

By: Senator(s) Doxey, Flowers, Chamberlin

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2790

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ALL OF THE BEDS IN A PSYCHIATRIC RESIDENTIAL  
3 TREATMENT FACILITY AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED  
4 TO A HOSPITAL IN DESOTO COUNTY MAY PARTICIPATE IN MEDICAID; TO  
5 PROVIDE THAT UP TO 36 ACUTE CHILD/ADOLESCENT PSYCHIATRIC BEDS IN A  
6 HOSPITAL IN DESOTO COUNTY MAY BE CERTIFIED TO PARTICIPATE IN  
7 MEDICAID; AND FOR RELATED PURPOSES.

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

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

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

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

16 (b) The relocation of a health care facility or portion  
17 thereof, or major medical equipment, unless such relocation of a  
18 health care facility or portion thereof, or major medical  
19 equipment, which does not involve a capital expenditure by or on  
20 behalf of a health care facility, is within five thousand two  
21 hundred eighty (5,280) feet from the main entrance of the health  
22 care facility;

23 (c) Any change in the existing bed complement of any  
24 health care facility through the addition or conversion of any  
25 beds or the alteration, modernizing or refurbishing of any unit or  
26 department in which the beds may be located; however, if a health  
27 care facility has voluntarily delicensed some of its existing bed  
28 complement, it may later relicense some or all of its delicensed  
29 beds without the necessity of having to acquire a certificate of

30 need. The State Department of Health shall maintain a record of  
31 the delicensing health care facility and its voluntarily  
32 delicensed beds and continue counting those beds as part of the  
33 state's total bed count for health care planning purposes. If a  
34 health care facility that has voluntarily delicensed some of its  
35 beds later desires to relicense some or all of its voluntarily  
36 delicensed beds, it shall notify the State Department of Health of  
37 its intent to increase the number of its licensed beds. The State  
38 Department of Health shall survey the health care facility within  
39 thirty (30) days of that notice and, if appropriate, issue the  
40 health care facility a new license reflecting the new contingent  
41 of beds. However, in no event may a health care facility that has  
42 voluntarily delicensed some of its beds be reissued a license to  
43 operate beds in excess of its bed count before the voluntary  
44 delicensure of some of its beds without seeking certificate of  
45 need approval;

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

- 50 (i) Open heart surgery services;
- 51 (ii) Cardiac catheterization services;
- 52 (iii) Comprehensive inpatient rehabilitation  
53 services;
- 54 (iv) Licensed psychiatric services;
- 55 (v) Licensed chemical dependency services;
- 56 (vi) Radiation therapy services;
- 57 (vii) Diagnostic imaging services of an invasive  
58 nature, i.e. invasive digital angiography;
- 59 (viii) Nursing home care as defined in  
60 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 61 (ix) Home health services;
- 62 (x) Swing-bed services;

63                   (xi) Ambulatory surgical services;  
64                   (xii) Magnetic resonance imaging services;  
65                   (xiii) Extracorporeal shock wave lithotripsy  
66 services;  
67                   (xiv) Long-term care hospital services;  
68                   (xv) Positron Emission Tomography (PET) services;  
69           (e) The relocation of one or more health services from  
70 one physical facility or site to another physical facility or  
71 site, unless such relocation, which does not involve a capital  
72 expenditure by or on behalf of a health care facility, (i) is to a  
73 physical facility or site within one thousand three hundred twenty  
74 (1,320) feet from the main entrance of the health care facility  
75 where the health care service is located, or (ii) is the result of  
76 an order of a court of appropriate jurisdiction or a result of  
77 pending litigation in such court, or by order of the State  
78 Department of Health, or by order of any other agency or legal  
79 entity of the state, the federal government, or any political  
80 subdivision of either, whose order is also approved by the State  
81 Department of Health;  
82           (f) The acquisition or otherwise control of any major  
83 medical equipment for the provision of medical services; provided,  
84 however, (i) the acquisition of any major medical equipment used  
85 only for research purposes, and (ii) the acquisition of major  
86 medical equipment to replace medical equipment for which a  
87 facility is already providing medical services and for which the  
88 State Department of Health has been notified before the date of  
89 such acquisition shall be exempt from this paragraph; an  
90 acquisition for less than fair market value must be reviewed, if  
91 the acquisition at fair market value would be subject to review;  
92           (g) Changes of ownership of existing health care  
93 facilities in which a notice of intent is not filed with the State  
94 Department of Health at least thirty (30) days prior to the date  
95 such change of ownership occurs, or a change in services or bed

96 capacity as prescribed in paragraph (c) or (d) of this subsection  
97 as a result of the change of ownership; an acquisition for less  
98 than fair market value must be reviewed, if the acquisition at  
99 fair market value would be subject to review;

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

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

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

115 (k) The contracting of a health care facility as  
116 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
117 to establish a home office, subunit, or branch office in the space  
118 operated as a health care facility through a formal arrangement  
119 with an existing health care facility as defined in subparagraph  
120 (ix) of Section 41-7-173(h).

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

128           (a) The department may issue a certificate of need to  
129 any person proposing the new construction of any health care  
130 facility defined in subparagraphs (iv) and (vi) of Section  
131 41-7-173(h) as part of a life care retirement facility, in any  
132 county bordering on the Gulf of Mexico in which is located a  
133 National Aeronautics and Space Administration facility, not to  
134 exceed forty (40) beds. From and after July 1, 1999, there shall  
135 be no prohibition or restrictions on participation in the Medicaid  
136 program (Section 43-13-101 et seq.) for the beds in the health  
137 care facility that were authorized under this paragraph (a).

