

By: Representatives Woods, Franks, Holland

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 363

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 CONSTRUCTION OF A NEW COMPREHENSIVE  
 4 GENERAL ACUTE CARE HOSPITAL IN LEE COUNTY; TO PROVIDE THAT, AS A  
 5 CONDITION OF THE ISSUANCE OF THE CERTIFICATE OF NEED, THE  
 6 RECIPIENT OF THE CERTIFICATE OF NEED MUST AGREE IN WRITING TO  
 7 PARTICIPATE IN ALL STATE AND FEDERAL HEALTH CARE REIMBURSEMENT  
 8 PROGRAMS OR THE DEPARTMENT WILL SUSPEND OR REVOKE THE LICENSE OF  
 9 THE HOSPITAL; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL  
 10 ISSUE A CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW ACUTE  
 11 CARE HOSPITAL IN THE CITY OF OLIVE BRANCH IN DESOTO COUNTY; AND  
 12 FOR RELATED PURPOSES.

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

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

16 41-7-191. (1) No person shall engage in any of the  
 17 following activities without obtaining the required certificate of  
 18 need:

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

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

28 (c) Any change in the existing bed complement of any  
 29 health care facility through the addition or conversion of any  
 30 beds or the alteration, modernizing or refurbishing of any unit or  
 31 department in which the beds may be located; however, if a health  
 32 care facility has voluntarily delicensed some of its existing bed

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

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

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

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

99 Department of Health at least thirty (30) days prior to the date  
100 such change of ownership occurs, or a change in services or bed  
101 capacity as prescribed in paragraph (c) or (d) of this subsection  
102 as a result of the change of ownership; an acquisition for less  
103 than fair market value must be reviewed, if the acquisition at  
104 fair market value would be subject to review;

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

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

117 (j) Any capital expenditure or deferred capital  
118 expenditure by or on behalf of a health care facility not covered  
119 by paragraphs (a) through (h);

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

126 (2) The State Department of Health shall not grant approval  
127 for or issue a certificate of need to any person proposing the new  
128 construction of, addition to, or expansion of any health care  
129 facility defined in subparagraphs (iv) (skilled nursing facility)  
130 and (vi) (intermediate care facility) of Section 41-7-173(h) or

131 the conversion of vacant hospital beds to provide skilled or  
132 intermediate nursing home care, except as hereinafter authorized:

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

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

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

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

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

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

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

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

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

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

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

259 (j) The department may issue certificates of need to  
260 allow any existing freestanding long-term care facility in  
261 Tishomingo County and Hancock County that on July 1, 1995, is

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

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

295 regular or continuing basis more than thirty (30) patients who are  
296 participating in the Medicaid program, the State Department of  
297 Health shall revoke the license of the facility, at the time that  
298 the department determines, after a hearing complying with due  
299 process, that the facility has violated the written agreement.

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

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

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

353 (n) The department may issue a certificate of need for  
354 the new construction, addition or conversion of skilled nursing  
355 facility beds in Madison County, provided that the recipient of  
356 the certificate of need agrees in writing that the skilled nursing  
357 facility will not at any time participate in the Medicaid program  
358 (Section 43-13-101 et seq.) or admit or keep any patients in the  
359 skilled nursing facility who are participating in the Medicaid  
360 program. This written agreement by the recipient of the

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

394 contested, the department shall require substantial construction  
395 of the nursing facility beds within six (6) months after final  
396 adjudication on the issuance of the certificate of need.

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

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

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

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

482 \* \* \* However, \* \* \* if the issuance of the certificate of need is  
483 contested, the department shall require substantial construction  
484 of the nursing facility beds within six (6) months after final  
485 adjudication on the issuance of the certificate of need.

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

493 in this paragraph (q). The total number of nursing facility beds  
494 that may be authorized by any certificate of need authorized under  
495 this paragraph (q) shall not exceed sixty (60) beds.

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

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

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

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

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

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

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

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

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

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

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

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

615           (3) The State Department of Health may grant approval for  
616 and issue certificates of need to any person proposing the new  
617 construction of, addition to, conversion of beds of or expansion  
618 of any health care facility defined in subparagraph (x)  
619 (psychiatric residential treatment facility) of Section  
620 41-7-173(h). The total number of beds which may be authorized by  
621 such certificates of need shall not exceed three hundred  
622 thirty-four (334) beds for the entire state.

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

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

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

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

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

673 (c) Of the total number of beds authorized under this  
674 subsection, the department shall issue a certificate of need to a  
675 hospital currently operating Medicaid-certified acute psychiatric  
676 beds for adolescents in DeSoto County, for the establishment of a  
677 forty-bed psychiatric residential treatment facility in DeSoto  
678 County, provided that the hospital agrees in writing (i) that the  
679 hospital shall give priority for the use of those forty (40) beds  
680 to Mississippi residents who are presently being treated in  
681 out-of-state facilities, and (ii) that no more than fifteen (15)  
682 of the beds at the psychiatric residential treatment facility will  
683 be certified for participation in the Medicaid program (Section  
684 43-13-101 et seq.), and that no claim will be submitted for  
685 Medicaid reimbursement for more than fifteen (15) patients in the  
686 psychiatric residential treatment facility in any day or for any  
687 patient in the psychiatric residential treatment facility who is  
688 in a bed that is not Medicaid-certified. This written agreement  
689 by the recipient of the certificate of need shall be a condition  
690 of the issuance of the certificate of need under this paragraph,

