

By: Senator(s) Jackson (15th)

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2839

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A  
3 CERTIFICATE OF NEED FOR THE ACQUISITION AND OPERATION OF A  
4 MAGNETIC RESONANCE IMAGING UNIT AND A LINEAR ACCELERATOR IN THE  
5 CITY OF STARKVILLE, OKTIBBEHA COUNTY, MISSISSIPPI, TO BE JOINTLY  
6 ACQUIRED AND OPERATED BY MISSISSIPPI STATE UNIVERSITY AND A HEALTH  
7 CARE PROVIDER; 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. This written agreement  
685 by the recipient of the certificate of need shall be a condition  
686 of the issuance of the certificate of need under this paragraph,

687 and the agreement shall be fully binding on any subsequent owner  
688 of the psychiatric residential treatment facility if the ownership  
689 of the facility is transferred at any time after the issuance of  
690 the certificate of need. After this written agreement is  
691 executed, the Division of Medicaid and the State Department of  
692 Health shall not certify more than fifteen (15) of the beds in the  
693 psychiatric residential treatment facility for participation in  
694 the Medicaid program. If the psychiatric residential treatment  
695 facility violates the terms of the written agreement by admitting  
696 or keeping in the facility on a regular or continuing basis more  
697 than fifteen (15) patients who are participating in the Medicaid  
698 program, the State Department of Health shall revoke the license  
699 of the facility, at the time that the department determines, after  
700 a hearing complying with due process, that the facility has  
701 violated the condition upon which the certificate of need was  
702 issued, as provided in this paragraph and in the written  
703 agreement.

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

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

720           (f) The department shall issue a certificate of need to  
721 a one-hundred-thirty-four-bed specialty hospital located on  
722 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
723 at 5900 Highway 39 North in Meridian (Lauderdale County),  
724 Mississippi, for the addition, construction or expansion of  
725 child/adolescent psychiatric residential treatment facility beds  
726 in Lauderdale County. As a condition of issuance of the  
727 certificate of need under this paragraph, the facility shall give  
728 priority in admissions to the child/adolescent psychiatric  
729 residential treatment facility beds authorized under this  
730 paragraph to patients who otherwise would require out-of-state  
731 placement. The Division of Medicaid, in conjunction with the  
732 Department of Human Services, shall furnish the facility a list of  
733 all out-of-state patients on a quarterly basis. Furthermore,  
734 notice shall also be provided to the parent, custodial parent or  
735 guardian of each out-of-state patient notifying them of the  
736 priority status granted by this paragraph. For purposes of this  
737 paragraph, the provisions of Section 41-7-193(1) requiring  
738 substantial compliance with the projection of need as reported in  
739 the current State Health Plan are waived. The total number of  
740 child/adolescent psychiatric residential treatment facility beds  
741 that may be authorized under the authority of this paragraph shall  
742 be sixty (60) beds. There shall be no prohibition or restrictions  
743 on participation in the Medicaid program (Section 43-13-101 et  
744 seq.) for the person receiving the certificate of need authorized  
745 under this paragraph or for the beds converted pursuant to the  
746 authority of that certificate of need.

747           (4) (a) From and after July 1, 1993, the department shall  
748 not issue a certificate of need to any person for the new  
749 construction of any hospital, psychiatric hospital or chemical  
750 dependency hospital that will contain any child/adolescent  
751 psychiatric or child/adolescent chemical dependency beds, or for  
752 the conversion of any other health care facility to a hospital,

753 psychiatric hospital or chemical dependency hospital that will  
754 contain any child/adolescent psychiatric or child/adolescent  
755 chemical dependency beds, or for the addition of any  
756 child/adolescent psychiatric or child/adolescent chemical  
757 dependency beds in any hospital, psychiatric hospital or chemical  
758 dependency hospital, or for the conversion of any beds of another  
759 category in any hospital, psychiatric hospital or chemical  
760 dependency hospital to child/adolescent psychiatric or  
761 child/adolescent chemical dependency beds, except as hereinafter  
762 authorized:

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

786 keeps any patients in the hospital, psychiatric hospital or  
787 chemical dependency hospital who are participating in the Medicaid  
788 program, the State Department of Health shall revoke the  
789 certificate of need, if it is still outstanding, and shall deny or  
790 revoke the license of the hospital, psychiatric hospital or  
791 chemical dependency hospital, at the time that the department  
792 determines, after a hearing complying with due process, that the  
793 hospital, psychiatric hospital or chemical dependency hospital has  
794 failed to comply with any of the conditions upon which the  
795 certificate of need was issued, as provided in this subparagraph  
796 and in the written agreement by the recipient of the certificate  
797 of need.