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

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

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

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

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

191 (f) The State Department of Health may issue a  
192 certificate of need for conversion of a county hospital facility  
193 in Itawamba County to a nursing facility, not to exceed sixty (60)

194 beds, including any necessary construction, renovation or  
195 expansion. 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 (f).

199 (g) The State Department of Health may issue a  
200 certificate of need for the construction or expansion of nursing  
201 facility beds or the conversion of other beds to nursing facility  
202 beds in either Hinds, Madison or Rankin County, not to exceed  
203 sixty (60) beds. 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 (g).

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

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

227 in the Medicaid program shall be a condition of the issuance of a  
228 certificate of need to any person under this paragraph (i), and if  
229 such skilled nursing facility at any time after the issuance of  
230 the certificate of need, regardless of the ownership of the  
231 facility, participates in the Medicaid program or admits or keeps  
232 any patients in the facility who are participating in the Medicaid  
233 program, the State Department of Health shall revoke the  
234 certificate of need, if it is still outstanding, and shall deny or  
235 revoke the license of the skilled nursing facility, at the time  
236 that the department determines, after a hearing complying with due  
237 process, that the facility has failed to comply with any of the  
238 conditions upon which the certificate of need was issued, as  
239 provided in this paragraph and in the written agreement by the  
240 recipient of the certificate of need. The provision of Section  
241 43-7-193(1) regarding substantial compliance of the projection of  
242 need as reported in the current State Health Plan is waived for  
243 the purposes of this paragraph. The total number of nursing  
244 facility beds that may be authorized by any certificate of need  
245 issued under this paragraph (i) shall not exceed sixty (60) beds.  
246 If the skilled nursing facility authorized by the certificate of  
247 need issued under this paragraph is not constructed and fully  
248 operational within eighteen (18) months after July 1, 1994, the  
249 State Department of Health, after a hearing complying with due  
250 process, shall revoke the certificate of need, if it is still  
251 outstanding, and shall not issue a license for the skilled nursing  
252 facility at any time after the expiration of the eighteen-month  
253 period.

254 (j) The department may issue certificates of need to  
255 allow any existing freestanding long-term care facility in  
256 Tishomingo County and Hancock County that on July 1, 1995, is  
257 licensed with fewer than sixty (60) beds. For the purposes of  
258 this paragraph (j), the provision of Section 41-7-193(1) requiring  
259 substantial compliance with the projection of need as reported in



260 the current State Health Plan is waived. From and after July 1,  
261 1999, there shall be no prohibition or restrictions on  
262 participation in the Medicaid program (Section 43-13-101 et seq.)  
263 for the beds in the long-term care facilities that were authorized  
264 under this paragraph (j).

265 (k) The department may issue a certificate of need for  
266 the construction of a nursing facility at a continuing care  
267 retirement community in Lowndes County. The total number of beds  
268 that may be authorized under the authority of this paragraph (k)  
269 shall not exceed sixty (60) beds. From and after July 1, 2001,  
270 the prohibition on the facility participating in the Medicaid  
271 program (Section 43-13-101 et seq.) that was a condition of  
272 issuance of the certificate of need under this paragraph (k) shall  
273 be revised as follows: The nursing facility may participate in  
274 the Medicaid program from and after July 1, 2001, if the owner of  
275 the facility on July 1, 2001, agrees in writing that no more than  
276 thirty (30) of the beds at the facility will be certified for  
277 participation in the Medicaid program, and that no claim will be  
278 submitted for Medicaid reimbursement for more than thirty (30)  
279 patients in the facility in any month or for any patient in the  
280 facility who is in a bed that is not Medicaid-certified. This  
281 written agreement by the owner of the facility shall be a  
282 condition of licensure of the facility, and the agreement shall be  
283 fully binding on any subsequent owner of the facility if the  
284 ownership of the facility is transferred at any time after July 1,  
285 2001. After this written agreement is executed, the Division of  
286 Medicaid and the State Department of Health shall not certify more  
287 than thirty (30) of the beds in the facility for participation in  
288 the Medicaid program. If the facility violates the terms of the  
289 written agreement by admitting or keeping in the facility on a  
290 regular or continuing basis more than thirty (30) patients who are  
291 participating in the Medicaid program, the State Department of  
292 Health shall revoke the license of the facility, at the time that

293 the department determines, after a hearing complying with due  
294 process, that the facility has violated the written agreement.

295 (1) Provided that funds are specifically appropriated  
296 therefor by the Legislature, the department may issue a  
297 certificate of need to a rehabilitation hospital in Hinds County  
298 for the construction of a sixty-bed long-term care nursing  
299 facility dedicated to the care and treatment of persons with  
300 severe disabilities including persons with spinal cord and  
301 closed-head injuries and ventilator-dependent patients. The  
302 provision of Section 41-7-193(1) regarding substantial compliance  
303 with projection of need as reported in the current State Health  
304 Plan is hereby waived for the purpose of this paragraph.

