

## House Amendments to Senate Bill No. 2859

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

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

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

21           41-7-191. (1) No person shall engage in any of the  
22 following activities without obtaining the required certificate of  
23 need:

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

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

33           (c) Any change in the existing bed complement of any  
34 health care facility through the addition or conversion of any  
35 beds or the alteration, modernizing or refurbishing of any unit or  
36 department in which the beds may be located; however, if a health  
37 care facility has voluntarily delicensed some of its existing bed  
38 complement, it may later relicense some or all of its delicensed  
39 beds without the necessity of having to acquire a certificate of  
40 need. The State Department of Health shall maintain a record of  
41 the delicensing health care facility and its voluntarily  
42 delicensed beds and continue counting those beds as part of the  
43 state's total bed count for health care planning purposes. If a  
44 health care facility that has voluntarily delicensed some of its

45 beds later desires to relicense some or all of its voluntarily  
46 delicensed beds, it shall notify the State Department of Health of  
47 its intent to increase the number of its licensed beds. The State  
48 Department of Health shall survey the health care facility within  
49 thirty (30) days of that notice and, if appropriate, issue the  
50 health care facility a new license reflecting the new contingent  
51 of beds. However, in no event may a health care facility that has  
52 voluntarily delicensed some of its beds be reissued a license to  
53 operate beds in excess of its bed count before the voluntary  
54 delicensure of some of its beds without seeking certificate of  
55 need approval;

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

- 60 (i) Open heart surgery services;
- 61 (ii) Cardiac catheterization services;
- 62 (iii) Comprehensive inpatient rehabilitation  
63 services;
- 64 (iv) Licensed psychiatric services;
- 65 (v) Licensed chemical dependency services;
- 66 (vi) Radiation therapy services;
- 67 (vii) Diagnostic imaging services of an invasive  
68 nature, i.e. invasive digital angiography;
- 69 (viii) Nursing home care as defined in  
70 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 71 (ix) Home health services;
- 72 (x) Swing-bed services;
- 73 (xi) Ambulatory surgical services;
- 74 (xii) Magnetic resonance imaging services;
- 75 (xiii) Extracorporeal shock wave lithotripsy  
76 services;
- 77 (xiv) Long-term care hospital services;
- 78 (xv) Positron Emission Tomography (PET) services;

79           (e) The relocation of one or more health services from  
80 one physical facility or site to another physical facility or  
81 site, unless such relocation, which does not involve a capital  
82 expenditure by or on behalf of a health care facility, (i) is to a  
83 physical facility or site within one thousand three hundred twenty  
84 (1,320) feet from the main entrance of the health care facility  
85 where the health care service is located, or (ii) is the result of  
86 an order of a court of appropriate jurisdiction or a result of  
87 pending litigation in such court, or by order of the State  
88 Department of Health, or by order of any other agency or legal  
89 entity of the state, the federal government, or any political  
90 subdivision of either, whose order is also approved by the State  
91 Department of Health;

92           (f) The acquisition or otherwise control of any major  
93 medical equipment for the provision of medical services; provided,  
94 however, (i) the acquisition of any major medical equipment used  
95 only for research purposes, and (ii) the acquisition of major  
96 medical equipment to replace medical equipment for which a  
97 facility is already providing medical services and for which the  
98 State Department of Health has been notified before the date of  
99 such acquisition shall be exempt from this paragraph; an  
100 acquisition for less than fair market value must be reviewed, if  
101 the acquisition at fair market value would be subject to review;

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

110           (h) The change of ownership of any health care facility  
111 defined in subparagraphs (iv), (vi) and (viii) of Section  
112 41-7-173(h), in which a notice of intent as described in paragraph  
113 (g) has not been filed and if the Executive Director, Division of

114 Medicaid, Office of the Governor, has not certified in writing  
115 that there will be no increase in allowable costs to Medicaid from  
116 revaluation of the assets or from increased interest and  
117 depreciation as a result of the proposed change of ownership;

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

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

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

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

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

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

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

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

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

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

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

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

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

225 (i) The department may issue a certificate of need for  
226 the new construction of a skilled nursing facility in Leake  
227 County, provided that the recipient of the certificate of need  
228 agrees in writing that the skilled nursing facility will not at  
229 any time participate in the Medicaid program (Section 43-13-101 et  
230 seq.) or admit or keep any patients in the skilled nursing  
231 facility who are participating in the Medicaid program. This  
232 written agreement by the recipient of the certificate of need  
233 shall be fully binding on any subsequent owner of the skilled  
234 nursing facility, if the ownership of the facility is transferred  
235 at any time after the issuance of the certificate of need.  
236 Agreement that the skilled nursing facility will not participate  
237 in the Medicaid program shall be a condition of the issuance of a  
238 certificate of need to any person under this paragraph (i), and if  
239 such skilled nursing facility at any time after the issuance of  
240 the certificate of need, regardless of the ownership of the  
241 facility, participates in the Medicaid program or admits or keeps  
242 any patients in the facility who are participating in the Medicaid  
243 program, the State Department of Health shall revoke the  
244 certificate of need, if it is still outstanding, and shall deny or  
245 revoke the license of the skilled nursing facility, at the time  
246 that the department determines, after a hearing complying with due  
247 process, that the facility has failed to comply with any of the  
248 conditions upon which the certificate of need was issued, as  
249 provided in this paragraph and in the written agreement by the  
250 recipient of the certificate of need. The provision of Section  
251 43-7-193(1) regarding substantial compliance of the projection of