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

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

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

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

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

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

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

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

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

815           (iii) The department may issue a certificate or  
816 certificates of need for the construction or expansion of  
817 child/adolescent psychiatric beds or the conversion of other beds  
818 to child/adolescent psychiatric beds in Warren County. For  
819 purposes of this subparagraph, the provisions of Section  
820 41-7-193(1) requiring substantial compliance with the projection  
821 of need as reported in the current State Health Plan are waived.  
822 The total number of beds that may be authorized under the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

998           (11) The new construction, renovation or expansion of or  
999 addition to any health care facility defined in subparagraph (ii)  
1000 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1001 facility), subparagraph (vi) (intermediate care facility),  
1002 subparagraph (viii) (intermediate care facility for the mentally  
1003 retarded) and subparagraph (x) (psychiatric residential treatment  
1004 facility) of Section 41-7-173(h) which is owned by the State of  
1005 Mississippi and under the direction and control of the State  
1006 Department of Mental Health, and the addition of new beds or the  
1007 conversion of beds from one category to another in any such  
1008 defined health care facility which is owned by the State of  
1009 Mississippi and under the direction and control of the State  
1010 Department of Mental Health, shall not require the issuance of a  
1011 certificate of need under Section 41-7-171 et seq.,  
1012 notwithstanding any provision in Section 41-7-171 et seq. to the  
1013 contrary.

1014           (12) The new construction, renovation or expansion of or  
1015 addition to any veterans homes or domiciliaries for eligible  
1016 veterans of the State of Mississippi as authorized under Section  
1017 35-1-19 shall not require the issuance of a certificate of need,  
1018 notwithstanding any provision in Section 41-7-171 et seq. to the  
1019 contrary.

1020           (13) The new construction of a nursing facility or nursing  
1021 facility beds or the conversion of other beds to nursing facility  
1022 beds shall not require the issuance of a certificate of need,  
1023 notwithstanding any provision in Section 41-7-171 et seq. to the  
1024 contrary, if the conditions of this subsection are met.

1025           (a) Before any construction or conversion may be  
1026 undertaken without a certificate of need, the owner of the nursing  
1027 facility, in the case of an existing facility, or the applicant to  
1028 construct a nursing facility, in the case of new construction,  
1029 first must file a written notice of intent and sign a written  
1030 agreement with the State Department of Health that the entire  
1031 nursing facility will not at any time participate in or have any  
1032 beds certified for participation in the Medicaid program (Section  
1033 43-13-101 et seq.), will not admit or keep any patients in the  
1034 nursing facility who are participating in the Medicaid program,  
1035 and will not submit any claim for Medicaid reimbursement for any  
1036 patient in the facility. This written agreement by the owner or  
1037 applicant shall be a condition of exercising the authority under  
1038 this subsection without a certificate of need, and the agreement  
1039 shall be fully binding on any subsequent owner of the nursing  
1040 facility if the ownership of the facility is transferred at any  
1041 time after the agreement is signed. After the written agreement  
1042 is signed, the Division of Medicaid and the State Department of  
1043 Health shall not certify any beds in the nursing facility for  
1044 participation in the Medicaid program. If the nursing facility  
1045 violates the terms of the written agreement by participating in  
1046 the Medicaid program, having any beds certified for participation  
1047 in the Medicaid program, admitting or keeping any patient in the  
1048 facility who is participating in the Medicaid program, or  
1049 submitting any claim for Medicaid reimbursement for any patient in  
1050 the facility, the State Department of Health shall revoke the  
1051 license of the nursing facility at the time that the department

1052 determines, after a hearing complying with due process, that the  
1053 facility has violated the terms of the written agreement.

1054           (b) For the purposes of this subsection, participation  
1055 in the Medicaid program by a nursing facility includes Medicaid  
1056 reimbursement of coinsurance and deductibles for recipients who  
1057 are qualified Medicare beneficiaries and/or those who are dually  
1058 eligible. Any nursing facility exercising the authority under  
1059 this subsection may not bill or submit a claim to the Division of  
1060 Medicaid for services to qualified Medicare beneficiaries and/or  
1061 those who are dually eligible.

1062           (c) The new construction of a nursing facility or  
1063 nursing facility beds or the conversion of other beds to nursing  
1064 facility beds described in this section must be either a part of a  
1065 completely new continuing care retirement community, as described  
1066 in the latest edition of the Mississippi State Health Plan, or an  
1067 addition to existing personal care and independent living  
1068 components, and so that the completed project will be a continuing  
1069 care retirement community, containing (i) independent living  
1070 accommodations, (ii) personal care beds, and (iii) the nursing  
1071 home facility beds. The three (3) components must be located on a  
1072 single site and be operated as one (1) inseparable facility. The  
1073 nursing facility component must contain a minimum of thirty (30)  
1074 beds. Any nursing facility beds authorized by this section will  
1075 not be counted against the bed need set forth in the State Health  
1076 Plan, as identified in Section 41-7-171 et seq.