305 (m) The State Department of Health may issue a  
306 certificate of need to a county-owned hospital in the Second  
307 Judicial District of Panola County for the conversion of not more  
308 than seventy-two (72) hospital beds to nursing facility beds,  
309 provided that the recipient of the certificate of need agrees in  
310 writing that none of the beds at the nursing facility will be  
311 certified for participation in the Medicaid program (Section  
312 43-13-101 et seq.), and that no claim will be submitted for  
313 Medicaid reimbursement in the nursing facility in any day or for  
314 any patient in the nursing facility. This written agreement by  
315 the recipient of the certificate of need shall be a condition of  
316 the issuance of the certificate of need under this paragraph, and  
317 the agreement shall be fully binding on any subsequent owner of  
318 the nursing facility if the ownership of the nursing facility is  
319 transferred at any time after the issuance of the certificate of  
320 need. After this written agreement is executed, the Division of  
321 Medicaid and the State Department of Health shall not certify any  
322 of the beds in the nursing facility for participation in the  
323 Medicaid program. If the nursing facility violates the terms of  
324 the written agreement by admitting or keeping in the nursing  
325 facility on a regular or continuing basis any patients who are

326 participating in the Medicaid program, the State Department of  
327 Health shall revoke the license of the nursing facility, at the  
328 time that the department determines, after a hearing complying  
329 with due process, that the nursing facility has violated the  
330 condition upon which the certificate of need was issued, as  
331 provided in this paragraph and in the written agreement. If the  
332 certificate of need authorized under this paragraph is not issued  
333 within twelve (12) months after July 1, 2001, the department shall  
334 deny the application for the certificate of need and shall not  
335 issue the certificate of need at any time after the twelve-month  
336 period, unless the issuance is contested. If the certificate of  
337 need is issued and substantial construction of the nursing  
338 facility beds has not commenced within eighteen (18) months after  
339 July 1, 2001, the State Department of Health, after a hearing  
340 complying with due process, shall revoke the certificate of need  
341 if it is still outstanding, and the department shall not issue a  
342 license for the nursing facility at any time after the  
343 eighteen-month period. Provided, however, that if the issuance of  
344 the certificate of need is contested, the department shall require  
345 substantial construction of the nursing facility beds within six  
346 (6) months after final adjudication on the issuance of the  
347 certificate of need.

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

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

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

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

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

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

482 (q) (i) Beginning on July 1, 1999, the State  
483 Department of Health shall issue certificates of need during each  
484 of the next four (4) fiscal years for the construction or  
485 expansion of nursing facility beds or the conversion of other beds  
486 to nursing facility beds in each county in the state having a need  
487 for fifty (50) or more additional nursing facility beds, as shown  
488 in the fiscal year 1999 State Health Plan, in the manner provided  
489 in this paragraph (q). The total number of nursing facility beds

490 that may be authorized by any certificate of need authorized under  
491 this paragraph (q) shall not exceed sixty (60) beds.

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

515 (iii) Subject to the provisions of subparagraph  
516 (v), the certificate of need issued under subparagraph (ii) for  
517 nursing facility beds in each Long-Term Care Planning District  
518 during each fiscal year shall first be available for nursing  
519 facility beds in the county in the district having the highest  
520 need for those beds, as shown in the fiscal year 1999 State Health  
521 Plan. If there are no applications for a certificate of need for  
522 nursing facility beds in the county having the highest need for



523 those beds by the date specified by the department, then the  
524 certificate of need shall be available for nursing facility beds  
525 in other counties in the district in descending order of the need  
526 for those beds, from the county with the second highest need to  
527 the county with the lowest need, until an application is received  
528 for nursing facility beds in an eligible county in the district.

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

547 (v) If a certificate of need is authorized to be  
548 issued under this paragraph (q) for nursing facility beds in a  
549 county on the basis of the need in the Long-Term Care Planning  
550 District during any fiscal year of the four-year period, a  
551 certificate of need shall not also be available under this  
552 paragraph (q) for additional nursing facility beds in that county  
553 on the basis of the need in the state at large, and that county  
554 shall be excluded in determining which counties have the highest  
555 need for nursing facility beds in the state at large for that

556 fiscal year. After a certificate of need has been issued under  
557 this paragraph (q) for nursing facility beds in a county during  
558 any fiscal year of the four-year period, a certificate of need  
559 shall not be available again under this paragraph (q) for  
560 additional nursing facility beds in that county during the  
561 four-year period, and that county shall be excluded in determining  
562 which counties have the highest need for nursing facility beds in  
563 succeeding fiscal years.

564 (vi) If more than one (1) application is made for  
565 a certificate of need for nursing home facility beds available  
566 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
567 County, and one (1) of the applicants is a county-owned hospital  
568 located in the county where the nursing facility beds are  
569 available, the department shall give priority to the county-owned  
570 hospital in granting the certificate of need if the following  
571 conditions are met:

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

575 2. The county-owned hospital's qualifications  
576 for the certificate of need, as shown in its application and as  
577 determined by the department, are at least equal to the  
578 qualifications of the other applicants for the certificate of  
579 need.

580 (r) (i) Beginning on July 1, 1999, the State  
581 Department of Health shall issue certificates of need during each  
582 of the next two (2) fiscal years for the construction or expansion  
583 of nursing facility beds or the conversion of other beds to  
584 nursing facility beds in each of the four (4) Long-Term Care  
585 Planning Districts designated in the fiscal year 1999 State Health  
586 Plan, to provide care exclusively to patients with Alzheimer's  
587 disease.

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

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

611           (3) The State Department of Health may grant approval for  
612 and issue certificates of need to any person proposing the new  
613 construction of, addition to, conversion of beds of or expansion  
614 of any health care facility defined in subparagraph (x)  
615 (psychiatric residential treatment facility) of Section  
616 41-7-173(h). The total number of beds which may be authorized by  
617 such certificates of need shall not exceed three hundred  
618 thirty-four (334) beds for the entire state.