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

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

275 (k) The department may issue a certificate of need for  
276 the construction of a nursing facility at a continuing care  
277 retirement community in Lowndes County. The total number of beds  
278 that may be authorized under the authority of this paragraph (k)  
279 shall not exceed sixty (60) beds. From and after July 1, 2001,  
280 the prohibition on the facility participating in the Medicaid  
281 program (Section 43-13-101 et seq.) that was a condition of  
282 issuance of the certificate of need under this paragraph (k) shall  
283 be revised as follows: The nursing facility may participate in  
284 the Medicaid program from and after July 1, 2001, if the owner of  
285 the facility on July 1, 2001, agrees in writing that no more than  
286 thirty (30) of the beds at the facility will be certified for

287 participation in the Medicaid program, and that no claim will be  
288 submitted for Medicaid reimbursement for more than thirty (30)  
289 patients in the facility in any month or for any patient in the  
290 facility who is in a bed that is not Medicaid-certified. This  
291 written agreement by the owner of the facility shall be a  
292 condition of licensure of the facility, and the agreement shall be  
293 fully binding on any subsequent owner of the facility if the  
294 ownership of the facility is transferred at any time after July 1,  
295 2001. After this written agreement is executed, the Division of  
296 Medicaid and the State Department of Health shall not certify more  
297 than thirty (30) of the beds in the facility for participation in  
298 the Medicaid program. If the facility violates the terms of the  
299 written agreement by admitting or keeping in the facility on a  
300 regular or continuing basis more than thirty (30) patients who are  
301 participating in the Medicaid program, the State Department of  
302 Health shall revoke the license of the facility, at the time that  
303 the department determines, after a hearing complying with due  
304 process, that the facility has violated the written agreement.

305 (1) Provided that funds are specifically appropriated  
306 therefor by the Legislature, the department may issue a  
307 certificate of need to a rehabilitation hospital in Hinds County  
308 for the construction of a sixty-bed long-term care nursing  
309 facility dedicated to the care and treatment of persons with  
310 severe disabilities including persons with spinal cord and  
311 closed-head injuries and ventilator-dependent patients. The  
312 provision of Section 41-7-193(1) regarding substantial compliance  
313 with projection of need as reported in the current State Health  
314 Plan is hereby waived for the purpose of this paragraph.

315 (m) The State Department of Health may issue a  
316 certificate of need to a county-owned hospital in the Second  
317 Judicial District of Panola County for the conversion of not more  
318 than seventy-two (72) hospital beds to nursing facility beds,  
319 provided that the recipient of the certificate of need agrees in  
320 writing that none of the beds at the nursing facility will be  
321 certified for participation in the Medicaid program (Section

322 43-13-101 et seq.), and that no claim will be submitted for  
323 Medicaid reimbursement in the nursing facility in any day or for  
324 any patient in the nursing facility. This written agreement by  
325 the recipient of the certificate of need shall be a condition of  
326 the issuance of the certificate of need under this paragraph, and  
327 the agreement shall be fully binding on any subsequent owner of  
328 the nursing facility if the ownership of the nursing facility is  
329 transferred at any time after the issuance of the certificate of  
330 need. After this written agreement is executed, the Division of  
331 Medicaid and the State Department of Health shall not certify any  
332 of the beds in the nursing facility for participation in the  
333 Medicaid program. If the nursing facility violates the terms of  
334 the written agreement by admitting or keeping in the nursing  
335 facility on a regular or continuing basis any patients who are  
336 participating in the Medicaid program, the State Department of  
337 Health shall revoke the license of the nursing facility, at the  
338 time that the department determines, after a hearing complying  
339 with due process, that the nursing facility has violated the  
340 condition upon which the certificate of need was issued, as  
341 provided in this paragraph and in the written agreement. If the  
342 certificate of need authorized under this paragraph is not issued  
343 within twelve (12) months after July 1, 2001, the department shall  
344 deny the application for the certificate of need and shall not  
345 issue the certificate of need at any time after the twelve-month  
346 period, unless the issuance is contested. If the certificate of  
347 need is issued and substantial construction of the nursing  
348 facility beds has not commenced within eighteen (18) months after  
349 July 1, 2001, the State Department of Health, after a hearing  
350 complying with due process, shall revoke the certificate of need  
351 if it is still outstanding, and the department shall not issue a  
352 license for the nursing facility at any time after the  
353 eighteen-month period. Provided, however, that if the issuance of  
354 the certificate of need is contested, the department shall require  
355 substantial construction of the nursing facility beds within six

356 (6) months after final adjudication on the issuance of the  
357 certificate of need.

