

By: Representatives Green, Johnson

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 803

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 TO A NOT-FOR-PROFIT MISSISSIPPI CORPORATION  
4 QUALIFIED TO MANAGE A LONG-TERM CARE HOSPITAL IN ANY HOSPITAL  
5 DISTRICT THAT DOES NOT CURRENTLY HAVE A LONG-TERM CARE HOSPITAL IN  
6 OPERATION, NOT TO EXCEED THIRTY-FIVE BEDS, PROVIDED THAT THE  
7 RECIPIENT OF THE CERTIFICATE OF NEED AGREES IN WRITING THAT THE  
8 LONG-TERM CARE HOSPITAL WILL NOT AT ANY TIME PARTICIPATE IN THE  
9 MEDICAID PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 beds, including any necessary construction, renovation or  
197 expansion. 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 (f).

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

209 (h) 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 Hancock, Harrison or Jackson 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 facility  
216 that were authorized under this paragraph (h).

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

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

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



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

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

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

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

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

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

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

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

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

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

438 (p) The department may issue a certificate of need for  
439 the construction of a municipally-owned nursing facility within  
440 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
441 beds, provided that the recipient of the certificate of need  
442 agrees in writing that the skilled nursing facility will not at  
443 any time participate in the Medicaid program (Section 43-13-101 et  
444 seq.) or admit or keep any patients in the skilled nursing  
445 facility who are participating in the Medicaid program. This  
446 written agreement by the recipient of the certificate of need  
447 shall be fully binding on any subsequent owner of the skilled  
448 nursing facility, if the ownership of the facility is transferred  
449 at any time after the issuance of the certificate of need.

450 Agreement that the skilled nursing facility will not participate  
451 in the Medicaid program shall be a condition of the issuance of a  
452 certificate of need to any person under this paragraph (p), and if  
453 such skilled nursing facility at any time after the issuance of  
454 the certificate of need, regardless of the ownership of the  
455 facility, participates in the Medicaid program or admits or keeps  
456 any patients in the facility who are participating in the Medicaid  
457 program, the State Department of Health shall revoke the  
458 certificate of need, if it is still outstanding, and shall deny or  
459 revoke the license of the skilled nursing facility, at the time

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

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

483 (q) (i) Beginning on July 1, 1999, the State  
484 Department of Health shall issue certificates of need during each  
485 of the next four (4) fiscal years for the construction or  
486 expansion of nursing facility beds or the conversion of other beds  
487 to nursing facility beds in each county in the state having a need  
488 for fifty (50) or more additional nursing facility beds, as shown  
489 in the fiscal year 1999 State Health Plan, in the manner provided  
490 in this paragraph (q). The total number of nursing facility beds  
491 that may be authorized by any certificate of need authorized under  
492 this paragraph (q) shall not exceed sixty (60) beds.

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

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



526 in other counties in the district in descending order of the need  
527 for those beds, from the county with the second highest need to  
528 the county with the lowest need, until an application is received  
529 for nursing facility beds in an eligible county in the district.

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

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

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

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

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

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

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

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

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

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

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

620 (a) Of the total number of beds authorized under this  
621 subsection, the department shall issue a certificate of need to a  
622 privately-owned psychiatric residential treatment facility in  
623 Simpson County for the conversion of sixteen (16) intermediate  
624 care facility for the mentally retarded (ICF-MR) beds to

625 psychiatric residential treatment facility beds, provided that  
626 facility agrees in writing that the facility shall give priority  
627 for the use of those sixteen (16) beds to Mississippi residents  
628 who are presently being treated in out-of-state facilities.

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

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

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

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

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

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

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

721 (f) The department shall issue a certificate of need to  
722 a one-hundred-thirty-four-bed specialty hospital located on  
723 twenty-nine and forty-four one-hundredths (29.44) commercial acres

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

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

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

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



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

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

812           (iii) The department may issue a certificate or  
813 certificates of need for the construction or expansion of  
814 child/adolescent psychiatric beds or the conversion of other beds  
815 to child/adolescent psychiatric beds in Warren County. For  
816 purposes of this subparagraph, the provisions of Section  
817 41-7-193(1) requiring substantial compliance with the projection  
818 of need as reported in the current State Health Plan are waived.  
819 The total number of beds that may be authorized under the  
820 authority of this subparagraph shall not exceed twenty (20) beds.  
821 There shall be no prohibition or restrictions on participation in  
822 the Medicaid program (Section 43-13-101 et seq.) for the person

823 receiving the certificate of need authorized under this  
824 subparagraph (a)(iii) or for the beds converted pursuant to the  
825 authority of that certificate of need.