619           (a) Of the total number of beds authorized under this  
620 subsection, the department shall issue a certificate of need to a

621 privately-owned psychiatric residential treatment facility in  
622 Simpson County for the conversion of sixteen (16) intermediate  
623 care facility for the mentally retarded (ICF-MR) beds to  
624 psychiatric residential treatment facility beds, provided that  
625 facility agrees in writing that the facility shall give priority  
626 for the use of those sixteen (16) beds to Mississippi residents  
627 who are presently being treated in out-of-state facilities.

628           (b) Of the total number of beds authorized under this  
629 subsection, the department may issue a certificate or certificates  
630 of need for the construction or expansion of psychiatric  
631 residential treatment facility beds or the conversion of other  
632 beds to psychiatric residential treatment facility beds in Warren  
633 County, not to exceed sixty (60) psychiatric residential treatment  
634 facility beds, provided that the facility agrees in writing that  
635 no more than thirty (30) of the beds at the psychiatric  
636 residential treatment facility will be certified for participation  
637 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
638 any patients other than those who are participating only in the  
639 Medicaid program of another state, and that no claim will be  
640 submitted to the Division of Medicaid for Medicaid reimbursement  
641 for more than thirty (30) patients in the psychiatric residential  
642 treatment facility in any day or for any patient in the  
643 psychiatric residential treatment facility who is in a bed that is  
644 not Medicaid-certified. This written agreement by the recipient  
645 of the certificate of need shall be a condition of the issuance of  
646 the certificate of need under this paragraph, and the agreement  
647 shall be fully binding on any subsequent owner of the psychiatric  
648 residential treatment facility if the ownership of the facility is  
649 transferred at any time after the issuance of the certificate of  
650 need. After this written agreement is executed, the Division of  
651 Medicaid and the State Department of Health shall not certify more  
652 than thirty (30) of the beds in the psychiatric residential  
653 treatment facility for participation in the Medicaid program for

654 the use of any patients other than those who are participating  
655 only in the Medicaid program of another state. If the psychiatric  
656 residential treatment facility violates the terms of the written  
657 agreement by admitting or keeping in the facility on a regular or  
658 continuing basis more than thirty (30) patients who are  
659 participating in the Mississippi Medicaid program, the State  
660 Department of Health shall revoke the license of the facility, at  
661 the time that the department determines, after a hearing complying  
662 with due process, that the facility has violated the condition  
663 upon which the certificate of need was issued, as provided in this  
664 paragraph and in the written agreement.

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

669 (c) Of the total number of beds authorized under this  
670 subsection, the department shall issue a certificate of need to a  
671 hospital currently operating Medicaid-certified acute psychiatric  
672 beds for adolescents in DeSoto County, for the establishment of a  
673 forty-bed psychiatric residential treatment facility in DeSoto  
674 County, provided that the hospital agrees in writing (i) that the  
675 hospital shall give priority for the use of those forty (40) beds  
676 to Mississippi residents who are presently being treated in  
677 out-of-state facilities, and (ii) that no more than fifteen (15)  
678 of the beds at the psychiatric residential treatment facility will  
679 be certified for participation in the Medicaid program (Section  
680 43-13-101 et seq.), and that no claim will be submitted for  
681 Medicaid reimbursement for more than fifteen (15) patients in the  
682 psychiatric residential treatment facility in any day or for any  
683 patient in the psychiatric residential treatment facility who is  
684 in a bed that is not Medicaid-certified. Notwithstanding the  
685 restrictions on Medicaid participation set forth in the preceding  
686 sentence, from and after the effective date of this act, all forty

687 (40) of the beds in the psychiatric residential treatment facility  
688 may be certified for participation in the Medicaid program, and  
689 claims may be submitted for Medicaid reimbursement for all  
690 patients in the psychiatric residential treatment facility. From  
691 and after the effective date of this act, any restrictions or  
692 limitations on Medicaid participation or reimbursement in  
693 connection with the psychiatric residential treatment facility,  
694 whether statutory or in any certificate of need, written agreement  
695 or otherwise, shall be deemed null and void, and the facility and  
696 all beds in the facility may participate fully in the Medicaid  
697 program. In order for all forty (40) beds in the psychiatric  
698 residential facility to become certified for Medicaid  
699 reimbursement, the recipient of the certificate of need for the  
700 facility shall not be required to obtain an additional certificate  
701 of need, but shall only be required to provide written notice to  
702 the State Department of Health, or its successor, and the Division  
703 of Medicaid, or its successor, shall promptly issue a written  
704 approval authorizing all forty (40) beds in the facility to be  
705 certified for Medicaid participation, and shall promptly take any  
706 and all action required to certify all forty (40) beds for  
707 participation in the Medicaid program. From and after the  
708 effective date of this act, the State Department of Health, or its  
709 successor, shall not be authorized to revoke the license of the  
710 psychiatric residential treatment facility on the grounds that the  
711 facility admits or keeps, on a regular or continuing basis, more  
712 than fifteen (15) patients who are participating in the Medicaid  
713 program. There shall be no restriction or limitation regarding  
714 Medicaid participation with respect to any subsequent owner of the  
715 psychiatric residential treatment facility.

716 (d) Of the total number of beds authorized under this  
717 subsection, the department may issue a certificate or certificates  
718 of need for the construction or expansion of psychiatric  
719 residential treatment facility beds or the conversion of other

720 beds to psychiatric treatment facility beds, not to exceed thirty  
721 (30) psychiatric residential treatment facility beds, in either  
722 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
723 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

724 (e) Of the total number of beds authorized under this  
725 subsection (3) the department shall issue a certificate of need to  
726 a privately-owned, nonprofit psychiatric residential treatment  
727 facility in Hinds County for an eight-bed expansion of the  
728 facility, provided that the facility agrees in writing that the  
729 facility shall give priority for the use of those eight (8) beds  
730 to Mississippi residents who are presently being treated in  
731 out-of-state facilities.

