Psychiatric hospital" means an institution  
135 which is primarily engaged in providing to inpatients, by or under  
136 the supervision of a physician, psychiatric services for the  
137 diagnosis and treatment of mentally ill persons.

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

143                   (iv) "Skilled nursing facility" means an  
144 institution or a distinct part of an institution which is  
145 primarily engaged in providing to inpatients skilled nursing care  
146 and related services for patients who require medical or nursing  
147 care or rehabilitation services for the rehabilitation of injured,  
148 disabled or sick persons.

149                   (v) "End stage renal disease (ESRD) facilities"  
150 means kidney disease treatment centers, which includes  
151 freestanding hemodialysis units and limited care facilities. The  
152 term "limited care facility" generally refers to an  
153 off-hospital-premises facility, regardless of whether it is  
154 provider or nonprovider operated, which is engaged primarily in  
155 furnishing maintenance hemodialysis services to stabilized  
156 patients.

157                   (vi) "Intermediate care facility" means an  
158 institution which provides, on a regular basis, health related  
159 care and services to individuals who do not require the degree of  
160 care and treatment which a hospital or skilled nursing facility is  
161 designed to provide, but who, because of their mental or physical

162 condition, require health related care and services (above the  
163 level of room and board).

164 (vii) (Deleted)

165 (viii) "Intermediate care facility for the  
166 mentally retarded" means an intermediate care facility that  
167 provides health or rehabilitative services in a planned program of  
168 activities to the mentally retarded, also including, but not  
169 limited to, cerebral palsy and other conditions covered by the  
170 Federal Developmentally Disabled Assistance and Bill of Rights  
171 Act, Public Law 94-103.

172 (ix) "Home health agency" means a public or  
173 privately owned agency or organization, or a subdivision of such  
174 an agency or organization, properly authorized to conduct business  
175 in Mississippi, which is primarily engaged in providing to  
176 individuals at the written direction of a licensed physician, in  
177 the individual's place of residence, skilled nursing services  
178 provided by or under the supervision of a registered nurse  
179 licensed to practice in Mississippi, and one or more of the  
180 following services or items:

- 181 1. Physical, occupational or speech therapy;
- 182 2. Medical social services;
- 183 3. Part-time or intermittent services of a  
184 home health aide;
- 185 4. Other services as approved by the  
186 licensing agency for home health agencies;
- 187 5. Medical supplies, other than drugs and  
188 biologicals, and the use of medical appliances; or
- 189 6. Medical services provided by an intern or  
190 resident-in-training at a hospital under a teaching program of  
191 such hospital.

192 Further, all skilled nursing services and those services  
193 listed in items 1. through 4. of this subparagraph (ix) must be  
194 provided directly by the licensed home health agency. For

195 purposes of this subparagraph, "directly" means either through an  
196 agency employee or by an arrangement with another individual not  
197 defined as a health care facility.

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

201 (x) "Psychiatric residential treatment facility"  
202 means any nonhospital establishment with permanent licensed  
203 facilities which provides a twenty-four-hour program of care by  
204 qualified therapists including, but not limited to, duly licensed  
205 mental health professionals, psychiatrists, psychologists,  
206 psychotherapists and licensed certified social workers, for  
207 emotionally disturbed children and adolescents referred to such  
208 facility by a court, local school district or by the Department of  
209 Human Services, who are not in an acute phase of illness requiring  
210 the services of a psychiatric hospital, and are in need of such  
211 restorative treatment services. For purposes of this paragraph,  
212 the term "emotionally disturbed" means a condition exhibiting one  
213 or more of the following characteristics over a long period of  
214 time and to a marked degree, which adversely affects educational  
215 performance:

- 216 1. An inability to learn which cannot be  
217 explained by intellectual, sensory or health factors;
- 218 2. An inability to build or maintain  
219 satisfactory relationships with peers and teachers;
- 220 3. Inappropriate types of behavior or  
221 feelings under normal circumstances;
- 222 4. A general pervasive mood of unhappiness or  
223 depression; or
- 224 5. A tendency to develop physical symptoms or  
225 fears associated with personal or school problems. An  
226 establishment furnishing primarily domiciliary care is not within  
227 this definition.

228 (xi) "Pediatric skilled nursing facility" means an  
229 institution or a distinct part of an institution that is primarily  
230 engaged in providing to inpatients skilled nursing care and  
231 related services for persons under twenty-one (21) years of age  
232 who require medical or nursing care or rehabilitation services for  
233 the rehabilitation of injured, disabled or sick persons.

234 (xii) "Long-term care hospital" means a  
235 freestanding, Medicare-certified hospital that has an average  
236 length of inpatient stay greater than twenty-five (25) days, which  
237 is primarily engaged in providing chronic or long-term medical  
238 care to patients who do not require more than three (3) hours of  
239 rehabilitation or comprehensive rehabilitation per day, and has a  
240 transfer agreement with an acute care medical center and a  
241 comprehensive medical rehabilitation facility. Long-term care  
242 hospitals shall not use rehabilitation, comprehensive medical  
243 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
244 nursing home, skilled nursing facility, or sub-acute care facility  
245 in association with its name.

246 (xiii) "Comprehensive medical rehabilitation  
247 facility" means a hospital or hospital unit that is licensed  
248 and/or certified as a comprehensive medical rehabilitation  
249 facility which provides specialized programs that are accredited  
250 by the Commission on Accreditation of Rehabilitation Facilities  
251 and supervised by a physician board certified or board eligible in  
252 Physiatry or other doctor of medicine or osteopathy with at least  
253 two (2) years of training in the medical direction of a  
254 comprehensive rehabilitation program that:

255 1. Includes evaluation and treatment of  
256 individuals with physical disabilities;

257 2. Emphasizes education and training of  
258 individuals with disabilities;

259 3. Incorporates at least the following core  
260 disciplines:



- 261 (i) Physical Therapy;  
262 (ii) Occupational Therapy;  
263 (iii) Speech and Language Therapy;  
264 (iv) Rehabilitation Nursing; and

265 4. Incorporates at least three (3) of the  
266 following disciplines:

- 267 (i) Psychology;  
268 (ii) Audiology;  
269 (iii) Respiratory Therapy;  
270 (iv) Therapeutic Recreation;  
271 (v) Orthotics;  
272 (vi) Prosthetics;  
273 (vii) Special Education;  
274 (viii) Vocational Rehabilitation;  
275 (ix) Psychotherapy;  
276 (x) Social Work;  
277 (xi) Rehabilitation Engineering.

278 These specialized programs include, but are not limited to:  
279 spinal cord injury programs, head injury programs and infant and  
280 early childhood development programs.

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

284 (i) Provides or otherwise makes available to  
285 enrolled participants health care services, including  
286 substantially the following basic health care services: usual  
287 physician services, hospitalization, laboratory, x-ray, emergency  
288 and preventive services, and out-of-area coverage;

289 (ii) Is compensated (except for copayments) for  
290 the provision of the basic health care services listed in  
291 subparagraph (i) of this paragraph to enrolled participants on a  
292 predetermined basis; and

293 (iii) Provides physician services primarily:

294                   1. Directly through physicians who are either  
295 employees or partners of such organization; or

296                   2. Through arrangements with individual  
297 physicians or one or more groups of physicians (organized on a  
298 group practice or individual practice basis).

299                   (j) "Health service area" means a geographic area of  
300 the state designated in the State Health Plan as the area to be  
301 used in planning for specified health facilities and services and  
302 to be used when considering certificate of need applications to  
303 provide health facilities and services.

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

307                   (l) "Institutional health services" shall mean health  
308 services provided in or through health care facilities and shall  
309 include the entities in or through which such services are  
310 provided.