358 (n) The department may issue a certificate of need for  
359 the new construction, addition or conversion of skilled nursing  
360 facility beds in Madison County, provided that the recipient of  
361 the certificate of need agrees in writing that the skilled nursing  
362 facility will not at any time participate in the Medicaid program  
363 (Section 43-13-101 et seq.) or admit or keep any patients in the  
364 skilled nursing facility who are participating in the Medicaid  
365 program. This written agreement by the recipient of the  
366 certificate of need shall be fully binding on any subsequent owner  
367 of the skilled nursing facility, if the ownership of the facility  
368 is transferred at any time after the issuance of the certificate  
369 of need. Agreement that the skilled nursing facility will not  
370 participate in the Medicaid program shall be a condition of the  
371 issuance of a certificate of need to any person under this  
372 paragraph (n), and if such skilled nursing facility at any time  
373 after the issuance of the certificate of need, regardless of the  
374 ownership of the facility, participates in the Medicaid program or  
375 admits or keeps any patients in the facility who are participating  
376 in the Medicaid program, the State Department of Health shall  
377 revoke the certificate of need, if it is still outstanding, and  
378 shall deny or revoke the license of the skilled nursing facility,  
379 at the time that the department determines, after a hearing  
380 complying with due process, that the facility has failed to comply  
381 with any of the conditions upon which the certificate of need was  
382 issued, as provided in this paragraph and in the written agreement  
383 by the recipient of the certificate of need. The total number of  
384 nursing facility beds that may be authorized by any certificate of  
385 need issued under this paragraph (n) shall not exceed sixty (60)  
386 beds. If the certificate of need authorized under this paragraph  
387 is not issued within twelve (12) months after July 1, 1998, the  
388 department shall deny the application for the certificate of need  
389 and shall not issue the certificate of need at any time after the  
390 twelve-month period, unless the issuance is contested. If the

391 certificate of need is issued and substantial construction of the  
392 nursing facility beds has not commenced within eighteen (18)  
393 months after the effective date of July 1, 1998, the State  
394 Department of Health, after a hearing complying with due process,  
395 shall revoke the certificate of need if it is still outstanding,  
396 and the department shall not issue a license for the nursing  
397 facility at any time after the eighteen-month period. Provided,  
398 however, that if the issuance of the certificate of need is  
399 contested, the department shall require substantial construction  
400 of the nursing facility beds within six (6) months after final  
401 adjudication on the issuance of the certificate of need.

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

426 issued, as provided in this paragraph and in the written agreement  
427 by the recipient of the certificate of need. The total number of  
428 nursing facility beds that may be authorized by any certificate of  
429 need issued under this paragraph (o) shall not exceed sixty (60)  
430 beds. If the certificate of need authorized under this paragraph  
431 is not issued within twelve (12) months after July 1, 2001, the  
432 department shall deny the application for the certificate of need  
433 and shall not issue the certificate of need at any time after the  
434 twelve-month period, unless the issuance is contested. If the  
435 certificate of need is issued and substantial construction of the  
436 nursing facility beds has not commenced within eighteen (18)  
437 months after the effective date of July 1, 2001, the State  
438 Department of Health, after a hearing complying with due process,  
439 shall revoke the certificate of need if it is still outstanding,  
440 and the department shall not issue a license for the nursing  
441 facility at any time after the eighteen-month period. Provided,  
442 however, that if the issuance of the certificate of need is  
443 contested, the department shall require substantial construction  
444 of the nursing facility beds within six (6) months after final  
445 adjudication on the issuance of the certificate of need.

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

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

492 (q) (i) Beginning on July 1, 1999, the State  
493 Department of Health shall issue certificates of need during each  
494 of the next four (4) fiscal years for the construction or  
495 expansion of nursing facility beds or the conversion of other beds

496 to nursing facility beds in each county in the state having a need  
497 for fifty (50) or more additional nursing facility beds, as shown  
498 in the fiscal year 1999 State Health Plan, in the manner provided  
499 in this paragraph (q). The total number of nursing facility beds  
500 that may be authorized by any certificate of need authorized under  
501 this paragraph (q) shall not exceed sixty (60) beds.

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

525 (iii) Subject to the provisions of subparagraph  
526 (v), the certificate of need issued under subparagraph (ii) for  
527 nursing facility beds in each Long-Term Care Planning District  
528 during each fiscal year shall first be available for nursing  
529 facility beds in the county in the district having the highest  
530 need for those beds, as shown in the fiscal year 1999 State Health

531 Plan. If there are no applications for a certificate of need for  
532 nursing facility beds in the county having the highest need for  
533 those beds by the date specified by the department, then the  
534 certificate of need shall be available for nursing facility beds  
535 in other counties in the district in descending order of the need  
536 for those beds, from the county with the second highest need to  
537 the county with the lowest need, until an application is received  
538 for nursing facility beds in an eligible county in the district.

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

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

566 fiscal year. After a certificate of need has been issued under  
567 this paragraph (q) for nursing facility beds in a county during  
568 any fiscal year of the four-year period, a certificate of need  
569 shall not be available again under this paragraph (q) for  
570 additional nursing facility beds in that county during the  
571 four-year period, and that county shall be excluded in determining  
572 which counties have the highest need for nursing facility beds in  
573 succeeding fiscal years.

574 (vi) If more than one (1) application is made for  
575 a certificate of need for nursing home facility beds available  
576 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
577 County, and one (1) of the applicants is a county-owned hospital  
578 located in the county where the nursing facility beds are  
579 available, the department shall give priority to the county-owned  
580 hospital in granting the certificate of need if the following  
581 conditions are met:

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

585 2. The county-owned hospital's qualifications  
586 for the certificate of need, as shown in its application and as  
587 determined by the department, are at least equal to the  
588 qualifications of the other applicants for the certificate of  
589 need.