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

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

851                 (v) The department may issue a certificate of need  
852 to any county hospital located in Leflore County for the  
853 construction or expansion of adult psychiatric beds or the  
854 conversion of other beds to adult psychiatric beds, not to exceed  
855 twenty (20) beds, provided that the recipient of the certificate

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

879 (vi) The department may issue a certificate or  
880 certificates of need for the expansion of child psychiatric beds  
881 or the conversion of other beds to child psychiatric beds at the  
882 University of Mississippi Medical Center. For purposes of this  
883 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
884 requiring substantial compliance with the projection of need as  
885 reported in the current State Health Plan is waived. The total  
886 number of beds that may be authorized under the authority of this  
887 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
888 shall be no prohibition or restrictions on participation in the

889 Medicaid program (Section 43-13-101 et seq.) for the hospital  
890 receiving the certificate of need authorized under this  
891 subparagraph (a)(vi) or for the beds converted pursuant to the  
892 authority of that certificate of need.

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

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

903 (6) The State Department of Health shall issue a certificate  
904 of need to a not-for-profit Mississippi corporation qualified to  
905 manage a long-term care hospital as defined in Section  
906 41-7-173(h)(xii) in any hospital district, as defined by the  
907 department, that does not currently have a long-term care hospital  
908 in operation, not to exceed thirty-five (35) beds, including any  
909 necessary renovation or construction required for licensure and  
910 certification, provided that the recipient of the certificate of  
911 need agrees in writing that the long-term care hospital will not  
912 at any time participate in the Medicaid program (Section 43-13-101  
913 et seq.) or admit or keep any patients in the long-term care  
914 hospital who are participating in the Medicaid program. This  
915 written agreement by the recipient of the certificate of need  
916 shall be fully binding on any subsequent owner of the long-term  
917 care hospital, if the ownership of the facility is transferred at  
918 any time after the issuance of the certificate of need. Agreement  
919 that the long-term care hospital will not participate in the  
920 Medicaid program shall be a condition of the issuance of a  
921 certificate of need to any person under this subsection (6), and

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

937 (7) The State Department of Health may issue a certificate  
938 of need to any hospital in the state to utilize a portion of its  
939 beds for the "swing-bed" concept. Any such hospital must be in  
940 conformance with the federal regulations regarding such swing-bed  
941 concept at the time it submits its application for a certificate  
942 of need to the State Department of Health, except that such  
943 hospital may have more licensed beds or a higher average daily  
944 census (ADC) than the maximum number specified in federal  
945 regulations for participation in the swing-bed program. Any  
946 hospital meeting all federal requirements for participation in the  
947 swing-bed program which receives such certificate of need shall  
948 render services provided under the swing-bed concept to any  
949 patient eligible for Medicare (Title XVIII of the Social Security  
950 Act) who is certified by a physician to be in need of such  
951 services, and no such hospital shall permit any patient who is  
952 eligible for both Medicaid and Medicare or eligible only for  
953 Medicaid to stay in the swing beds of the hospital for more than  
954 thirty (30) days per admission unless the hospital receives prior

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

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

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

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

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

1013           (12) The new construction, renovation or expansion of or  
1014 addition to any veterans homes or domiciliaries for eligible  
1015 veterans of the State of Mississippi as authorized under Section  
1016 35-1-19 shall not require the issuance of a certificate of need,  
1017 notwithstanding any provision in Section 41-7-171 et seq. to the  
1018 contrary.

1019           (13) The new construction of a nursing facility or nursing  
1020 facility beds or the conversion of other beds to nursing facility  
1021 beds shall not require the issuance of a certificate of need,  
1022 notwithstanding any provision in Section 41-7-171 et seq. to the  
1023 contrary, if the conditions of this subsection are met.

1024           (a) Before any construction or conversion may be  
1025 undertaken without a certificate of need, the owner of the nursing  
1026 facility, in the case of an existing facility, or the applicant to  
1027 construct a nursing facility, in the case of new construction,  
1028 first must file a written notice of intent and sign a written  
1029 agreement with the State Department of Health that the entire  
1030 nursing facility will not at any time participate in or have any  
1031 beds certified for participation in the Medicaid program (Section  
1032 43-13-101 et seq.), will not admit or keep any patients in the  
1033 nursing facility who are participating in the Medicaid program,  
1034 and will not submit any claim for Medicaid reimbursement for any  
1035 patient in the facility. This written agreement by the owner or  
1036 applicant shall be a condition of exercising the authority under  
1037 this subsection without a certificate of need, and the agreement  
1038 shall be fully binding on any subsequent owner of the nursing  
1039 facility if the ownership of the facility is transferred at any  
1040 time after the agreement is signed. After the written agreement  
1041 is signed, the Division of Medicaid and the State Department of  
1042 Health shall not certify any beds in the nursing facility for  
1043 participation in the Medicaid program. If the nursing facility  
1044 violates the terms of the written agreement by participating in  
1045 the Medicaid program, having any beds certified for participation  
1046 in the Medicaid program, admitting or keeping any patient in the  
1047 facility who is participating in the Medicaid program, or  
1048 submitting any claim for Medicaid reimbursement for any patient in  
1049 the facility, the State Department of Health shall revoke the  
1050 license of the nursing facility at the time that the department



1051 determines, after a hearing complying with due process, that the  
1052 facility has violated the terms of the written agreement.