311                   (m) "Major medical equipment" means medical equipment  
312 designed for providing medical or any health related service which  
313 costs in excess of One Million Five Hundred Thousand Dollars  
314 (\$1,500,000.00). However, this definition shall not be applicable  
315 to clinical laboratories if they are determined by the State  
316 Department of Health to be independent of any physician's office,  
317 hospital or other health care facility or otherwise not so defined  
318 by federal or state law, or rules and regulations promulgated  
319 thereunder.

320                   (n) "State Department of Health" shall mean the state  
321 agency created under Section 41-3-15, which shall be considered to  
322 be the State Health Planning and Development Agency, as defined in  
323 paragraph (t) of this section.

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

326 Department of Health that the health care facility is capable of  
327 providing specified health services.

328 (p) "Person" means an individual, a trust or estate,  
329 partnership, corporation (including associations, joint stock  
330 companies and insurance companies), the state or a political  
331 subdivision or instrumentality of the state.

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

336 (r) "Secretary" means the Secretary of Health and Human  
337 Services, and any officer or employee of the Department of Health  
338 and Human Services to whom the authority involved has been  
339 delegated.

340 (s) "State Health Plan" means the sole and official  
341 statewide health plan for Mississippi which identifies priority  
342 state health needs and establishes standards and criteria for  
343 health-related activities which require certificate of need review  
344 in compliance with Section 41-7-191.

345 (t) "State Health Planning and Development Agency"  
346 means the agency of state government designated to perform health  
347 planning and resource development programs for the State of  
348 Mississippi.

349 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is  
350 amended as follows:

351 41-7-191. (1) No person shall engage in any of the  
352 following activities without obtaining the required certificate of  
353 need:

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

356 (b) The relocation of a health care facility or portion  
357 thereof, or major medical equipment, unless such relocation of a  
358 health care facility or portion thereof, or major medical

359 equipment, which does not involve a capital expenditure by or on  
360 behalf of a health care facility, is within five thousand two  
361 hundred eighty (5,280) feet from the main entrance of the health  
362 care facility;

363 (c) Any change in the existing bed complement of any  
364 health care facility through the addition or conversion of any  
365 beds or the alteration, modernizing or refurbishing of any unit or  
366 department in which the beds may be located; however, if a health  
367 care facility has voluntarily delicensed some of its existing bed  
368 complement, it may later relicense some or all of its delicensed  
369 beds without the necessity of having to acquire a certificate of  
370 need. The State Department of Health shall maintain a record of  
371 the delicensing health care facility and its voluntarily  
372 delicensed beds and continue counting those beds as part of the  
373 state's total bed count for health care planning purposes. If a  
374 health care facility that has voluntarily delicensed some of its  
375 beds later desires to relicense some or all of its voluntarily  
376 delicensed beds, it shall notify the State Department of Health of  
377 its intent to increase the number of its licensed beds. The State  
378 Department of Health shall survey the health care facility within  
379 thirty (30) days of that notice and, if appropriate, issue the  
380 health care facility a new license reflecting the new contingent  
381 of beds. However, in no event may a health care facility that has  
382 voluntarily delicensed some of its beds be reissued a license to  
383 operate beds in excess of its bed count before the voluntary  
384 delicensure of some of its beds without seeking certificate of  
385 need approval;

386 (d) (Deleted)

387 (e) The relocation of one or more health services from  
388 one physical facility or site to another physical facility or  
389 site, unless such relocation, which does not involve a capital  
390 expenditure by or on behalf of a health care facility, (i) is to a  
391 physical facility or site within one thousand three hundred twenty

392 (1,320) feet from the main entrance of the health care facility  
393 where the health care service is located, or (ii) is the result of  
394 an order of a court of appropriate jurisdiction or a result of  
395 pending litigation in such court, or by order of the State  
396 Department of Health, or by order of any other agency or legal  
397 entity of the state, the federal government, or any political  
398 subdivision of either, whose order is also approved by the State  
399 Department of Health;

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

410 (g) Changes of ownership of existing health care  
411 facilities in which a notice of intent is not filed with the State  
412 Department of Health at least thirty (30) days prior to the date  
413 such change of ownership occurs, or a change in services or bed  
414 capacity as prescribed in paragraph (c) or (d) of this subsection  
415 as a result of the change of ownership; an acquisition for less  
416 than fair market value must be reviewed, if the acquisition at  
417 fair market value would be subject to review;

418 (h) The change of ownership of any health care facility  
419 defined in subparagraphs (iv), (vi) and (viii) of Section  
420 41-7-173(h), in which a notice of intent as described in paragraph  
421 (g) has not been filed and if the Executive Director, Division of  
422 Medicaid, Office of the Governor, has not certified in writing  
423 that there will be no increase in allowable costs to Medicaid from

424 revaluation of the assets or from increased interest and  
425 depreciation as a result of the proposed change of ownership;

426 (i) Any activity described in paragraphs (a) through  
427 (h) if undertaken by any person if that same activity would  
428 require certificate of need approval if undertaken by a health  
429 care facility;

430 (j) Any capital expenditure or deferred capital  
431 expenditure by or on behalf of a health care facility not covered  
432 by paragraphs (a) through (h);

433 (k) The contracting of a health care facility as  
434 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
435 to establish a home office, subunit, or branch office in the space  
436 operated as a health care facility through a formal arrangement  
437 with an existing health care facility as defined in subparagraph  
438 (ix) of Section 41-7-173(h).

439 (2) The State Department of Health shall not grant approval  
440 for or issue a certificate of need to any person proposing the new  
441 construction of, addition to, or expansion of any health care  
442 facility defined in subparagraphs (iv) (skilled nursing facility)  
443 and (vi) (intermediate care facility) of Section  
444 41-7-173(h) \* \* \*, except as hereinafter authorized:

445 (a) The department may issue a certificate of need to  
446 any person proposing the new construction of any health care  
447 facility defined in subparagraphs (iv) and (vi) of Section  
448 41-7-173(h) as part of a life care retirement facility, in any  
449 county bordering on the Gulf of Mexico in which is located a  
450 National Aeronautics and Space Administration facility, not to  
451 exceed forty (40) beds. From and after July 1, 1999, there shall  
452 be no prohibition or restrictions on participation in the Medicaid  
453 program (Section 43-13-101 et seq.) for the beds in the health  
454 care facility that were authorized under this paragraph (a).

455 (b) The department may issue certificates of need in  
456 Harrison County to provide skilled nursing home care for

457 Alzheimer's disease patients and other patients, not to exceed one  
458 hundred fifty (150) beds. From and after July 1, 1999, there  
459 shall be no prohibition or restrictions on participation in the  
460 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
461 nursing facilities that were authorized under this paragraph (b).

462 (c) The department may issue a certificate of need for  
463 the addition to or expansion of any skilled nursing facility that  
464 is part of an existing continuing care retirement community  
465 located in Madison County, provided that the recipient of the  
466 certificate of need agrees in writing that the skilled nursing  
467 facility will not at any time participate in the Medicaid program  
468 (Section 43-13-101 et seq.) or admit or keep any patients in the  
469 skilled nursing facility who are participating in the Medicaid  
470 program. This written agreement by the recipient of the  
471 certificate of need shall be fully binding on any subsequent owner  
472 of the skilled nursing facility, if the ownership of the facility  
473 is transferred at any time after the issuance of the certificate  
474 of need. Agreement that the skilled nursing facility will not  
475 participate in the Medicaid program shall be a condition of the  
476 issuance of a certificate of need to any person under this  
477 paragraph (c), and if such skilled nursing facility at any time  
478 after the issuance of the certificate of need, regardless of the  
479 ownership of the facility, participates in the Medicaid program or  
480 admits or keeps any patients in the facility who are participating  
481 in the Medicaid program, the State Department of Health shall  
482 revoke the certificate of need, if it is still outstanding, and  
483 shall deny or revoke the license of the skilled nursing facility,  
484 at the time that the department determines, after a hearing  
485 complying with due process, that the facility has failed to comply  
486 with any of the conditions upon which the certificate of need was  
487 issued, as provided in this paragraph and in the written agreement  
488 by the recipient of the certificate of need. The total number of

489 beds that may be authorized under the authority of this paragraph  
490 (c) shall not exceed sixty (60) beds.