590 (r) (i) Beginning on July 1, 1999, the State  
591 Department of Health shall issue certificates of need during each  
592 of the next two (2) fiscal years for the construction or expansion  
593 of nursing facility beds or the conversion of other beds to  
594 nursing facility beds in each of the four (4) Long-Term Care  
595 Planning Districts designated in the fiscal year 1999 State Health  
596 Plan, to provide care exclusively to patients with Alzheimer's  
597 disease.

598 (ii) Not more than twenty (20) beds may be  
599 authorized by any certificate of need issued under this paragraph  
600 (r), and not more than a total of sixty (60) beds may be

601 authorized in any Long-Term Care Planning District by all  
602 certificates of need issued under this paragraph (r). However,  
603 the total number of beds that may be authorized by all  
604 certificates of need issued under this paragraph (r) during any  
605 fiscal year shall not exceed one hundred twenty (120) beds, and  
606 the total number of beds that may be authorized in any Long-Term  
607 Care Planning District during any fiscal year shall not exceed  
608 forty (40) beds. Of the certificates of need that are issued for  
609 each Long-Term Care Planning District during the next two (2)  
610 fiscal years, at least one (1) shall be issued for beds in the  
611 northern part of the district, at least one (1) shall be issued  
612 for beds in the central part of the district, and at least one (1)  
613 shall be issued for beds in the southern part of the district.

614 (iii) The State Department of Health, in  
615 consultation with the Department of Mental Health and the Division  
616 of Medicaid, shall develop and prescribe the staffing levels,  
617 space requirements and other standards and requirements that must  
618 be met with regard to the nursing facility beds authorized under  
619 this paragraph (r) to provide care exclusively to patients with  
620 Alzheimer's disease.

621 (3) The State Department of Health may grant approval for  
622 and issue certificates of need to any person proposing the new  
623 construction of, addition to, conversion of beds of or expansion  
624 of any health care facility defined in subparagraph (x)  
625 (psychiatric residential treatment facility) of Section  
626 41-7-173(h). The total number of beds which may be authorized by  
627 such certificates of need shall not exceed three hundred  
628 thirty-four (334) beds for the entire state.

629 (a) Of the total number of beds authorized under this  
630 subsection, the department shall issue a certificate of need to a  
631 privately-owned psychiatric residential treatment facility in  
632 Simpson County for the conversion of sixteen (16) intermediate  
633 care facility for the mentally retarded (ICF-MR) beds to  
634 psychiatric residential treatment facility beds, provided that  
635 facility agrees in writing that the facility shall give priority

636 for the use of those sixteen (16) beds to Mississippi residents  
637 who are presently being treated in out-of-state facilities.

638 (b) Of the total number of beds authorized under this  
639 subsection, the department may issue a certificate or certificates  
640 of need for the construction or expansion of psychiatric  
641 residential treatment facility beds or the conversion of other  
642 beds to psychiatric residential treatment facility beds in Warren  
643 County, not to exceed sixty (60) psychiatric residential treatment  
644 facility beds, provided that the facility agrees in writing that  
645 no more than thirty (30) of the beds at the psychiatric  
646 residential treatment facility will be certified for participation  
647 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
648 any patients other than those who are participating only in the  
649 Medicaid program of another state, and that no claim will be  
650 submitted to the Division of Medicaid for Medicaid reimbursement  
651 for more than thirty (30) patients in the psychiatric residential  
652 treatment facility in any day or for any patient in the  
653 psychiatric residential treatment facility who is in a bed that is  
654 not Medicaid-certified. This written agreement by the recipient  
655 of the certificate of need shall be a condition of the issuance of  
656 the certificate of need under this paragraph, and the agreement  
657 shall be fully binding on any subsequent owner of the psychiatric  
658 residential treatment facility if the ownership of the facility is  
659 transferred at any time after the issuance of the certificate of  
660 need. After this written agreement is executed, the Division of  
661 Medicaid and the State Department of Health shall not certify more  
662 than thirty (30) of the beds in the psychiatric residential  
663 treatment facility for participation in the Medicaid program for  
664 the use of any patients other than those who are participating  
665 only in the Medicaid program of another state. If the psychiatric  
666 residential treatment facility violates the terms of the written  
667 agreement by admitting or keeping in the facility on a regular or  
668 continuing basis more than thirty (30) patients who are  
669 participating in the Mississippi Medicaid program, the State  
670 Department of Health shall revoke the license of the facility, at

671 the time that the department determines, after a hearing complying  
672 with due process, that the facility has violated the condition  
673 upon which the certificate of need was issued, as provided in this  
674 paragraph and in the written agreement.