1077           This subsection (13) shall stand repealed from and after July  
1078 1, 2005.

1079           (14) The State Department of Health shall issue a  
1080 certificate of need to any hospital which is currently licensed  
1081 for two hundred fifty (250) or more acute care beds and is located  
1082 in any general hospital service area not having a comprehensive  
1083 cancer center, for the establishment and equipping of such a  
1084 center which provides facilities and services for outpatient

1085 radiation oncology therapy, outpatient medical oncology therapy,  
1086 and appropriate support services including the provision of  
1087 radiation therapy services. The provision of Section 41-7-193(1)  
1088 regarding substantial compliance with the projection of need as  
1089 reported in the current State Health Plan is waived for the  
1090 purpose of this subsection.

1091 (15) The State Department of Health may authorize the  
1092 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1093 North Panola Community Hospital to the South Panola Community  
1094 Hospital. The authorization for the transfer of those beds shall  
1095 be exempt from the certificate of need review process.

1096 (16) The State Department of Health shall issue any  
1097 certificates of need necessary for Mississippi State University  
1098 and a public or private health care provider to jointly acquire  
1099 and operate a linear accelerator and a magnetic resonance imaging  
1100 unit. Those certificates of need shall cover all capital  
1101 expenditures related to the project between Mississippi State  
1102 University and the health care provider, including, but not  
1103 limited to, the acquisition of the linear accelerator, the  
1104 magnetic resonance imaging unit and other radiological modalities;  
1105 the offering of linear accelerator and magnetic resonance imaging  
1106 services; and the cost of construction of facilities in which to  
1107 locate these services. The linear accelerator and the magnetic  
1108 resonance imaging unit shall be (a) located in the City of  
1109 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1110 Mississippi State University and the public or private health care  
1111 provider selected by Mississippi State University through a  
1112 request for proposals (RFP) process in which Mississippi State  
1113 University selects, and the Board of Trustees of State  
1114 Institutions of Higher Learning approves, the health care provider  
1115 that makes the best overall proposal; (c) available to Mississippi  
1116 State University for research purposes two-thirds (2/3) of the  
1117 time that the linear accelerator and magnetic resonance imaging

1118 unit are operational; and (d) available to the public or private  
1119 health care provider selected by Mississippi State University and  
1120 approved by the Board of Trustees of State Institutions of Higher  
1121 Learning one-third (1/3) of the time for clinical, diagnostic and  
1122 treatment purposes. For purposes of this subsection, the  
1123 provisions of Section 41-7-193(1) requiring substantial compliance  
1124 with the projection of need as reported in the current State  
1125 Health Plan are waived.

1126 (17) The State Department of Health shall issue a  
1127 certificate of need for the construction of a new comprehensive  
1128 general acute care hospital in Lee County, with not less than one  
1129 hundred (100) nor more than two hundred and fifty (250) acute care  
1130 beds. As a condition of the issuance of the certificate of need  
1131 under this subsection, the recipient of the certificate of need  
1132 must agree in writing to participate in all state and federal  
1133 health care reimbursement programs, including, but not limited to,  
1134 Medicare, Medicaid, CHAMPUS, CHIP, and to provide treatment to  
1135 patients who are beneficiaries of the State and School Employees  
1136 Health Insurance Program. This written agreement by the recipient  
1137 of the certificate of need shall be fully binding on any later  
1138 owner of the hospital, if the ownership of the hospital is  
1139 transferred at any time after the issuance of the certificate of  
1140 need. If, after the issuance of the certificate of need, the  
1141 hospital fails to participate in the state and federal health care  
1142 reimbursement programs as required under this subsection, the  
1143 State Department of Health shall revoke the certificate of need,  
1144 if it is still outstanding, and shall deny, suspend or revoke the  
1145 license of the hospital, at the time that the department  
1146 determines, after a hearing complying with due process, that the  
1147 hospital has failed to comply with the conditions upon which the  
1148 certificate of need was issued, as provided in this subsection and  
1149 in the written agreement by the recipient of the certificate of  
1150 need. For purposes of this subsection, the provisions of Section

1151 41-7-193(1) requiring substantial compliance with the projection  
1152 of need as reported in the current State Health Plan are waived.

1153 (18) The State Department of Health shall issue a  
1154 certificate of need for the construction of a new acute care  
1155 hospital in the City of Olive Branch in DeSoto County, not to  
1156 exceed one hundred (100) acute care beds. For purposes of this  
1157 subsection, the provisions of Section 41-7-193(1) requiring  
1158 substantial compliance with the projection of need as reported in  
1159 the current State Health Plan are waived.

1160 (19) Nothing in this section or in any other provision of  
1161 Section 41-7-171 et seq. shall prevent any nursing facility from  
1162 designating an appropriate number of existing beds in the facility  
1163 as beds for providing care exclusively to patients with  
1164 Alzheimer's disease.

1165 **SECTION 2.** This act shall take effect and be in force from  
1166 and after July 1, 2005.