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

499 (e) The State Department of Health may issue a  
500 certificate of need for the construction of a nursing facility or  
501 the conversion of beds to nursing facility beds at a personal care  
502 facility for the elderly in Lowndes County that is owned and  
503 operated by a Mississippi nonprofit corporation, not to exceed  
504 sixty (60) beds. From and after July 1, 1999, there shall be no  
505 prohibition or restrictions on participation in the Medicaid  
506 program (Section 43-13-101 et seq.) for the beds in the nursing  
507 facility that were authorized under this paragraph (e).

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

516 (g) The State Department of Health may issue a  
517 certificate of need for the construction or expansion of nursing  
518 facility beds or the conversion of other beds to nursing facility  
519 beds in either Hinds, Madison or Rankin County, not to exceed  
520 sixty (60) beds. From and after July 1, 1999, there shall be no  
521 prohibition or restrictions on participation in the Medicaid



522 program (Section 43-13-101 et seq.) for the beds in the nursing  
523 facility that were authorized under this paragraph (g).

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

532 (i) The department may issue a certificate of need for  
533 the new construction of a skilled nursing facility in Leake  
534 County, provided that the recipient of the certificate of need  
535 agrees in writing that the skilled nursing facility will not at  
536 any time participate in the Medicaid program (Section 43-13-101 et  
537 seq.) or admit or keep any patients in the skilled nursing  
538 facility who are participating in the Medicaid program. This  
539 written agreement by the recipient of the certificate of need  
540 shall be fully binding on any subsequent owner of the skilled  
541 nursing facility, if the ownership of the facility is transferred  
542 at any time after the issuance of the certificate of need.  
543 Agreement that the skilled nursing facility will not participate  
544 in the Medicaid program shall be a condition of the issuance of a  
545 certificate of need to any person under this paragraph (i), and if  
546 such skilled nursing facility at any time after the issuance of  
547 the certificate of need, regardless of the ownership of the  
548 facility, participates in the Medicaid program or admits or keeps  
549 any patients in the facility who are participating in the Medicaid  
550 program, the State Department of Health shall revoke the  
551 certificate of need, if it is still outstanding, and shall deny or  
552 revoke the license of the skilled nursing facility, at the time  
553 that the department determines, after a hearing complying with due  
554 process, that the facility has failed to comply with any of the

555 conditions upon which the certificate of need was issued, as  
556 provided in this paragraph and in the written agreement by the  
557 recipient of the certificate of need. The provision of Section  
558 43-7-193(1) regarding substantial compliance of the projection of  
559 need as reported in the current State Health Plan is waived for  
560 the purposes of this paragraph. The total number of nursing  
561 facility beds that may be authorized by any certificate of need  
562 issued under this paragraph (i) shall not exceed sixty (60) beds.  
563 If the skilled nursing facility authorized by the certificate of  
564 need issued under this paragraph is not constructed and fully  
565 operational within eighteen (18) months after July 1, 1994, the  
566 State Department of Health, after a hearing complying with due  
567 process, shall revoke the certificate of need, if it is still  
568 outstanding, and shall not issue a license for the skilled nursing  
569 facility at any time after the expiration of the eighteen-month  
570 period.

571 (j) The department may issue certificates of need to  
572 allow any existing freestanding long-term care facility in  
573 Tishomingo County and Hancock County that on July 1, 1995, is  
574 licensed with fewer than sixty (60) beds. For the purposes of  
575 this paragraph (j), the provision of Section 41-7-193(1) requiring  
576 substantial compliance with the projection of need as reported in  
577 the current State Health Plan is waived. From and after July 1,  
578 1999, there shall be no prohibition or restrictions on  
579 participation in the Medicaid program (Section 43-13-101 et seq.)  
580 for the beds in the long-term care facilities that were authorized  
581 under this paragraph (j).

582 (k) The department may issue a certificate of need for  
583 the construction of a nursing facility at a continuing care  
584 retirement community in Lowndes County. The total number of beds  
585 that may be authorized under the authority of this paragraph (k)  
586 shall not exceed sixty (60) beds. From and after July 1, 2001,  
587 the prohibition on the facility participating in the Medicaid

588 program (Section 43-13-101 et seq.) that was a condition of  
589 issuance of the certificate of need under this paragraph (k) shall  
590 be revised as follows: The nursing facility may participate in  
591 the Medicaid program from and after July 1, 2001, if the owner of  
592 the facility on July 1, 2001, agrees in writing that no more than  
593 thirty (30) of the beds at the facility will be certified for  
594 participation in the Medicaid program, and that no claim will be  
595 submitted for Medicaid reimbursement for more than thirty (30)  
596 patients in the facility in any month or for any patient in the  
597 facility who is in a bed that is not Medicaid-certified. This  
598 written agreement by the owner of the facility shall be a  
599 condition of licensure of the facility, and the agreement shall be  
600 fully binding on any subsequent owner of the facility if the  
601 ownership of the facility is transferred at any time after July 1,  
602 2001. After this written agreement is executed, the Division of  
603 Medicaid and the State Department of Health shall not certify more  
604 than thirty (30) of the beds in the facility for participation in  
605 the Medicaid program. If the facility violates the terms of the  
606 written agreement by admitting or keeping in the facility on a  
607 regular or continuing basis more than thirty (30) patients who are  
608 participating in the Medicaid program, the State Department of  
609 Health shall revoke the license of the facility, at the time that  
610 the department determines, after a hearing complying with due  
611 process, that the facility has violated the written agreement.

612 (1) Provided that funds are specifically appropriated  
613 therefor by the Legislature, the department may issue a  
614 certificate of need to a rehabilitation hospital in Hinds County  
615 for the construction of a sixty-bed long-term care nursing  
616 facility dedicated to the care and treatment of persons with  
617 severe disabilities including persons with spinal cord and  
618 closed-head injuries and ventilator-dependent patients. The  
619 provision of Section 41-7-193(1) regarding substantial compliance

620 with projection of need as reported in the current State Health  
621 Plan is hereby waived for the purpose of this paragraph.