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

679 (c) Of the total number of beds authorized under this  
680 subsection, the department shall issue a certificate of need to a  
681 hospital currently operating Medicaid-certified acute psychiatric  
682 beds for adolescents in DeSoto County, for the establishment of a  
683 forty-bed psychiatric residential treatment facility in DeSoto  
684 County, provided that the hospital agrees in writing (i) that the  
685 hospital shall give priority for the use of those forty (40) beds  
686 to Mississippi residents who are presently being treated in  
687 out-of-state facilities, and (ii) that no more than fifteen (15)  
688 of the beds at the psychiatric residential treatment facility will  
689 be certified for participation in the Medicaid program (Section  
690 43-13-101 et seq.), and that no claim will be submitted for  
691 Medicaid reimbursement for more than fifteen (15) patients in the  
692 psychiatric residential treatment facility in any day or for any  
693 patient in the psychiatric residential treatment facility who is  
694 in a bed that is not Medicaid-certified. This written agreement  
695 by the recipient of the certificate of need shall be a condition  
696 of the issuance of the certificate of need under this paragraph,  
697 and the agreement shall be fully binding on any subsequent owner  
698 of the psychiatric residential treatment facility if the ownership  
699 of the facility is transferred at any time after the issuance of  
700 the certificate of need. After this written agreement is  
701 executed, the Division of Medicaid and the State Department of  
702 Health shall not certify more than fifteen (15) of the beds in the  
703 psychiatric residential treatment facility for participation in  
704 the Medicaid program. If the psychiatric residential treatment  
705 facility violates the terms of the written agreement by admitting

706 or keeping in the facility on a regular or continuing basis more  
707 than fifteen (15) patients who are participating in the Medicaid  
708 program, the State Department of Health shall revoke the license  
709 of the facility, at the time that the department determines, after  
710 a hearing complying with due process, that the facility has  
711 violated the condition upon which the certificate of need was  
712 issued, as provided in this paragraph and in the written  
713 agreement.

714 (d) Of the total number of beds authorized under this  
715 subsection, the department may issue a certificate or certificates  
716 of need for the construction or expansion of psychiatric  
717 residential treatment facility beds or the conversion of other  
718 beds to psychiatric treatment facility beds, not to exceed thirty  
719 (30) psychiatric residential treatment facility beds, in either  
720 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
721 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

730 (f) The department shall issue a certificate of need to  
731 a one-hundred-thirty-four-bed specialty hospital located on  
732 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
733 at 5900 Highway 39 North in Meridian (Lauderdale County),  
734 Mississippi, for the addition, construction or expansion of  
735 child/adolescent psychiatric residential treatment facility beds  
736 in Lauderdale County. As a condition of issuance of the  
737 certificate of need under this paragraph, the facility shall give  
738 priority in admissions to the child/adolescent psychiatric  
739 residential treatment facility beds authorized under this  
740 paragraph to patients who otherwise would require out-of-state

741 placement. The Division of Medicaid, in conjunction with the  
742 Department of Human Services, shall furnish the facility a list of  
743 all out-of-state patients on a quarterly basis. Furthermore,  
744 notice shall also be provided to the parent, custodial parent or  
745 guardian of each out-of-state patient notifying them of the  
746 priority status granted by this paragraph. For purposes of this  
747 paragraph, the provisions of Section 41-7-193(1) requiring  
748 substantial compliance with the projection of need as reported in  
749 the current State Health Plan are waived. The total number of  
750 child/adolescent psychiatric residential treatment facility beds  
751 that may be authorized under the authority of this paragraph shall  
752 be sixty (60) beds. There shall be no prohibition or restrictions  
753 on participation in the Medicaid program (Section 43-13-101 et  
754 seq.) for the person receiving the certificate of need authorized  
755 under this paragraph or for the beds converted pursuant to the  
756 authority of that certificate of need.

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

773 (i) The department may issue certificates of need  
774 to any person for any purpose described in this subsection,  
775 provided that the hospital, psychiatric hospital or chemical

776 dependency hospital does not participate in the Medicaid program  
777 (Section 43-13-101 et seq.) at the time of the application for the  
778 certificate of need and the owner of the hospital, psychiatric  
779 hospital or chemical dependency hospital agrees in writing that  
780 the hospital, psychiatric hospital or chemical dependency hospital  
781 will not at any time participate in the Medicaid program or admit  
782 or keep any patients who are participating in the Medicaid program  
783 in the hospital, psychiatric hospital or chemical dependency  
784 hospital. This written agreement by the recipient of the  
785 certificate of need shall be fully binding on any subsequent owner  
786 of the hospital, psychiatric hospital or chemical dependency  
787 hospital, if the ownership of the facility is transferred at any  
788 time after the issuance of the certificate of need. Agreement  
789 that the hospital, psychiatric hospital or chemical dependency  
790 hospital will not participate in the Medicaid program shall be a  
791 condition of the issuance of a certificate of need to any person  
792 under this subparagraph (a)(i), and if such hospital, psychiatric  
793 hospital or chemical dependency hospital at any time after the  
794 issuance of the certificate of need, regardless of the ownership  
795 of the facility, participates in the Medicaid program or admits or  
796 keeps any patients in the hospital, psychiatric hospital or  
797 chemical dependency hospital who are participating in the Medicaid  
798 program, the State Department of Health shall revoke the  
799 certificate of need, if it is still outstanding, and shall deny or  
800 revoke the license of the hospital, psychiatric hospital or  
801 chemical dependency hospital, at the time that the department  
802 determines, after a hearing complying with due process, that the  
803 hospital, psychiatric hospital or chemical dependency hospital has  
804 failed to comply with any of the conditions upon which the  
805 certificate of need was issued, as provided in this subparagraph  
806 and in the written agreement by the recipient of the certificate  
807 of need.