732 (f) The department shall issue a certificate of need to  
733 a one-hundred-thirty-four-bed specialty hospital located on  
734 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
735 at 5900 Highway 39 North in Meridian (Lauderdale County),  
736 Mississippi, for the addition, construction or expansion of  
737 child/adolescent psychiatric residential treatment facility beds  
738 in Lauderdale County. As a condition of issuance of the  
739 certificate of need under this paragraph, the facility shall give  
740 priority in admissions to the child/adolescent psychiatric  
741 residential treatment facility beds authorized under this  
742 paragraph to patients who otherwise would require out-of-state  
743 placement. The Division of Medicaid, in conjunction with the  
744 Department of Human Services, shall furnish the facility a list of  
745 all out-of-state patients on a quarterly basis. Furthermore,  
746 notice shall also be provided to the parent, custodial parent or  
747 guardian of each out-of-state patient notifying them of the  
748 priority status granted by this paragraph. For purposes of this  
749 paragraph, the provisions of Section 41-7-193(1) requiring  
750 substantial compliance with the projection of need as reported in  
751 the current State Health Plan are waived. The total number of  
752 child/adolescent psychiatric residential treatment facility beds

753 that may be authorized under the authority of this paragraph shall  
754 be sixty (60) beds. There shall be no prohibition or restrictions  
755 on participation in the Medicaid program (Section 43-13-101 et  
756 seq.) for the person receiving the certificate of need authorized  
757 under this paragraph or for the beds converted pursuant to the  
758 authority of that certificate of need.

759 (4) (a) From and after July 1, 1993, the department shall  
760 not issue a certificate of need to any person for the new  
761 construction of any hospital, psychiatric hospital or chemical  
762 dependency hospital that will contain any child/adolescent  
763 psychiatric or child/adolescent chemical dependency beds, or for  
764 the conversion of any other health care facility to a hospital,  
765 psychiatric hospital or chemical dependency hospital that will  
766 contain any child/adolescent psychiatric or child/adolescent  
767 chemical dependency beds, or for the addition of any  
768 child/adolescent psychiatric or child/adolescent chemical  
769 dependency beds in any hospital, psychiatric hospital or chemical  
770 dependency hospital, or for the conversion of any beds of another  
771 category in any hospital, psychiatric hospital or chemical  
772 dependency hospital to child/adolescent psychiatric or  
773 child/adolescent chemical dependency beds, except as hereinafter  
774 authorized:

775 (i) The department may issue certificates of need  
776 to any person for any purpose described in this subsection,  
777 provided that the hospital, psychiatric hospital or chemical  
778 dependency hospital does not participate in the Medicaid program  
779 (Section 43-13-101 et seq.) at the time of the application for the  
780 certificate of need and the owner of the hospital, psychiatric  
781 hospital or chemical dependency hospital agrees in writing that  
782 the hospital, psychiatric hospital or chemical dependency hospital  
783 will not at any time participate in the Medicaid program or admit  
784 or keep any patients who are participating in the Medicaid program  
785 in the hospital, psychiatric hospital or chemical dependency



786 hospital. This written agreement by the recipient of the  
787 certificate of need shall be fully binding on any subsequent owner  
788 of the hospital, psychiatric hospital or chemical dependency  
789 hospital, if the ownership of the facility is transferred at any  
790 time after the issuance of the certificate of need. Agreement  
791 that the hospital, psychiatric hospital or chemical dependency  
792 hospital will not participate in the Medicaid program shall be a  
793 condition of the issuance of a certificate of need to any person  
794 under this subparagraph (a)(i), and if such hospital, psychiatric  
795 hospital or chemical dependency hospital at any time after the  
796 issuance of the certificate of need, regardless of the ownership  
797 of the facility, participates in the Medicaid program or admits or  
798 keeps any patients in the hospital, psychiatric hospital or  
799 chemical dependency hospital who are participating in the Medicaid  
800 program, the State Department of Health shall revoke the  
801 certificate of need, if it is still outstanding, and shall deny or  
802 revoke the license of the hospital, psychiatric hospital or  
803 chemical dependency hospital, at the time that the department  
804 determines, after a hearing complying with due process, that the  
805 hospital, psychiatric hospital or chemical dependency hospital has  
806 failed to comply with any of the conditions upon which the  
807 certificate of need was issued, as provided in this subparagraph  
808 and in the written agreement by the recipient of the certificate  
809 of need.

810           (ii) The department may issue a certificate of  
811 need for the conversion of existing beds in a county hospital in  
812 Choctaw County from acute care beds to child/adolescent chemical  
813 dependency beds. For purposes of this subparagraph, the  
814 provisions of Section 41-7-193(1) requiring substantial compliance  
815 with the projection of need as reported in the current State  
816 Health Plan is waived. The total number of beds that may be  
817 authorized under authority of this subparagraph shall not exceed  
818 twenty (20) beds. There shall be no prohibition or restrictions

819 on participation in the Medicaid program (Section 43-13-101 et  
820 seq.) for the hospital receiving the certificate of need  
821 authorized under this subparagraph (a)(ii) or for the beds  
822 converted pursuant to the authority of that certificate of need.