622 (m) The State Department of Health may issue a  
623 certificate of need to a county-owned hospital in the Second  
624 Judicial District of Panola County for the conversion of not more  
625 than seventy-two (72) hospital beds to nursing facility beds,  
626 provided that the recipient of the certificate of need agrees in  
627 writing that none of the beds at the nursing facility will be  
628 certified for participation in the Medicaid program (Section  
629 43-13-101 et seq.), and that no claim will be submitted for  
630 Medicaid reimbursement in the nursing facility in any day or for  
631 any patient in the nursing facility. This written agreement by  
632 the recipient of the certificate of need shall be a condition of  
633 the issuance of the certificate of need under this paragraph, and  
634 the agreement shall be fully binding on any subsequent owner of  
635 the nursing facility if the ownership of the nursing facility is  
636 transferred at any time after the issuance of the certificate of  
637 need. After this written agreement is executed, the Division of  
638 Medicaid and the State Department of Health shall not certify any  
639 of the beds in the nursing facility for participation in the  
640 Medicaid program. If the nursing facility violates the terms of  
641 the written agreement by admitting or keeping in the nursing  
642 facility on a regular or continuing basis any patients who are  
643 participating in the Medicaid program, the State Department of  
644 Health shall revoke the license of the nursing facility, at the  
645 time that the department determines, after a hearing complying  
646 with due process, that the nursing facility has violated the  
647 condition upon which the certificate of need was issued, as  
648 provided in this paragraph and in the written agreement. If the  
649 certificate of need authorized under this paragraph is not issued  
650 within twelve (12) months after July 1, 2001, the department shall  
651 deny the application for the certificate of need and shall not  
652 issue the certificate of need at any time after the twelve-month

653 period, unless the issuance is contested. If the certificate of  
654 need is issued and substantial construction of the nursing  
655 facility beds has not commenced within eighteen (18) months after  
656 July 1, 2001, the State Department of Health, after a hearing  
657 complying with due process, shall revoke the certificate of need  
658 if it is still outstanding, and the department shall not issue a  
659 license for the nursing facility at any time after the  
660 eighteen-month period. Provided, however, that if the issuance of  
661 the certificate of need is contested, the department shall require  
662 substantial construction of the nursing facility beds within six  
663 (6) months after final adjudication on the issuance of the  
664 certificate of need.

665 (n) The department may issue a certificate of need for  
666 the new construction, addition or conversion of skilled nursing  
667 facility beds in Madison County, provided that the recipient of  
668 the certificate of need agrees in writing that the skilled nursing  
669 facility will not at any time participate in the Medicaid program  
670 (Section 43-13-101 et seq.) or admit or keep any patients in the  
671 skilled nursing facility who are participating in the Medicaid  
672 program. This written agreement by the recipient of the  
673 certificate of need shall be fully binding on any subsequent owner  
674 of the skilled nursing facility, if the ownership of the facility  
675 is transferred at any time after the issuance of the certificate  
676 of need. Agreement that the skilled nursing facility will not  
677 participate in the Medicaid program shall be a condition of the  
678 issuance of a certificate of need to any person under this  
679 paragraph (n), and if such skilled nursing facility at any time  
680 after the issuance of the certificate of need, regardless of the  
681 ownership of the facility, participates in the Medicaid program or  
682 admits or keeps any patients in the facility who are participating  
683 in the Medicaid program, the State Department of Health shall  
684 revoke the certificate of need, if it is still outstanding, and  
685 shall deny or revoke the license of the skilled nursing facility,

686 at the time that the department determines, after a hearing  
687 complying with due process, that the facility has failed to comply  
688 with any of the conditions upon which the certificate of need was  
689 issued, as provided in this paragraph and in the written agreement  
690 by the recipient of the certificate of need. The total number of  
691 nursing facility beds that may be authorized by any certificate of  
692 need issued under this paragraph (n) shall not exceed sixty (60)  
693 beds. If the certificate of need authorized under this paragraph  
694 is not issued within twelve (12) months after July 1, 1998, the  
695 department shall deny the application for the certificate of need  
696 and shall not issue the certificate of need at any time after the  
697 twelve-month period, unless the issuance is contested. If the  
698 certificate of need is issued and substantial construction of the  
699 nursing facility beds has not commenced within eighteen (18)  
700 months after the effective date of July 1, 1998, the State  
701 Department of Health, after a hearing complying with due process,  
702 shall revoke the certificate of need if it is still outstanding,  
703 and the department shall not issue a license for the nursing  
704 facility at any time after the eighteen-month period. Provided,  
705 however, that if the issuance of the certificate of need is  
706 contested, the department shall require substantial construction  
707 of the nursing facility beds within six (6) months after final  
708 adjudication on the issuance of the certificate of need.

709 (o) The department may issue a certificate of need for  
710 the new construction, addition or conversion of skilled nursing  
711 facility beds in Leake County, provided that the recipient of the  
712 certificate of need agrees in writing that the skilled nursing  
713 facility will not at any time participate in the Medicaid program  
714 (Section 43-13-101 et seq.) or admit or keep any patients in the  
715 skilled nursing facility who are participating in the Medicaid  
716 program. This written agreement by the recipient of the  
717 certificate of need shall be fully binding on any subsequent owner  
718 of the skilled nursing facility, if the ownership of the facility

719 is transferred at any time after the issuance of the certificate  
720 of need. Agreement that the skilled nursing facility will not  
721 participate in the Medicaid program shall be a condition of the  
722 issuance of a certificate of need to any person under this  
723 paragraph (o), and if such skilled nursing facility at any time  
724 after the issuance of the certificate of need, regardless of the  
725 ownership of the facility, participates in the Medicaid program or  
726 admits or keeps any patients in the facility who are participating  
727 in the Medicaid program, the State Department of Health shall  
728 revoke the certificate of need, if it is still outstanding, and  
729 shall deny or revoke the license of the skilled nursing facility,  
730 at the time that the department determines, after a hearing  
731 complying with due process, that the facility has failed to comply  
732 with any of the conditions upon which the certificate of need was  
733 issued, as provided in this paragraph and in the written agreement  
734 by the recipient of the certificate of need. The total number of  
735 nursing facility beds that may be authorized by any certificate of  
736 need issued under this paragraph (o) shall not exceed sixty (60)  
737 beds. If the certificate of need authorized under this paragraph  
738 is not issued within twelve (12) months after July 1, 2001, the  
739 department shall deny the application for the certificate of need  
740 and shall not issue the certificate of need at any time after the  
741 twelve-month period, unless the issuance is contested. If the  
742 certificate of need is issued and substantial construction of the  
743 nursing facility beds has not commenced within eighteen (18)  
744 months after the effective date of July 1, 2001, the State  
745 Department of Health, after a hearing complying with due process,  
746 shall revoke the certificate of need if it is still outstanding,  
747 and the department shall not issue a license for the nursing  
748 facility at any time after the eighteen-month period. Provided,  
749 however, that if the issuance of the certificate of need is  
750 contested, the department shall require substantial construction

751 of the nursing facility beds within six (6) months after final  
752 adjudication on the issuance of the certificate of need.

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

765 Agreement that the skilled nursing facility will not participate  
766 in the Medicaid program shall be a condition of the issuance of a  
767 certificate of need to any person under this paragraph (p), and if  
768 such skilled nursing facility at any time after the issuance of  
769 the certificate of need, regardless of the ownership of the  
770 facility, participates in the Medicaid program or admits or keeps  
771 any patients in the facility who are participating in the Medicaid  
772 program, the State Department of Health shall revoke the  
773 certificate of need, if it is still outstanding, and shall deny or  
774 revoke the license of the skilled nursing facility, at the time  
775 that the department determines, after a hearing complying with due  
776 process, that the facility has failed to comply with any of the  
777 conditions upon which the certificate of need was issued, as  
778 provided in this paragraph and in the written agreement by the  
779 recipient of the certificate of need. The provision of Section  
780 43-7-193(1) regarding substantial compliance of the projection of  
781 need as reported in the current State Health Plan is waived for  
782 the purposes of this paragraph. If the certificate of need  
783 authorized under this paragraph is not issued within twelve (12)



784 months after July 1, 1998, the department shall deny the  
785 application for the certificate of need and shall not issue the  
786 certificate of need at any time after the twelve-month period,  
787 unless the issuance is contested. If the certificate of need is  
788 issued and substantial construction of the nursing facility beds  
789 has not commenced within eighteen (18) months after July 1, 1998,  
790 the State Department of Health, after a hearing complying with due  
791 process, shall revoke the certificate of need if it is still  
792 outstanding, and the department shall not issue a license for the  
793 nursing facility at any time after the eighteen-month period.  
794 Provided, however, that if the issuance of the certificate of need  
795 is contested, the department shall require substantial  
796 construction of the nursing facility beds within six (6) months  
797 after final adjudication on the issuance of the certificate of  
798 need.