808 (ii) The department may issue a certificate of  
809 need for the conversion of existing beds in a county hospital in  
810 Choctaw County from acute care beds to child/adolescent chemical

811 dependency beds. For purposes of this subparagraph, the  
812 provisions of Section 41-7-193(1) requiring substantial compliance  
813 with the projection of need as reported in the current State  
814 Health Plan is waived. The total number of beds that may be  
815 authorized under authority of this subparagraph shall not exceed  
816 twenty (20) beds. There shall be no prohibition or restrictions  
817 on participation in the Medicaid program (Section 43-13-101 et  
818 seq.) for the hospital receiving the certificate of need  
819 authorized under this subparagraph (a)(ii) or for the beds  
820 converted pursuant to the authority of that certificate of need.

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

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

846                   (iv) The department shall issue a certificate of  
847 need to the Region 7 Mental Health/Retardation Commission for the  
848 construction or expansion of child/adolescent psychiatric beds or  
849 the conversion of other beds to child/adolescent psychiatric beds  
850 in any of the counties served by the commission. For purposes of  
851 this subparagraph, the provisions of Section 41-7-193(1) requiring  
852 substantial compliance with the projection of need as reported in  
853 the current State Health Plan is waived. The total number of beds  
854 that may be authorized under the authority of this subparagraph  
855 shall not exceed twenty (20) beds. There shall be no prohibition  
856 or restrictions on participation in the Medicaid program (Section  
857 43-13-101 et seq.) for the person receiving the certificate of  
858 need authorized under this subparagraph (a)(iv) or for the beds  
859 converted pursuant to the authority of that certificate of need.

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

881 Department of Health shall revoke the certificate of need, if it  
882 is still outstanding, and shall deny or revoke the license of the  
883 hospital at the time that the department determines, after a  
884 hearing complying with due process, that the hospital has failed  
885 to comply with any of the conditions upon which the certificate of  
886 need was issued, as provided in this subparagraph and in the  
887 written agreement by the recipient of the certificate of need.

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

902           (b) From and after July 1, 1990, no hospital,  
903 psychiatric hospital or chemical dependency hospital shall be  
904 authorized to add any child/adolescent psychiatric or  
905 child/adolescent chemical dependency beds or convert any beds of  
906 another category to child/adolescent psychiatric or  
907 child/adolescent chemical dependency beds without a certificate of  
908 need under the authority of subsection (1)(c) of this section.

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

912           (6) The State Department of Health shall issue a certificate  
913 of need to a Mississippi corporation qualified to manage a  
914 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
915 Harrison County, not to exceed eighty (80) beds, including any

916 necessary renovation or construction required for licensure and  
917 certification, provided that the recipient of the certificate of  
918 need agrees in writing that the long-term care hospital will not  
919 at any time participate in the Medicaid program (Section 43-13-101  
920 et seq.) or admit or keep any patients in the long-term care  
921 hospital who are participating in the Medicaid program. This  
922 written agreement by the recipient of the certificate of need  
923 shall be fully binding on any subsequent owner of the long-term  
924 care hospital, if the ownership of the facility is transferred at  
925 any time after the issuance of the certificate of need. Agreement  
926 that the long-term care hospital will not participate in the  
927 Medicaid program shall be a condition of the issuance of a  
928 certificate of need to any person under this subsection (6), and  
929 if such long-term care hospital at any time after the issuance of  
930 the certificate of need, regardless of the ownership of the  
931 facility, participates in the Medicaid program or admits or keeps  
932 any patients in the facility who are participating in the Medicaid  
933 program, the State Department of Health shall revoke the  
934 certificate of need, if it is still outstanding, and shall deny or  
935 revoke the license of the long-term care hospital, at the time  
936 that the department determines, after a hearing complying with due  
937 process, that the facility has failed to comply with any of the  
938 conditions upon which the certificate of need was issued, as  
939 provided in this subsection and in the written agreement by the  
940 recipient of the certificate of need. For purposes of this  
941 subsection, the provision of Section 41-7-193(1) requiring  
942 substantial compliance with the projection of need as reported in  
943 the current State Health Plan is hereby waived.

944 (7) The State Department of Health may issue a certificate  
945 of need to any hospital in the state to utilize a portion of its  
946 beds for the "swing-bed" concept. Any such hospital must be in  
947 conformance with the federal regulations regarding such swing-bed  
948 concept at the time it submits its application for a certificate  
949 of need to the State Department of Health, except that such  
950 hospital may have more licensed beds or a higher average daily

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

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

986           (9) The Department of Health shall not grant approval for or  
987 issue a certificate of need to any person proposing the  
988 establishment of, or expansion of the currently approved territory  
989 of, or the contracting to establish a home office, subunit or  
990 branch office within the space operated as a health care facility  
991 as defined in Section 41-7-173(h)(i) through (viii) by a health  
992 care facility as defined in subparagraph (ix) of Section  
993 41-7-173(h).

994           (10) Health care facilities owned and/or operated by the  
995 state or its agencies are exempt from the restraints in this  
996 section against issuance of a certificate of need if such addition  
997 or expansion consists of repairing or renovation necessary to  
998 comply with the state licensure law. This exception shall not  
999 apply to the new construction of any building by such state  
1000 facility. This exception shall not apply to any health care  
1001 facilities owned and/or operated by counties, municipalities,  
1002 districts, unincorporated areas, other defined persons, or any  
1003 combination thereof.