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

837 If by January 1, 2002, there has been no significant  
838 commencement of construction of the beds authorized under this  
839 subparagraph (a)(iii), or no significant action taken to convert  
840 existing beds to the beds authorized under this subparagraph, then  
841 the certificate of need that was previously issued under this  
842 subparagraph shall expire. If the previously issued certificate  
843 of need expires, the department may accept applications for  
844 issuance of another certificate of need for the beds authorized  
845 under this subparagraph, and may issue a certificate of need to  
846 authorize the construction, expansion or conversion of the beds  
847 authorized under this subparagraph.

848 (iv) The department shall issue a certificate of  
849 need to the Region 7 Mental Health/Retardation Commission for the  
850 construction or expansion of child/adolescent psychiatric beds or  
851 the conversion of other beds to child/adolescent psychiatric beds

852 in any of the counties served by the commission. For purposes of  
853 this subparagraph, the provisions of Section 41-7-193(1) requiring  
854 substantial compliance with the projection of need as reported in  
855 the current State Health Plan is waived. The total number of beds  
856 that may be authorized under the authority of this subparagraph  
857 shall not exceed twenty (20) beds. There shall be no prohibition  
858 or restrictions on participation in the Medicaid program (Section  
859 43-13-101 et seq.) for the person receiving the certificate of  
860 need authorized under this subparagraph (a)(iv) or for the beds  
861 converted pursuant to the authority of that certificate of need.

862 (v) The department may issue a certificate of need  
863 to any county hospital located in Leflore County for the  
864 construction or expansion of adult psychiatric beds or the  
865 conversion of other beds to adult psychiatric beds, not to exceed  
866 twenty (20) beds, provided that the recipient of the certificate  
867 of need agrees in writing that the adult psychiatric beds will not  
868 at any time be certified for participation in the Medicaid program  
869 and that the hospital will not admit or keep any patients who are  
870 participating in the Medicaid program in any of such adult  
871 psychiatric beds. This written agreement by the recipient of the  
872 certificate of need shall be fully binding on any subsequent owner  
873 of the hospital if the ownership of the hospital is transferred at  
874 any time after the issuance of the certificate of need. Agreement  
875 that the adult psychiatric beds will not be certified for  
876 participation in the Medicaid program shall be a condition of the  
877 issuance of a certificate of need to any person under this  
878 subparagraph (a)(v), and if such hospital at any time after the  
879 issuance of the certificate of need, regardless of the ownership  
880 of the hospital, has any of such adult psychiatric beds certified  
881 for participation in the Medicaid program or admits or keeps any  
882 Medicaid patients in such adult psychiatric beds, the State  
883 Department of Health shall revoke the certificate of need, if it  
884 is still outstanding, and shall deny or revoke the license of the

885 hospital at the time that the department determines, after a  
886 hearing complying with due process, that the hospital has failed  
887 to comply with any of the conditions upon which the certificate of  
888 need was issued, as provided in this subparagraph and in the  
889 written agreement by the recipient of the certificate of need.

890 (vi) The department may issue a certificate or  
891 certificates of need for the expansion of child psychiatric beds  
892 or the conversion of other beds to child psychiatric beds at the  
893 University of Mississippi Medical Center. For purposes of this  
894 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
895 requiring substantial compliance with the projection of need as  
896 reported in the current State Health Plan is waived. The total  
897 number of beds that may be authorized under the authority of this  
898 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
899 shall be no prohibition or restrictions on participation in the  
900 Medicaid program (Section 43-13-101 et seq.) for the hospital  
901 receiving the certificate of need authorized under this  
902 subparagraph (a)(vi) or for the beds converted pursuant to the  
903 authority of that certificate of need.

904 (vii) Notwithstanding the restrictions placed on  
905 Medicaid participation in subsections (4)(a) and (4)(a)(i), from  
906 and after the effective date of this act, a hospital in DeSoto  
907 County currently operating Medicaid-certified acute  
908 child/adolescent psychiatric beds may be certified for  
909 participation in the Medicaid program for up to thirty-six (36) of  
910 those acute child/adolescent psychiatric beds and claims may be  
911 submitted for Medicaid reimbursement for all patients occupying  
912 those thirty-six (36) beds. From and after the effective date of  
913 this act, any restrictions or limitations on Medicaid  
914 participation or reimbursement in connection with acute  
915 child/adolescent psychiatric beds, whether statutory or in any  
916 certificate of need, written statement or otherwise shall be  
917 deemed null and void. In order for all thirty-six (36) beds

918 currently in operation under a certificate of need to become  
919 certified for Medicaid reimbursement, the recipient of the  
920 certificate of need for the facility shall not be required to  
921 obtain an additional certificate of need, but shall only be  
922 required to provide written notice to the State Department of  
923 Health, or its successor, and the Division of Medicaid, or its  
924 successor, shall promptly issue a written approval authorizing all  
925 thirty-six (36) beds currently in operation to be certified for  
926 Medicaid participation, and shall promptly take any and all action  
927 required to certify all thirty-six (36) beds for participation in  
928 the Medicaid program. From and after the effective date of this  
929 act, the State Department of Health, or its successor, shall not  
930 be authorized to revoke the license of the hospital in DeSoto  
931 County on the grounds that the facility admits or keeps, on a  
932 regular or continuing basis, all of the acute child/adolescent  
933 psychiatric patients occupying those thirty-six (36) beds as  
934 participants in the Medicaid program. There shall be no  
935 restriction or limitation regarding Medicaid participation with  
936 respect to any subsequent owner of the relevant DeSoto County  
937 hospital.