799           (q) (i) Beginning on July 1, 1999, the State  
800 Department of Health shall issue certificates of need during each  
801 of the next four (4) fiscal years for the construction or  
802 expansion of nursing facility beds or the conversion of other beds  
803 to nursing facility beds in each county in the state having a need  
804 for fifty (50) or more additional nursing facility beds, as shown  
805 in the fiscal year 1999 State Health Plan, in the manner provided  
806 in this paragraph (q). The total number of nursing facility beds  
807 that may be authorized by any certificate of need authorized under  
808 this paragraph (q) shall not exceed sixty (60) beds.

809           (ii) Subject to the provisions of subparagraph  
810 (v), during each of the next four (4) fiscal years, the department  
811 shall issue six (6) certificates of need for new nursing facility  
812 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
813 (1) certificate of need shall be issued for new nursing facility  
814 beds in the county in each of the four (4) Long-Term Care Planning  
815 Districts designated in the fiscal year 1999 State Health Plan  
816 that has the highest need in the district for those beds; and two

817 (2) certificates of need shall be issued for new nursing facility  
818 beds in the two (2) counties from the state at large that have the  
819 highest need in the state for those beds, when considering the  
820 need on a statewide basis and without regard to the Long-Term Care  
821 Planning Districts in which the counties are located. During  
822 fiscal year 2003, one (1) certificate of need shall be issued for  
823 new nursing facility beds in any county having a need for fifty  
824 (50) or more additional nursing facility beds, as shown in the  
825 fiscal year 1999 State Health Plan, that has not received a  
826 certificate of need under this paragraph (q) during the three (3)  
827 previous fiscal years. During fiscal year 2000, in addition to  
828 the six (6) certificates of need authorized in this subparagraph,  
829 the department also shall issue a certificate of need for new  
830 nursing facility beds in Amite County and a certificate of need  
831 for new nursing facility beds in Carroll County.

832 (iii) Subject to the provisions of subparagraph  
833 (v), the certificate of need issued under subparagraph (ii) for  
834 nursing facility beds in each Long-Term Care Planning District  
835 during each fiscal year shall first be available for nursing  
836 facility beds in the county in the district having the highest  
837 need for those beds, as shown in the fiscal year 1999 State Health  
838 Plan. If there are no applications for a certificate of need for  
839 nursing facility beds in the county having the highest need for  
840 those beds by the date specified by the department, then the  
841 certificate of need shall be available for nursing facility beds  
842 in other counties in the district in descending order of the need  
843 for those beds, from the county with the second highest need to  
844 the county with the lowest need, until an application is received  
845 for nursing facility beds in an eligible county in the district.

846 (iv) Subject to the provisions of subparagraph  
847 (v), the certificate of need issued under subparagraph (ii) for  
848 nursing facility beds in the two (2) counties from the state at  
849 large during each fiscal year shall first be available for nursing

850 facility beds in the two (2) counties that have the highest need  
851 in the state for those beds, as shown in the fiscal year 1999  
852 State Health Plan, when considering the need on a statewide basis  
853 and without regard to the Long-Term Care Planning Districts in  
854 which the counties are located. If there are no applications for  
855 a certificate of need for nursing facility beds in either of the  
856 two (2) counties having the highest need for those beds on a  
857 statewide basis by the date specified by the department, then the  
858 certificate of need shall be available for nursing facility beds  
859 in other counties from the state at large in descending order of  
860 the need for those beds on a statewide basis, from the county with  
861 the second highest need to the county with the lowest need, until  
862 an application is received for nursing facility beds in an  
863 eligible county from the state at large.

864 (v) If a certificate of need is authorized to be  
865 issued under this paragraph (q) for nursing facility beds in a  
866 county on the basis of the need in the Long-Term Care Planning  
867 District during any fiscal year of the four-year period, a  
868 certificate of need shall not also be available under this  
869 paragraph (q) for additional nursing facility beds in that county  
870 on the basis of the need in the state at large, and that county  
871 shall be excluded in determining which counties have the highest  
872 need for nursing facility beds in the state at large for that  
873 fiscal year. After a certificate of need has been issued under  
874 this paragraph (q) for nursing facility beds in a county during  
875 any fiscal year of the four-year period, a certificate of need  
876 shall not be available again under this paragraph (q) for  
877 additional nursing facility beds in that county during the  
878 four-year period, and that county shall be excluded in determining  
879 which counties have the highest need for nursing facility beds in  
880 succeeding fiscal years.

881 (vi) If more than one (1) application is made for  
882 a certificate of need for nursing home facility beds available

883 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
884 County, and one (1) of the applicants is a county-owned hospital  
885 located in the county where the nursing facility beds are  
886 available, the department shall give priority to the county-owned  
887 hospital in granting the certificate of need if the following  
888 conditions are met:

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

892                   2. The county-owned hospital's qualifications  
893 for the certificate of need, as shown in its application and as  
894 determined by the department, are at least equal to the  
895 qualifications of the other applicants for the certificate of  
896 need.

897                   (r) (i) Beginning on July 1, 1999, the State  
898 Department of Health shall issue certificates of need during each  
899 of the next two (2) fiscal years for the construction or expansion  
900 of nursing facility beds or the conversion of other beds to  
901 nursing facility beds in each of the four (4) Long-Term Care  
902 Planning Districts designated in the fiscal year 1999 State Health  
903 Plan, to provide care exclusively to patients with Alzheimer's  
904 disease.

905                   (ii) Not more than twenty (20) beds may be  
906 authorized by any certificate of need issued under this paragraph  
907 (r), and not more than a total of sixty (60) beds may be  
908 authorized in any Long-Term Care Planning District by all  
909 certificates of need issued under this paragraph (r). However,  
910 the total number of beds that may be authorized by all  
911 certificates of need issued under this paragraph (r) during any  
912 fiscal year shall not exceed one hundred twenty (120) beds, and  
913 the total number of beds that may be authorized in any Long-Term  
914 Care Planning District during any fiscal year shall not exceed  
915 forty (40) beds. Of the certificates of need that are issued for

916 each Long-Term Care Planning District during the next two (2)  
917 fiscal years, at least one (1) shall be issued for beds in the  
918 northern part of the district, at least one (1) shall be issued  
919 for beds in the central part of the district, and at least one (1)  
920 shall be issued for beds in the southern part of the district.

921 (iii) The State Department of Health, in  
922 consultation with the Department of Mental Health and the Division  
923 of Medicaid, shall develop and prescribe the staffing levels,  
924 space requirements and other standards and requirements that must  
925 be met with regard to the nursing facility beds authorized under  
926 this paragraph (r) to provide care exclusively to patients with  
927 Alzheimer's disease.

928 (3) The State Department of Health may grant approval for  
929 and issue certificates of need to any person proposing the new  
930 construction of, addition to, conversion of beds of or expansion  
931 of any health care facility defined in subparagraph (x)  
932 (psychiatric residential treatment facility) of Section  
933 41-7-173(h). The total number of beds which may be authorized by  
934 such certificates of need shall not exceed three hundred  
935 thirty-four (334) beds for the entire state.

936 (a) Of the total number of beds authorized under this  
937 subsection, the department shall issue a certificate of need to a  
938 privately-owned psychiatric residential treatment facility in  
939 Simpson County for the conversion of sixteen (16) intermediate  
940 care facility for the mentally retarded (ICF-MR) beds to  
941 psychiatric residential treatment facility beds, provided that  
942 facility agrees in writing that the facility shall give priority  
943 for the use of those sixteen (16) beds to Mississippi residents  
944 who are presently being treated in out-of-state facilities.