1004           (11) The new construction, renovation or expansion of or  
1005 addition to any health care facility defined in subparagraph (ii)  
1006 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1007 facility), subparagraph (vi) (intermediate care facility),  
1008 subparagraph (viii) (intermediate care facility for the mentally  
1009 retarded) and subparagraph (x) (psychiatric residential treatment  
1010 facility) of Section 41-7-173(h) which is owned by the State of  
1011 Mississippi and under the direction and control of the State  
1012 Department of Mental Health, and the addition of new beds or the  
1013 conversion of beds from one category to another in any such  
1014 defined health care facility which is owned by the State of  
1015 Mississippi and under the direction and control of the State  
1016 Department of Mental Health, shall not require the issuance of a  
1017 certificate of need under Section 41-7-171 et seq.,  
1018 notwithstanding any provision in Section 41-7-171 et seq. to the  
1019 contrary.

1020           (12) The new construction, renovation or expansion of or  
1021 addition to any veterans homes or domiciliaries for eligible  
1022 veterans of the State of Mississippi as authorized under Section  
1023 35-1-19 shall not require the issuance of a certificate of need,  
1024 notwithstanding any provision in Section 41-7-171 et seq. to the  
1025 contrary.

1026           (13) The new construction of a nursing facility or nursing  
1027 facility beds or the conversion of other beds to nursing facility  
1028 beds shall not require the issuance of a certificate of need,  
1029 notwithstanding any provision in Section 41-7-171 et seq. to the  
1030 contrary, if the conditions of this subsection are met.

1031           (a) Before any construction or conversion may be  
1032 undertaken without a certificate of need, the owner of the nursing  
1033 facility, in the case of an existing facility, or the applicant to  
1034 construct a nursing facility, in the case of new construction,  
1035 first must file a written notice of intent and sign a written  
1036 agreement with the State Department of Health that the entire  
1037 nursing facility will not at any time participate in or have any  
1038 beds certified for participation in the Medicaid program (Section  
1039 43-13-101 et seq.), will not admit or keep any patients in the  
1040 nursing facility who are participating in the Medicaid program,  
1041 and will not submit any claim for Medicaid reimbursement for any  
1042 patient in the facility. This written agreement by the owner or  
1043 applicant shall be a condition of exercising the authority under  
1044 this subsection without a certificate of need, and the agreement  
1045 shall be fully binding on any subsequent owner of the nursing  
1046 facility if the ownership of the facility is transferred at any  
1047 time after the agreement is signed. After the written agreement  
1048 is signed, the Division of Medicaid and the State Department of  
1049 Health shall not certify any beds in the nursing facility for  
1050 participation in the Medicaid program. If the nursing facility  
1051 violates the terms of the written agreement by participating in  
1052 the Medicaid program, having any beds certified for participation  
1053 in the Medicaid program, admitting or keeping any patient in the  
1054 facility who is participating in the Medicaid program, or

1055 submitting any claim for Medicaid reimbursement for any patient in  
1056 the facility, the State Department of Health shall revoke the  
1057 license of the nursing facility at the time that the department  
1058 determines, after a hearing complying with due process, that the  
1059 facility has violated the terms of the written agreement.

1060 (b) For the purposes of this subsection, participation  
1061 in the Medicaid program by a nursing facility includes Medicaid  
1062 reimbursement of coinsurance and deductibles for recipients who  
1063 are qualified Medicare beneficiaries and/or those who are dually  
1064 eligible. Any nursing facility exercising the authority under  
1065 this subsection may not bill or submit a claim to the Division of  
1066 Medicaid for services to qualified Medicare beneficiaries and/or  
1067 those who are dually eligible.

1068 (c) The new construction of a nursing facility or  
1069 nursing facility beds or the conversion of other beds to nursing  
1070 facility beds described in this section must be either a part of a  
1071 completely new continuing care retirement community, as described  
1072 in the latest edition of the Mississippi State Health Plan, or an  
1073 addition to existing personal care and independent living  
1074 components, and so that the completed project will be a continuing  
1075 care retirement community, containing (i) independent living  
1076 accommodations, (ii) personal care beds, and (iii) the nursing  
1077 home facility beds. The three (3) components must be located on a  
1078 single site and be operated as one (1) inseparable facility. The  
1079 nursing facility component must contain a minimum of thirty (30)  
1080 beds. Any nursing facility beds authorized by this section will  
1081 not be counted against the bed need set forth in the State Health  
1082 Plan, as identified in Section 41-7-171 et seq.

1083 This subsection (13) shall stand repealed from and after July  
1084 1, 2005.

1085 (14) The State Department of Health shall issue a  
1086 certificate of need to any hospital which is currently licensed  
1087 for two hundred fifty (250) or more acute care beds and is located  
1088 in any general hospital service area not having a comprehensive  
1089 cancer center, for the establishment and equipping of such a

1090 center which provides facilities and services for outpatient  
1091 radiation oncology therapy, outpatient medical oncology therapy,  
1092 and appropriate support services including the provision of  
1093 radiation therapy services. The provision of Section 41-7-193(1)  
1094 regarding substantial compliance with the projection of need as  
1095 reported in the current State Health Plan is waived for the  
1096 purpose of this subsection.

1097 (15) The State Department of Health may authorize the  
1098 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1099 North Panola Community Hospital to the South Panola Community  
1100 Hospital. The authorization for the transfer of those beds shall  
1101 be exempt from the certificate of need review process.