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

811           (iii) The department may issue a certificate or  
812 certificates of need for the construction or expansion of  
813 child/adolescent psychiatric beds or the conversion of other beds  
814 to child/adolescent psychiatric beds in Warren County. For  
815 purposes of this subparagraph, the provisions of Section  
816 41-7-193(1) requiring substantial compliance with the projection  
817 of need as reported in the current State Health Plan are waived.  
818 The total number of beds that may be authorized under the

819 authority of this subparagraph shall not exceed twenty (20) beds.  
820 There shall be no prohibition or restrictions on participation in  
821 the Medicaid program (Section 43-13-101 et seq.) for the person  
822 receiving the certificate of need authorized under this  
823 subparagraph (a)(iii) or for the beds converted pursuant to the  
824 authority of that certificate of need.

825         If by January 1, 2002, there has been no significant  
826 commencement of construction of the beds authorized under this  
827 subparagraph (a)(iii), or no significant action taken to convert  
828 existing beds to the beds authorized under this subparagraph, then  
829 the certificate of need that was previously issued under this  
830 subparagraph shall expire. If the previously issued certificate  
831 of need expires, the department may accept applications for  
832 issuance of another certificate of need for the beds authorized  
833 under this subparagraph, and may issue a certificate of need to  
834 authorize the construction, expansion or conversion of the beds  
835 authorized under this subparagraph.

836                 (iv) The department shall issue a certificate of  
837 need to the Region 7 Mental Health/Retardation Commission for the  
838 construction or expansion of child/adolescent psychiatric beds or  
839 the conversion of other beds to child/adolescent psychiatric beds  
840 in any of the counties served by the commission. For purposes of  
841 this subparagraph, the provisions of Section 41-7-193(1) requiring  
842 substantial compliance with the projection of need as reported in  
843 the current State Health Plan is waived. The total number of beds  
844 that may be authorized under the authority of this subparagraph  
845 shall not exceed twenty (20) beds. There shall be no prohibition  
846 or restrictions on participation in the Medicaid program (Section  
847 43-13-101 et seq.) for the person receiving the certificate of  
848 need authorized under this subparagraph (a)(iv) or for the beds  
849 converted pursuant to the authority of that certificate of need.

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

852 construction or expansion of adult psychiatric beds or the  
853 conversion of other beds to adult psychiatric beds, not to exceed  
854 twenty (20) beds, provided that the recipient of the certificate  
855 of need agrees in writing that the adult psychiatric beds will not  
856 at any time be certified for participation in the Medicaid program  
857 and that the hospital will not admit or keep any patients who are  
858 participating in the Medicaid program in any of such adult  
859 psychiatric beds. This written agreement by the recipient of the  
860 certificate of need shall be fully binding on any subsequent owner  
861 of the hospital if the ownership of the hospital is transferred at  
862 any time after the issuance of the certificate of need. Agreement  
863 that the adult psychiatric beds will not be certified for  
864 participation in the Medicaid program shall be a condition of the  
865 issuance of a certificate of need to any person under this  
866 subparagraph (a)(v), and if such hospital at any time after the  
867 issuance of the certificate of need, regardless of the ownership  
868 of the hospital, has any of such adult psychiatric beds certified  
869 for participation in the Medicaid program or admits or keeps any  
870 Medicaid patients in such adult psychiatric beds, the State  
871 Department of Health shall revoke the certificate of need, if it  
872 is still outstanding, and shall deny or revoke the license of the  
873 hospital at the time that the department determines, after a  
874 hearing complying with due process, that the hospital has failed  
875 to comply with any of the conditions upon which the certificate of  
876 need was issued, as provided in this subparagraph and in the  
877 written agreement by the recipient of the certificate of need.