945 (b) Of the total number of beds authorized under this  
946 subsection, the department may issue a certificate or certificates  
947 of need for the construction or expansion of psychiatric  
948 residential treatment facility beds or the conversion of other

949 beds to psychiatric residential treatment facility beds in Warren  
950 County, not to exceed sixty (60) psychiatric residential treatment  
951 facility beds, provided that the facility agrees in writing that  
952 no more than thirty (30) of the beds at the psychiatric  
953 residential treatment facility will be certified for participation  
954 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
955 any patients other than those who are participating only in the  
956 Medicaid program of another state, and that no claim will be  
957 submitted to the Division of Medicaid for Medicaid reimbursement  
958 for more than thirty (30) patients in the psychiatric residential  
959 treatment facility in any day or for any patient in the  
960 psychiatric residential treatment facility who is in a bed that is  
961 not Medicaid-certified. This written agreement by the recipient  
962 of the certificate of need shall be a condition of the issuance of  
963 the certificate of need under this paragraph, and the agreement  
964 shall be fully binding on any subsequent owner of the psychiatric  
965 residential treatment facility if the ownership of the facility is  
966 transferred at any time after the issuance of the certificate of  
967 need. After this written agreement is executed, the Division of  
968 Medicaid and the State Department of Health shall not certify more  
969 than thirty (30) of the beds in the psychiatric residential  
970 treatment facility for participation in the Medicaid program for  
971 the use of any patients other than those who are participating  
972 only in the Medicaid program of another state. If the psychiatric  
973 residential treatment facility violates the terms of the written  
974 agreement by admitting or keeping in the facility on a regular or  
975 continuing basis more than thirty (30) patients who are  
976 participating in the Mississippi Medicaid program, the State  
977 Department of Health shall revoke the license of the facility, at  
978 the time that the department determines, after a hearing complying  
979 with due process, that the facility has violated the condition  
980 upon which the certificate of need was issued, as provided in this  
981 paragraph and in the written agreement.

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

986           (c) Of the total number of beds authorized under this  
987 subsection, the department shall issue a certificate of need to a  
988 hospital currently operating Medicaid-certified acute psychiatric  
989 beds for adolescents in DeSoto County, for the establishment of a  
990 forty-bed psychiatric residential treatment facility in DeSoto  
991 County, provided that the hospital agrees in writing (i) that the  
992 hospital shall give priority for the use of those forty (40) beds  
993 to Mississippi residents who are presently being treated in  
994 out-of-state facilities, and (ii) that no more than fifteen (15)  
995 of the beds at the psychiatric residential treatment facility will  
996 be certified for participation in the Medicaid program (Section  
997 43-13-101 et seq.), and that no claim will be submitted for  
998 Medicaid reimbursement for more than fifteen (15) patients in the  
999 psychiatric residential treatment facility in any day or for any  
1000 patient in the psychiatric residential treatment facility who is  
1001 in a bed that is not Medicaid-certified. This written agreement  
1002 by the recipient of the certificate of need shall be a condition  
1003 of the issuance of the certificate of need under this paragraph,  
1004 and the agreement shall be fully binding on any subsequent owner  
1005 of the psychiatric residential treatment facility if the ownership  
1006 of the facility is transferred at any time after the issuance of  
1007 the certificate of need. After this written agreement is  
1008 executed, the Division of Medicaid and the State Department of  
1009 Health shall not certify more than fifteen (15) of the beds in the  
1010 psychiatric residential treatment facility for participation in  
1011 the Medicaid program. If the psychiatric residential treatment  
1012 facility violates the terms of the written agreement by admitting  
1013 or keeping in the facility on a regular or continuing basis more  
1014 than fifteen (15) patients who are participating in the Medicaid

1015 program, the State Department of Health shall revoke the license  
1016 of the facility, at the time that the department determines, after  
1017 a hearing complying with due process, that the facility has  
1018 violated the condition upon which the certificate of need was  
1019 issued, as provided in this paragraph and in the written  
1020 agreement.

1021 (d) Of the total number of beds authorized under this  
1022 subsection, the department may issue a certificate or certificates  
1023 of need for the construction or expansion of psychiatric  
1024 residential treatment facility beds or the conversion of other  
1025 beds to psychiatric treatment facility beds, not to exceed thirty  
1026 (30) psychiatric residential treatment facility beds, in either  
1027 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1028 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1029 (e) Of the total number of beds authorized under this  
1030 subsection (3) the department shall issue a certificate of need to  
1031 a privately-owned, nonprofit psychiatric residential treatment  
1032 facility in Hinds County for an eight-bed expansion of the  
1033 facility, provided that the facility agrees in writing that the  
1034 facility shall give priority for the use of those eight (8) beds  
1035 to Mississippi residents who are presently being treated in  
1036 out-of-state facilities.

1037 (f) The department shall issue a certificate of need to  
1038 a one-hundred-thirty-four-bed specialty hospital located on  
1039 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1040 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1041 Mississippi, for the addition, construction or expansion of  
1042 child/adolescent psychiatric residential treatment facility beds  
1043 in Lauderdale County. As a condition of issuance of the  
1044 certificate of need under this paragraph, the facility shall give  
1045 priority in admissions to the child/adolescent psychiatric  
1046 residential treatment facility beds authorized under this  
1047 paragraph to patients who otherwise would require out-of-state



1048 placement. The Division of Medicaid, in conjunction with the  
1049 Department of Human Services, shall furnish the facility a list of  
1050 all out-of-state patients on a quarterly basis. Furthermore,  
1051 notice shall also be provided to the parent, custodial parent or  
1052 guardian of each out-of-state patient notifying them of the  
1053 priority status granted by this paragraph. For purposes of this  
1054 paragraph, the provisions of Section 41-7-193(1) requiring  
1055 substantial compliance with the projection of need as reported in  
1056 the current State Health Plan are waived. The total number of  
1057 child/adolescent psychiatric residential treatment facility beds  
1058 that may be authorized under the authority of this paragraph shall  
1059 be sixty (60) beds. There shall be no prohibition or restrictions  
1060 on participation in the Medicaid program (Section 43-13-101 et  
1061 seq.) for the person receiving the certificate of need authorized  
1062 under this paragraph or for the beds converted pursuant to the  
1063 authority of that certificate of need.

1064 (4) (a) From and after July 1, 1993, the department shall  
1065 not issue a certificate of need to any person for the new  
1066 construction of any \* \* \* psychiatric hospital or chemical  
1067 dependency hospital that will contain any child/adolescent  
1068 psychiatric or child/adolescent chemical dependency beds, or for  
1069 the conversion of any other health care facility to a \* \* \*  
1070 psychiatric hospital or chemical dependency hospital that will  
1071 contain any child/adolescent psychiatric or child/adolescent  
1072 chemical dependency beds, or for the addition of any  
1073 child/adolescent psychiatric or child/adolescent chemical  
1074 dependency beds in any \* \* \* psychiatric hospital or chemical  
1075 dependency hospital, or for the conversion of any beds of another  
1076 category in any \* \* \* psychiatric hospital or chemical dependency  
1077 hospital to child/adolescent psychiatric or child/adolescent  
1078 chemical dependency beds, except as hereinafter authorized:

1079 (i) The department may issue certificates of need  
1080 to any person for any purpose described in this subsection,