1102 (16) The State Department of Health shall issue any  
1103 certificates of need necessary for Mississippi State University  
1104 and a public or private health care provider to jointly acquire  
1105 and operate a linear accelerator and a magnetic resonance imaging  
1106 unit. Those certificates of need shall cover all capital  
1107 expenditures related to the project between Mississippi State  
1108 University and the health care provider, including, but not  
1109 limited to, the acquisition of the linear accelerator, the  
1110 magnetic resonance imaging unit and other radiological modalities;  
1111 the offering of linear accelerator and magnetic resonance imaging  
1112 services; and the cost of construction of facilities in which to  
1113 locate these services. The linear accelerator and the magnetic  
1114 resonance imaging unit shall be (a) located in the City of  
1115 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1116 Mississippi State University and the public or private health care  
1117 provider selected by Mississippi State University's Board of  
1118 Governors through a request for proposals (RFP) process in which  
1119 the Board of Governors selects the health care provider that makes  
1120 the best overall proposal; (c) available to Mississippi State  
1121 University for research purposes two-thirds (2/3) of the time that  
1122 the linear accelerator and magnetic resonance imaging unit are  
1123 operational; and (d) available to the public or private health  
1124 care provider selected by Mississippi State University's Board of

1125 Governors one-third (1/3) of the time for clinical, diagnostic and  
1126 treatment purposes. For purposes of this subsection, the  
1127 provisions of Section 41-7-193(1) requiring substantial compliance  
1128 with the projection of need as reported in the current State  
1129 Health Plan are waived.

1130 (17) The State Department of Health shall issue a  
1131 certificate of need for the construction of a new comprehensive  
1132 general acute care hospital in Lee County, with not less than one  
1133 hundred (100) nor more than two hundred fifty (250) acute care  
1134 beds. As a condition of the issuance of the certificate of need  
1135 under this subsection, the recipient of the certificate of need  
1136 must agree in writing to participate in all state and federal  
1137 health care reimbursement programs, including, but not limited to,  
1138 Medicare, Medicaid, CHAMPUS, CHIP, and to provide treatment to  
1139 patients who are beneficiaries of the State and School Employees  
1140 Health Insurance Program. This written agreement by the recipient  
1141 of the certificate of need shall be fully binding on any later  
1142 owner of the hospital, if the ownership of the hospital is  
1143 transferred at any time after the issuance of the certificate of  
1144 need. If, after the issuance of the certificate of need, the  
1145 hospital fails to participate in the state and federal health care  
1146 reimbursement programs as required under this subsection, the  
1147 State Department of Health shall revoke the certificate of need,  
1148 if it is still outstanding, and shall deny, suspend or revoke the  
1149 license of the hospital, at the time that the department  
1150 determines, after a hearing complying with due process, that the  
1151 hospital has failed to comply with the conditions upon which the  
1152 certificate of need was issued, as provided in this subsection and  
1153 in the written agreement by the recipient of the certificate of  
1154 need. For purposes of this subsection, the provisions of Section  
1155 41-7-193(1) requiring substantial compliance with the projection  
1156 of need as reported in the current State Health Plan are waived.

1157 (18) The State Department of Health shall issue a  
1158 certificate of need for the construction of a new acute care  
1159 hospital in the City of Olive Branch in DeSoto County, not to

1160 exceed one hundred fifty (150) acute care beds. For purposes of  
1161 this subsection, the provisions of Section 41-7-193(1) requiring  
1162 substantial compliance with the projection of need as reported in  
1163 the current State Health Plan are waived.

1164       (19) Nothing in this section or in any other provision of  
1165 Section 41-7-171 et seq. shall prevent any nursing facility from  
1166 designating an appropriate number of existing beds in the facility  
1167 as beds for providing care exclusively to patients with  
1168 Alzheimer's disease.

1169       **SECTION 2.** This act shall take effect and be in force from  
1170 and after its passage.

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

1       AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE CERTIFICATES OF  
3 NEED FOR MISSISSIPPI STATE UNIVERSITY AND A PUBLIC OR PRIVATE  
4 HEALTH CARE PROVIDER SELECTED THROUGH AN RFP PROCESS TO ACQUIRE  
5 AND JOINTLY OPERATE A LINEAR ACCELERATOR AND A MAGNETIC RESONANCE  
6 IMAGING UNIT IN THE CITY OF STARKVILLE, MISSISSIPPI; TO PROVIDE  
7 THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A CERTIFICATE OF  
8 NEED FOR THE CONSTRUCTION OF A NEW COMPREHENSIVE GENERAL ACUTE  
9 CARE HOSPITAL IN LEE COUNTY; TO PROVIDE THAT, AS A CONDITION OF  
10 THE ISSUANCE OF THE CERTIFICATE OF NEED, THE RECIPIENT OF THE  
11 CERTIFICATE OF NEED MUST AGREE IN WRITING TO PARTICIPATE IN ALL  
12 STATE AND FEDERAL HEALTH CARE REIMBURSEMENT PROGRAMS OR THE  
13 DEPARTMENT WILL SUSPEND OR REVOKE THE LICENSE OF THE HOSPITAL; TO  
14 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A  
15 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW ACUTE CARE  
16 HOSPITAL IN THE CITY OF OLIVE BRANCH IN DESOTO COUNTY; AND FOR  
17 RELATED PURPOSES.

HR40\SB2859PH.J

Don Richardson  
Clerk of the House of Representatives