938           (b) From and after July 1, 1990, no hospital,  
939 psychiatric hospital or chemical dependency hospital shall be  
940 authorized to add any child/adolescent psychiatric or  
941 child/adolescent chemical dependency beds or convert any beds of  
942 another category to child/adolescent psychiatric or  
943 child/adolescent chemical dependency beds without a certificate of  
944 need under the authority of subsection (1)(c) of this section.

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

948           (6) The State Department of Health shall issue a certificate  
949 of need to a Mississippi corporation qualified to manage a  
950 long-term care hospital as defined in Section 41-7-173(h)(xii) in

951 Harrison County, not to exceed eighty (80) beds, including any  
952 necessary renovation or construction required for licensure and  
953 certification, provided that the recipient of the certificate of  
954 need agrees in writing that the long-term care hospital will not  
955 at any time participate in the Medicaid program (Section 43-13-101  
956 et seq.) or admit or keep any patients in the long-term care  
957 hospital who are participating in the Medicaid program. This  
958 written agreement by the recipient of the certificate of need  
959 shall be fully binding on any subsequent owner of the long-term  
960 care hospital, if the ownership of the facility is transferred at  
961 any time after the issuance of the certificate of need. Agreement  
962 that the long-term care hospital will not participate in the  
963 Medicaid program shall be a condition of the issuance of a  
964 certificate of need to any person under this subsection (6), and  
965 if such long-term care hospital at any time after the issuance of  
966 the certificate of need, regardless of the ownership of the  
967 facility, participates in the Medicaid program or admits or keeps  
968 any patients in the facility who are participating in the Medicaid  
969 program, the State Department of Health shall revoke the  
970 certificate of need, if it is still outstanding, and shall deny or  
971 revoke the license of the long-term care hospital, at the time  
972 that the department determines, after a hearing complying with due  
973 process, that the facility has failed to comply with any of the  
974 conditions upon which the certificate of need was issued, as  
975 provided in this subsection and in the written agreement by the  
976 recipient of the certificate of need. For purposes of this  
977 subsection, the provision of Section 41-7-193(1) requiring  
978 substantial compliance with the projection of need as reported in  
979 the current State Health Plan is hereby waived.

980 (7) The State Department of Health may issue a certificate  
981 of need to any hospital in the state to utilize a portion of its  
982 beds for the "swing-bed" concept. Any such hospital must be in  
983 conformance with the federal regulations regarding such swing-bed

984 concept at the time it submits its application for a certificate  
985 of need to the State Department of Health, except that such  
986 hospital may have more licensed beds or a higher average daily  
987 census (ADC) than the maximum number specified in federal  
988 regulations for participation in the swing-bed program. Any  
989 hospital meeting all federal requirements for participation in the  
990 swing-bed program which receives such certificate of need shall  
991 render services provided under the swing-bed concept to any  
992 patient eligible for Medicare (Title XVIII of the Social Security  
993 Act) who is certified by a physician to be in need of such  
994 services, and no such hospital shall permit any patient who is  
995 eligible for both Medicaid and Medicare or eligible only for  
996 Medicaid to stay in the swing beds of the hospital for more than  
997 thirty (30) days per admission unless the hospital receives prior  
998 approval for such patient from the Division of Medicaid, Office of  
999 the Governor. Any hospital having more licensed beds or a higher  
1000 average daily census (ADC) than the maximum number specified in  
1001 federal regulations for participation in the swing-bed program  
1002 which receives such certificate of need shall develop a procedure  
1003 to insure that before a patient is allowed to stay in the swing  
1004 beds of the hospital, there are no vacant nursing home beds  
1005 available for that patient located within a fifty-mile radius of  
1006 the hospital. When any such hospital has a patient staying in the  
1007 swing beds of the hospital and the hospital receives notice from a  
1008 nursing home located within such radius that there is a vacant bed  
1009 available for that patient, the hospital shall transfer the  
1010 patient to the nursing home within a reasonable time after receipt  
1011 of the notice. Any hospital which is subject to the requirements  
1012 of the two (2) preceding sentences of this subsection may be  
1013 suspended from participation in the swing-bed program for a  
1014 reasonable period of time by the State Department of Health if the  
1015 department, after a hearing complying with due process, determines

1016 that the hospital has failed to comply with any of those  
1017 requirements.

1018 (8) The Department of Health shall not grant approval for or  
1019 issue a certificate of need to any person proposing the new  
1020 construction of, addition to or expansion of a health care  
1021 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1022 (9) The Department of Health shall not grant approval for or  
1023 issue a certificate of need to any person proposing the  
1024 establishment of, or expansion of the currently approved territory  
1025 of, or the contracting to establish a home office, subunit or  
1026 branch office within the space operated as a health care facility  
1027 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1028 care facility as defined in subparagraph (ix) of Section  
1029 41-7-173(h).

1030 (10) Health care facilities owned and/or operated by the  
1031 state or its agencies are exempt from the restraints in this  
1032 section against issuance of a certificate of need if such addition  
1033 or expansion consists of repairing or renovation necessary to  
1034 comply with the state licensure law. This exception shall not  
1035 apply to the new construction of any building by such state  
1036 facility. This exception shall not apply to any health care  
1037 facilities owned and/or operated by counties, municipalities,  
1038 districts, unincorporated areas, other defined persons, or any  
1039 combination thereof.