1081 provided that the hospital, psychiatric hospital or chemical  
1082 dependency hospital does not participate in the Medicaid program  
1083 (Section 43-13-101 et seq.) at the time of the application for the  
1084 certificate of need and the owner of the hospital, psychiatric  
1085 hospital or chemical dependency hospital agrees in writing that  
1086 the hospital, psychiatric hospital or chemical dependency hospital  
1087 will not at any time participate in the Medicaid program or admit  
1088 or keep any patients who are participating in the Medicaid program  
1089 in the hospital, psychiatric hospital or chemical dependency  
1090 hospital. This written agreement by the recipient of the  
1091 certificate of need shall be fully binding on any subsequent owner  
1092 of the hospital, psychiatric hospital or chemical dependency  
1093 hospital, if the ownership of the facility is transferred at any  
1094 time after the issuance of the certificate of need. Agreement  
1095 that the hospital, psychiatric hospital or chemical dependency  
1096 hospital will not participate in the Medicaid program shall be a  
1097 condition of the issuance of a certificate of need to any person  
1098 under this subparagraph (a)(i), and if such hospital, psychiatric  
1099 hospital or chemical dependency hospital at any time after the  
1100 issuance of the certificate of need, regardless of the ownership  
1101 of the facility, participates in the Medicaid program or admits or  
1102 keeps any patients in the hospital, psychiatric hospital or  
1103 chemical dependency hospital who are participating in the Medicaid  
1104 program, the State Department of Health shall revoke the  
1105 certificate of need, if it is still outstanding, and shall deny or  
1106 revoke the license of the hospital, psychiatric hospital or  
1107 chemical dependency hospital, at the time that the department  
1108 determines, after a hearing complying with due process, that the  
1109 hospital, psychiatric hospital or chemical dependency hospital has  
1110 failed to comply with any of the conditions upon which the  
1111 certificate of need was issued, as provided in this subparagraph  
1112 and in the written agreement by the recipient of the certificate  
1113 of need.

1114                   (ii) The department may issue a certificate of  
1115 need for the conversion of existing beds in a county hospital in  
1116 Choctaw County from acute care beds to child/adolescent chemical  
1117 dependency beds. For purposes of this subparagraph, the  
1118 provisions of Section 41-7-193(1) requiring substantial compliance  
1119 with the projection of need as reported in the current State  
1120 Health Plan is waived. The total number of beds that may be  
1121 authorized under authority of this subparagraph shall not exceed  
1122 twenty (20) beds. There shall be no prohibition or restrictions  
1123 on participation in the Medicaid program (Section 43-13-101 et  
1124 seq.) for the hospital receiving the certificate of need  
1125 authorized under this subparagraph (a)(ii) or for the beds  
1126 converted pursuant to the authority of that certificate of need.

1127                   (iii) The department may issue a certificate or  
1128 certificates of need for the construction or expansion of  
1129 child/adolescent psychiatric beds or the conversion of other beds  
1130 to child/adolescent psychiatric beds in Warren County. For  
1131 purposes of this subparagraph, the provisions of Section  
1132 41-7-193(1) requiring substantial compliance with the projection  
1133 of need as reported in the current State Health Plan are waived.  
1134 The total number of beds that may be authorized under the  
1135 authority of this subparagraph shall not exceed twenty (20) beds.  
1136 There shall be no prohibition or restrictions on participation in  
1137 the Medicaid program (Section 43-13-101 et seq.) for the person  
1138 receiving the certificate of need authorized under this  
1139 subparagraph (a)(iii) or for the beds converted pursuant to the  
1140 authority of that certificate of need.

1141           If by January 1, 2002, there has been no significant  
1142 commencement of construction of the beds authorized under this  
1143 subparagraph (a)(iii), or no significant action taken to convert  
1144 existing beds to the beds authorized under this subparagraph, then  
1145 the certificate of need that was previously issued under this  
1146 subparagraph shall expire. If the previously issued certificate

1147 of need expires, the department may accept applications for  
1148 issuance of another certificate of need for the beds authorized  
1149 under this subparagraph, and may issue a certificate of need to  
1150 authorize the construction, expansion or conversion of the beds  
1151 authorized under this subparagraph.

1152 (iv) The department shall issue a certificate of  
1153 need to the Region 7 Mental Health/Retardation Commission for the  
1154 construction or expansion of child/adolescent psychiatric beds or  
1155 the conversion of other beds to child/adolescent psychiatric beds  
1156 in any of the counties served by the commission. For purposes of  
1157 this subparagraph, the provisions of Section 41-7-193(1) requiring  
1158 substantial compliance with the projection of need as reported in  
1159 the current State Health Plan is waived. The total number of beds  
1160 that may be authorized under the authority of this subparagraph  
1161 shall not exceed twenty (20) beds. There shall be no prohibition  
1162 or restrictions on participation in the Medicaid program (Section  
1163 43-13-101 et seq.) for the person receiving the certificate of  
1164 need authorized under this subparagraph (a)(iv) or for the beds  
1165 converted pursuant to the authority of that certificate of need.

1166 (v) The department may issue a certificate of need  
1167 to any county hospital located in Leflore County for the  
1168 construction or expansion of adult psychiatric beds or the  
1169 conversion of other beds to adult psychiatric beds, not to exceed  
1170 twenty (20) beds, provided that the recipient of the certificate  
1171 of need agrees in writing that the adult psychiatric beds will not  
1172 at any time be certified for participation in the Medicaid program  
1173 and that the hospital will not admit or keep any patients who are  
1174 participating in the Medicaid program in any of such adult  
1175 psychiatric beds. This written agreement by the recipient of the  
1176 certificate of need shall be fully binding on any subsequent owner  
1177 of the hospital if the ownership of the hospital is transferred at  
1178 any time after the issuance of the certificate of need. Agreement  
1179 that the adult psychiatric beds will not be certified for

1180 participation in the Medicaid program shall be a condition of the  
1181 issuance of a certificate of need to any person under this  
1182 subparagraph (a)(v), and if such hospital at any time after the  
1183 issuance of the certificate of need, regardless of the ownership  
1184 of the hospital, has any of such adult psychiatric beds certified  
1185 for participation in the Medicaid program or admits or keeps any  
1186 Medicaid patients in such adult psychiatric beds, the State  
1187 Department of Health shall revoke the certificate of need, if it  
1188 is still outstanding, and shall deny or revoke the license of the  
1189 hospital at the time that the department determines, after a  
1190 hearing complying with due process, that the hospital has failed  
1191 to comply with any of the conditions upon which the certificate of  
1192 need was issued, as provided in this subparagraph and in the  
1193 written agreement by the recipient of the certificate of need.

1194           (vi) The department may issue a certificate or  
1195 certificates of need for the expansion of child psychiatric beds  
1196 or the conversion of other beds to child psychiatric beds at the  
1197 University of Mississippi Medical Center. For purposes of this  
1198 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
1199 requiring substantial compliance with the projection of need as  
1200 reported in the current State Health Plan is waived. The total  
1201 number of beds that may be authorized under the authority of this  
1202 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
1203 shall be no prohibition or restrictions on participation in the  
1204 Medicaid program (Section 43-13-101 et seq.) for the hospital  
1205 receiving the certificate of need authorized under this  
1206 subparagraph (a)(vi) or for the beds converted pursuant to the  
1207 authority of that certificate of need.

1208           (b) From and after July 1, 1990, no hospital,  
1209 psychiatric hospital or chemical dependency hospital shall be  
1210 authorized to add any child/adolescent psychiatric or  
1211 child/adolescent chemical dependency beds or convert any beds of  
1212 another category to child/adolescent psychiatric or

1213 child/adolescent chemical dependency beds without a certificate of  
1214 need under the authority of subsection (1)(c) of this section.

1215 (5) The department may issue a certificate of need to a  
1216 county hospital in Winston County for the conversion of fifteen  
1217 (15) acute care beds to geriatric psychiatric care beds.