878                   (vi) The department may issue a certificate or  
879 certificates of need for the expansion of child psychiatric beds  
880 or the conversion of other beds to child psychiatric beds at the  
881 University of Mississippi Medical Center. For purposes of this  
882 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
883 requiring substantial compliance with the projection of need as  
884 reported in the current State Health Plan is waived. The total

885 number of beds that may be authorized under the authority of this  
886 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
887 shall be no prohibition or restrictions on participation in the  
888 Medicaid program (Section 43-13-101 et seq.) for the hospital  
889 receiving the certificate of need authorized under this  
890 subparagraph (a)(vi) or for the beds converted pursuant to the  
891 authority of that certificate of need.

892 (b) From and after July 1, 1990, no hospital,  
893 psychiatric hospital or chemical dependency hospital shall be  
894 authorized to add any child/adolescent psychiatric or  
895 child/adolescent chemical dependency beds or convert any beds of  
896 another category to child/adolescent psychiatric or  
897 child/adolescent chemical dependency beds without a certificate of  
898 need under the authority of subsection (1)(c) of this section.

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

902 (6) The State Department of Health shall issue a certificate  
903 of need to a Mississippi corporation qualified to manage a  
904 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
905 Harrison County, not to exceed eighty (80) beds, including any  
906 necessary renovation or construction required for licensure and  
907 certification, provided that the recipient of the certificate of  
908 need agrees in writing that the long-term care hospital will not  
909 at any time participate in the Medicaid program (Section 43-13-101  
910 et seq.) or admit or keep any patients in the long-term care  
911 hospital who are participating in the Medicaid program. This  
912 written agreement by the recipient of the certificate of need  
913 shall be fully binding on any subsequent owner of the long-term  
914 care hospital, if the ownership of the facility is transferred at  
915 any time after the issuance of the certificate of need. Agreement  
916 that the long-term care hospital will not participate in the  
917 Medicaid program shall be a condition of the issuance of a

918 certificate of need to any person under this subsection (6), and  
919 if such long-term care hospital at any time after the issuance of  
920 the certificate of need, regardless of the ownership of the  
921 facility, participates in the Medicaid program or admits or keeps  
922 any patients in the facility who are participating in the Medicaid  
923 program, the State Department of Health shall revoke the  
924 certificate of need, if it is still outstanding, and shall deny or  
925 revoke the license of the long-term care hospital, at the time  
926 that the department determines, after a hearing complying with due  
927 process, that the facility has failed to comply with any of the  
928 conditions upon which the certificate of need was issued, as  
929 provided in this subsection and in the written agreement by the  
930 recipient of the certificate of need. For purposes of this  
931 subsection, the provision of Section 41-7-193(1) requiring  
932 substantial compliance with the projection of need as reported in  
933 the current State Health Plan is hereby waived.

934 (7) The State Department of Health may issue a certificate  
935 of need to any hospital in the state to utilize a portion of its  
936 beds for the "swing-bed" concept. Any such hospital must be in  
937 conformance with the federal regulations regarding such swing-bed  
938 concept at the time it submits its application for a certificate  
939 of need to the State Department of Health, except that such  
940 hospital may have more licensed beds or a higher average daily  
941 census (ADC) than the maximum number specified in federal  
942 regulations for participation in the swing-bed program. Any  
943 hospital meeting all federal requirements for participation in the  
944 swing-bed program which receives such certificate of need shall  
945 render services provided under the swing-bed concept to any  
946 patient eligible for Medicare (Title XVIII of the Social Security  
947 Act) who is certified by a physician to be in need of such  
948 services, and no such hospital shall permit any patient who is  
949 eligible for both Medicaid and Medicare or eligible only for  
950 Medicaid to stay in the swing beds of the hospital for more than

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

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

976 (9) The Department of Health shall not grant approval for or  
977 issue a certificate of need to any person proposing the  
978 establishment of, or expansion of the currently approved territory  
979 of, or the contracting to establish a home office, subunit or  
980 branch office within the space operated as a health care facility  
981 as defined in Section 41-7-173(h)(i) through (viii) by a health  
982 care facility as defined in subparagraph (ix) of Section  
983 41-7-173(h).