1040 (11) The new construction, renovation or expansion of or  
1041 addition to any health care facility defined in subparagraph (ii)  
1042 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1043 facility), subparagraph (vi) (intermediate care facility),  
1044 subparagraph (viii) (intermediate care facility for the mentally  
1045 retarded) and subparagraph (x) (psychiatric residential treatment  
1046 facility) of Section 41-7-173(h) which is owned by the State of  
1047 Mississippi and under the direction and control of the State  
1048 Department of Mental Health, and the addition of new beds or the



1049 conversion of beds from one category to another in any such  
1050 defined health care facility which is owned by the State of  
1051 Mississippi and under the direction and control of the State  
1052 Department of Mental Health, shall not require the issuance of a  
1053 certificate of need under Section 41-7-171 et seq.,  
1054 notwithstanding any provision in Section 41-7-171 et seq. to the  
1055 contrary.

1056 (12) The new construction, renovation or expansion of or  
1057 addition to any veterans homes or domiciliaries for eligible  
1058 veterans of the State of Mississippi as authorized under Section  
1059 35-1-19 shall not require the issuance of a certificate of need,  
1060 notwithstanding any provision in Section 41-7-171 et seq. to the  
1061 contrary.

1062 (13) The new construction of a nursing facility or nursing  
1063 facility beds or the conversion of other beds to nursing facility  
1064 beds shall not require the issuance of a certificate of need,  
1065 notwithstanding any provision in Section 41-7-171 et seq. to the  
1066 contrary, if the conditions of this subsection are met.

1067 (a) Before any construction or conversion may be  
1068 undertaken without a certificate of need, the owner of the nursing  
1069 facility, in the case of an existing facility, or the applicant to  
1070 construct a nursing facility, in the case of new construction,  
1071 first must file a written notice of intent and sign a written  
1072 agreement with the State Department of Health that the entire  
1073 nursing facility will not at any time participate in or have any  
1074 beds certified for participation in the Medicaid program (Section  
1075 43-13-101 et seq.), will not admit or keep any patients in the  
1076 nursing facility who are participating in the Medicaid program,  
1077 and will not submit any claim for Medicaid reimbursement for any  
1078 patient in the facility. This written agreement by the owner or  
1079 applicant shall be a condition of exercising the authority under  
1080 this subsection without a certificate of need, and the agreement  
1081 shall be fully binding on any subsequent owner of the nursing

1082 facility if the ownership of the facility is transferred at any  
1083 time after the agreement is signed. After the written agreement  
1084 is signed, the Division of Medicaid and the State Department of  
1085 Health shall not certify any beds in the nursing facility for  
1086 participation in the Medicaid program. If the nursing facility  
1087 violates the terms of the written agreement by participating in  
1088 the Medicaid program, having any beds certified for participation  
1089 in the Medicaid program, admitting or keeping any patient in the  
1090 facility who is participating in the Medicaid program, or  
1091 submitting any claim for Medicaid reimbursement for any patient in  
1092 the facility, the State Department of Health shall revoke the  
1093 license of the nursing facility at the time that the department  
1094 determines, after a hearing complying with due process, that the  
1095 facility has violated the terms of the written agreement.

1096 (b) For the purposes of this subsection, participation  
1097 in the Medicaid program by a nursing facility includes Medicaid  
1098 reimbursement of coinsurance and deductibles for recipients who  
1099 are qualified Medicare beneficiaries and/or those who are dually  
1100 eligible. Any nursing facility exercising the authority under  
1101 this subsection may not bill or submit a claim to the Division of  
1102 Medicaid for services to qualified Medicare beneficiaries and/or  
1103 those who are dually eligible.

1104 (c) The new construction of a nursing facility or  
1105 nursing facility beds or the conversion of other beds to nursing  
1106 facility beds described in this section must be either a part of a  
1107 completely new continuing care retirement community, as described  
1108 in the latest edition of the Mississippi State Health Plan, or an  
1109 addition to existing personal care and independent living  
1110 components, and so that the completed project will be a continuing  
1111 care retirement community, containing (i) independent living  
1112 accommodations, (ii) personal care beds, and (iii) the nursing  
1113 home facility beds. The three (3) components must be located on a  
1114 single site and be operated as one (1) inseparable facility. The

1115 nursing facility component must contain a minimum of thirty (30)  
1116 beds. Any nursing facility beds authorized by this section will  
1117 not be counted against the bed need set forth in the State Health  
1118 Plan, as identified in Section 41-7-171 et seq.

1119 This subsection (13) shall stand repealed from and after July  
1120 1, 2005.

1121 (14) The State Department of Health shall issue a  
1122 certificate of need to any hospital which is currently licensed  
1123 for two hundred fifty (250) or more acute care beds and is located  
1124 in any general hospital service area not having a comprehensive  
1125 cancer center, for the establishment and equipping of such a  
1126 center which provides facilities and services for outpatient  
1127 radiation oncology therapy, outpatient medical oncology therapy,  
1128 and appropriate support services including the provision of  
1129 radiation therapy services. The provision of Section 41-7-193(1)  
1130 regarding substantial compliance with the projection of need as  
1131 reported in the current State Health Plan is waived for the  
1132 purpose of this subsection.

1133 (15) The State Department of Health may authorize the  
1134 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1135 North Panola Community Hospital to the South Panola Community  
1136 Hospital. The authorization for the transfer of those beds shall  
1137 be exempt from the certificate of need review process.

1138 (16) Nothing in this section or in any other provision of  
1139 Section 41-7-171 et seq. shall prevent any nursing facility from  
1140 designating an appropriate number of existing beds in the facility  
1141 as beds for providing care exclusively to patients with  
1142 Alzheimer's disease.

1143 **SECTION 2.** This act shall take effect and be in force from  
1144 and after its passage.