1218 (6) The State Department of Health shall issue a certificate  
1219 of need to a Mississippi corporation qualified to manage a  
1220 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1221 Harrison County, not to exceed eighty (80) beds, including any  
1222 necessary renovation or construction required for licensure and  
1223 certification, provided that the recipient of the certificate of  
1224 need agrees in writing that the long-term care hospital will not  
1225 at any time participate in the Medicaid program (Section 43-13-101  
1226 et seq.) or admit or keep any patients in the long-term care  
1227 hospital who are participating in the Medicaid program. This  
1228 written agreement by the recipient of the certificate of need  
1229 shall be fully binding on any subsequent owner of the long-term  
1230 care hospital, if the ownership of the facility is transferred at  
1231 any time after the issuance of the certificate of need. Agreement  
1232 that the long-term care hospital will not participate in the  
1233 Medicaid program shall be a condition of the issuance of a  
1234 certificate of need to any person under this subsection (6), and  
1235 if such long-term care hospital at any time after the issuance of  
1236 the certificate of need, regardless of the ownership of the  
1237 facility, participates in the Medicaid program or admits or keeps  
1238 any patients in the facility who are participating in the Medicaid  
1239 program, the State Department of Health shall revoke the  
1240 certificate of need, if it is still outstanding, and shall deny or  
1241 revoke the license of the long-term care hospital, at the time  
1242 that the department determines, after a hearing complying with due  
1243 process, that the facility has failed to comply with any of the  
1244 conditions upon which the certificate of need was issued, as  
1245 provided in this subsection and in the written agreement by the

1246 recipient of the certificate of need. For purposes of this  
1247 subsection, the provision of Section 41-7-193(1) requiring  
1248 substantial compliance with the projection of need as reported in  
1249 the current State Health Plan is hereby waived.

1250 (7) (Deleted)

1251 (8) The Department of Health shall not grant approval for or  
1252 issue a certificate of need to any person proposing the new  
1253 construction of, addition to or expansion of a health care  
1254 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1255 (9) The Department of Health shall not grant approval for or  
1256 issue a certificate of need to any person proposing the  
1257 establishment of, or expansion of the currently approved territory  
1258 of, or the contracting to establish a home office, subunit or  
1259 branch office within the space operated as a health care facility  
1260 as defined in Section 41-7-173(h)(ii) through (viii) by a health  
1261 care facility as defined in subparagraph (ix) of Section  
1262 41-7-173(h).

1263 (10) Health care facilities owned and/or operated by the  
1264 state or its agencies are exempt from the restraints in this  
1265 section against issuance of a certificate of need if such addition  
1266 or expansion consists of repairing or renovation necessary to  
1267 comply with the state licensure law. This exception shall not  
1268 apply to the new construction of any building by such state  
1269 facility. This exception shall not apply to any health care  
1270 facilities owned and/or operated by counties, municipalities,  
1271 districts, unincorporated areas, other defined persons, or any  
1272 combination thereof.

1273 (11) The new construction, renovation or expansion of or  
1274 addition to any health care facility defined in subparagraph (ii)  
1275 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1276 facility), subparagraph (vi) (intermediate care facility),  
1277 subparagraph (viii) (intermediate care facility for the mentally  
1278 retarded) and subparagraph (x) (psychiatric residential treatment

1279 facility) of Section 41-7-173(h) which is owned by the State of  
1280 Mississippi and under the direction and control of the State  
1281 Department of Mental Health, and the addition of new beds or the  
1282 conversion of beds from one category to another in any such  
1283 defined health care facility which is owned by the State of  
1284 Mississippi and under the direction and control of the State  
1285 Department of Mental Health, shall not require the issuance of a  
1286 certificate of need under Section 41-7-171 et seq.,  
1287 notwithstanding any provision in Section 41-7-171 et seq. to the  
1288 contrary.

1289 (12) The new construction, renovation or expansion of or  
1290 addition to any veterans homes or domiciliaries for eligible  
1291 veterans of the State of Mississippi as authorized under Section  
1292 35-1-19 shall not require the issuance of a certificate of need,  
1293 notwithstanding any provision in Section 41-7-171 et seq. to the  
1294 contrary.

1295 (13) The new construction of a nursing facility or nursing  
1296 facility beds or the conversion of other beds to nursing facility  
1297 beds shall not require the issuance of a certificate of need,  
1298 notwithstanding any provision in Section 41-7-171 et seq. to the  
1299 contrary, if the conditions of this subsection are met.

1300 (a) Before any construction or conversion may be  
1301 undertaken without a certificate of need, the owner of the nursing  
1302 facility, in the case of an existing facility, or the applicant to  
1303 construct a nursing facility, in the case of new construction,  
1304 first must file a written notice of intent and sign a written  
1305 agreement with the State Department of Health that the entire  
1306 nursing facility will not at any time participate in or have any  
1307 beds certified for participation in the Medicaid program (Section  
1308 43-13-101 et seq.), will not admit or keep any patients in the  
1309 nursing facility who are participating in the Medicaid program,  
1310 and will not submit any claim for Medicaid reimbursement for any  
1311 patient in the facility. This written agreement by the owner or



1312 applicant shall be a condition of exercising the authority under  
1313 this subsection without a certificate of need, and the agreement  
1314 shall be fully binding on any subsequent owner of the nursing  
1315 facility if the ownership of the facility is transferred at any  
1316 time after the agreement is signed. After the written agreement  
1317 is signed, the Division of Medicaid and the State Department of  
1318 Health shall not certify any beds in the nursing facility for  
1319 participation in the Medicaid program. If the nursing facility  
1320 violates the terms of the written agreement by participating in  
1321 the Medicaid program, having any beds certified for participation  
1322 in the Medicaid program, admitting or keeping any patient in the  
1323 facility who is participating in the Medicaid program, or  
1324 submitting any claim for Medicaid reimbursement for any patient in  
1325 the facility, the State Department of Health shall revoke the  
1326 license of the nursing facility at the time that the department  
1327 determines, after a hearing complying with due process, that the  
1328 facility has violated the terms of the written agreement.

1329           (b) For the purposes of this subsection, participation  
1330 in the Medicaid program by a nursing facility includes Medicaid  
1331 reimbursement of coinsurance and deductibles for recipients who  
1332 are qualified Medicare beneficiaries and/or those who are dually  
1333 eligible. Any nursing facility exercising the authority under  
1334 this subsection may not bill or submit a claim to the Division of  
1335 Medicaid for services to qualified Medicare beneficiaries and/or  
1336 those who are dually eligible.

1337           (c) The new construction of a nursing facility or  
1338 nursing facility beds or the conversion of other beds to nursing  
1339 facility beds described in this section must be either a part of a  
1340 completely new continuing care retirement community, as described  
1341 in the latest edition of the Mississippi State Health Plan, or an  
1342 addition to existing personal care and independent living  
1343 components, and so that the completed project will be a continuing  
1344 care retirement community, containing (i) independent living

1345 accommodations, (ii) personal care beds, and (iii) the nursing  
1346 home facility beds. The three (3) components must be located on a  
1347 single site and be operated as one (1) inseparable facility. The  
1348 nursing facility component must contain a minimum of thirty (30)  
1349 beds. Any nursing facility beds authorized by this section will  
1350 not be counted against the bed need set forth in the State Health  
1351 Plan, as identified in Section 41-7-171 et seq.

1352 This subsection (13) shall stand repealed from and after July  
1353 1, 2005.

1354 (14) (Deleted)

1355 (15) (Deleted)

1356 (16) Nothing in this section or in any other provision of  
1357 Section 41-7-171 et seq. shall prevent any nursing facility from  
1358 designating an appropriate number of existing beds in the facility  
1359 as beds for providing care exclusively to patients with  
1360 Alzheimer's disease.

1361 **SECTION 3.** This act shall take effect and be in force from  
1362 and after its passage.