984 (10) Health care facilities owned and/or operated by the  
985 state or its agencies are exempt from the restraints in this  
986 section against issuance of a certificate of need if such addition  
987 or expansion consists of repairing or renovation necessary to  
988 comply with the state licensure law. This exception shall not  
989 apply to the new construction of any building by such state  
990 facility. This exception shall not apply to any health care  
991 facilities owned and/or operated by counties, municipalities,  
992 districts, unincorporated areas, other defined persons, or any  
993 combination thereof.

994 (11) The new construction, renovation or expansion of or  
995 addition to any health care facility defined in subparagraph (ii)  
996 (psychiatric hospital), subparagraph (iv) (skilled nursing  
997 facility), subparagraph (vi) (intermediate care facility),  
998 subparagraph (viii) (intermediate care facility for the mentally  
999 retarded) and subparagraph (x) (psychiatric residential treatment  
1000 facility) of Section 41-7-173(h) which is owned by the State of  
1001 Mississippi and under the direction and control of the State  
1002 Department of Mental Health, and the addition of new beds or the  
1003 conversion of beds from one category to another in any such  
1004 defined health care facility which is owned by the State of  
1005 Mississippi and under the direction and control of the State  
1006 Department of Mental Health, shall not require the issuance of a  
1007 certificate of need under Section 41-7-171 et seq.,  
1008 notwithstanding any provision in Section 41-7-171 et seq. to the  
1009 contrary.

1010 (12) The new construction, renovation or expansion of or  
1011 addition to any veterans homes or domiciliaries for eligible  
1012 veterans of the State of Mississippi as authorized under Section  
1013 35-1-19 shall not require the issuance of a certificate of need,  
1014 notwithstanding any provision in Section 41-7-171 et seq. to the  
1015 contrary.

1016           (13) The new construction of a nursing facility or nursing  
1017 facility beds or the conversion of other beds to nursing facility  
1018 beds shall not require the issuance of a certificate of need,  
1019 notwithstanding any provision in Section 41-7-171 et seq. to the  
1020 contrary, if the conditions of this subsection are met.

1021           (a) Before any construction or conversion may be  
1022 undertaken without a certificate of need, the owner of the nursing  
1023 facility, in the case of an existing facility, or the applicant to  
1024 construct a nursing facility, in the case of new construction,  
1025 first must file a written notice of intent and sign a written  
1026 agreement with the State Department of Health that the entire  
1027 nursing facility will not at any time participate in or have any  
1028 beds certified for participation in the Medicaid program (Section  
1029 43-13-101 et seq.), will not admit or keep any patients in the  
1030 nursing facility who are participating in the Medicaid program,  
1031 and will not submit any claim for Medicaid reimbursement for any  
1032 patient in the facility. This written agreement by the owner or  
1033 applicant shall be a condition of exercising the authority under  
1034 this subsection without a certificate of need, and the agreement  
1035 shall be fully binding on any subsequent owner of the nursing  
1036 facility if the ownership of the facility is transferred at any  
1037 time after the agreement is signed. After the written agreement  
1038 is signed, the Division of Medicaid and the State Department of  
1039 Health shall not certify any beds in the nursing facility for  
1040 participation in the Medicaid program. If the nursing facility  
1041 violates the terms of the written agreement by participating in  
1042 the Medicaid program, having any beds certified for participation  
1043 in the Medicaid program, admitting or keeping any patient in the  
1044 facility who is participating in the Medicaid program, or  
1045 submitting any claim for Medicaid reimbursement for any patient in  
1046 the facility, the State Department of Health shall revoke the  
1047 license of the nursing facility at the time that the department

1048 determines, after a hearing complying with due process, that the  
1049 facility has violated the terms of the written agreement.

1050 (b) For the purposes of this subsection, participation  
1051 in the Medicaid program by a nursing facility includes Medicaid  
1052 reimbursement of coinsurance and deductibles for recipients who  
1053 are qualified Medicare beneficiaries and/or those who are dually  
1054 eligible. Any nursing facility exercising the authority under  
1055 this subsection may not bill or submit a claim to the Division of  
1056 Medicaid for services to qualified Medicare beneficiaries and/or  
1057 those who are dually eligible.

1058 (c) The new construction of a nursing facility or  
1059 nursing facility beds or the conversion of other beds to nursing  
1060 facility beds described in this section must be either a part of a  
1061 completely new continuing care retirement community, as described  
1062 in the latest edition of the Mississippi State Health Plan, or an  
1063 addition to existing personal care and independent living  
1064 components, and so that the completed project will be a continuing  
1065 care retirement community, containing (i) independent living  
1066 accommodations, (ii) personal care beds, and (iii) the nursing  
1067 home facility beds. The three (3) components must be located on a  
1068 single site and be operated as one (1) inseparable facility. The  
1069 nursing facility component must contain a minimum of thirty (30)  
1070 beds. Any nursing facility beds authorized by this section will  
1071 not be counted against the bed need set forth in the State Health  
1072 Plan, as identified in Section 41-7-171 et seq.

1073 This subsection (13) shall stand repealed from and after July  
1074 1, 2005.

1075 (14) The State Department of Health shall issue a  
1076 certificate of need to any hospital which is currently licensed  
1077 for two hundred fifty (250) or more acute care beds and is located  
1078 in any general hospital service area not having a comprehensive  
1079 cancer center, for the establishment and equipping of such a  
1080 center which provides facilities and services for outpatient

1081 radiation oncology therapy, outpatient medical oncology therapy,  
1082 and appropriate support services including the provision of  
1083 radiation therapy services. The provision of Section 41-7-193(1)  
1084 regarding substantial compliance with the projection of need as  
1085 reported in the current State Health Plan is waived for the  
1086 purpose of this subsection.

1087 (15) The State Department of Health may authorize the  
1088 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1089 North Panola Community Hospital to the South Panola Community  
1090 Hospital. The authorization for the transfer of those beds shall  
1091 be exempt from the certificate of need review process.

1092 (16) Nothing in this section or in any other provision of  
1093 Section 41-7-171 et seq. shall prevent any nursing facility from  
1094 designating an appropriate number of existing beds in the facility  
1095 as beds for providing care exclusively to patients with  
1096 Alzheimer's disease.

1097 (17) The State Department of Health shall issue any and all  
1098 certificates of need necessary for Mississippi State University  
1099 and a health care provider to acquire and operate a linear  
1100 accelerator and a magnetic resonance imaging unit, such  
1101 certificates of need to cover any and all capital expenditures  
1102 related to the project between Mississippi State University and  
1103 the health care provider, including, but not limited to, the  
1104 acquisition of the linear accelerator, the magnetic resonance  
1105 imaging unit and other radiological modalities; the offering of  
1106 linear accelerator and magnetic resonance imaging services; and  
1107 the cost of construction of facilities in which to locate these  
1108 services. The linear accelerator and the magnetic resonance  
1109 imaging unit shall be (i) located in Starkville, Oktibbeha County,  
1110 Mississippi; (ii) operated jointly by Mississippi State University  
1111 and the health care provider selected and approved by Mississippi  
1112 State University's Board of Governors; (iii) available to  
1113 Mississippi State University for research purposes two-thirds

1114 (2/3) of the time that the linear accelerator and MRI unit are  
1115 operational; and (iv) available to the health care provider  
1116 approved by Mississippi State University's Board of Governors  
1117 one-third (1/3) of the time for private clinical, diagnostic and  
1118 treatment purposes. The provision of Section 41-7-193(1)  
1119 regarding substantial compliance with the projection of need as  
1120 reported in the current State Health Plan is waived for the  
1121 purpose of this subsection.

1122       **SECTION 2.** This act shall take effect and be in force from  
1123 and after its passage.