1053           (b) For the purposes of this subsection, participation  
1054 in the Medicaid program by a nursing facility includes Medicaid  
1055 reimbursement of coinsurance and deductibles for recipients who  
1056 are qualified Medicare beneficiaries and/or those who are dually  
1057 eligible. Any nursing facility exercising the authority under  
1058 this subsection may not bill or submit a claim to the Division of  
1059 Medicaid for services to qualified Medicare beneficiaries and/or  
1060 those who are dually eligible.

1061           (c) The new construction of a nursing facility or  
1062 nursing facility beds or the conversion of other beds to nursing  
1063 facility beds described in this section must be either a part of a  
1064 completely new continuing care retirement community, as described  
1065 in the latest edition of the Mississippi State Health Plan, or an  
1066 addition to existing personal care and independent living  
1067 components, and so that the completed project will be a continuing  
1068 care retirement community, containing (i) independent living  
1069 accommodations, (ii) personal care beds, and (iii) the nursing  
1070 home facility beds. The three (3) components must be located on a  
1071 single site and be operated as one (1) inseparable facility. The  
1072 nursing facility component must contain a minimum of thirty (30)  
1073 beds. Any nursing facility beds authorized by this section will  
1074 not be counted against the bed need set forth in the State Health  
1075 Plan, as identified in Section 41-7-171 et seq.

1076           This subsection (13) shall stand repealed from and after July  
1077 1, 2005.

1078           (14) The State Department of Health shall issue a  
1079 certificate of need to any hospital which is currently licensed  
1080 for two hundred fifty (250) or more acute care beds and is located  
1081 in any general hospital service area not having a comprehensive  
1082 cancer center, for the establishment and equipping of such a  
1083 center which provides facilities and services for outpatient

1084 radiation oncology therapy, outpatient medical oncology therapy,  
1085 and appropriate support services including the provision of  
1086 radiation therapy services. The provision of Section 41-7-193(1)  
1087 regarding substantial compliance with the projection of need as  
1088 reported in the current State Health Plan is waived for the  
1089 purpose of this subsection.

1090 (15) The State Department of Health may authorize the  
1091 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1092 North Panola Community Hospital to the South Panola Community  
1093 Hospital. The authorization for the transfer of those beds shall  
1094 be exempt from the certificate of need review process.

1095 (16) The State Department of Health shall issue any  
1096 certificates of need necessary for Mississippi State University  
1097 and a public or private health care provider to jointly acquire  
1098 and operate a linear accelerator and a magnetic resonance imaging  
1099 unit. Those certificates of need shall cover all capital  
1100 expenditures related to the project between Mississippi State  
1101 University and the health care provider, including, but not  
1102 limited to, the acquisition of the linear accelerator, the  
1103 magnetic resonance imaging unit and other radiological modalities;  
1104 the offering of linear accelerator and magnetic resonance imaging  
1105 services; and the cost of construction of facilities in which to  
1106 locate these services. The linear accelerator and the magnetic  
1107 resonance imaging unit shall be (a) located in the City of  
1108 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1109 Mississippi State University and the public or private health care  
1110 provider selected by Mississippi State University through a  
1111 request for proposals (RFP) process in which Mississippi State  
1112 University selects, and the Board of Trustees of State  
1113 Institutions of Higher Learning approves, the health care provider  
1114 that makes the best overall proposal; (c) available to Mississippi  
1115 State University for research purposes two-thirds (2/3) of the  
1116 time that the linear accelerator and magnetic resonance imaging

1117 unit are operational; and (d) available to the public or private  
1118 health care provider selected by Mississippi State University and  
1119 approved by the Board of Trustees of State Institutions of Higher  
1120 Learning one-third (1/3) of the time for clinical, diagnostic and  
1121 treatment purposes. For purposes of this subsection, the  
1122 provisions of Section 41-7-193(1) requiring substantial compliance  
1123 with the projection of need as reported in the current State  
1124 Health Plan are waived.

1125 (17) Nothing in this section or in any other provision of  
1126 Section 41-7-171 et seq. shall prevent any nursing facility from  
1127 designating an appropriate number of existing beds in the facility  
1128 as beds for providing care exclusively to patients with  
1129 Alzheimer's disease.

1130 **SECTION 2.** This act shall take effect and be in force from  
1131 and after July 1, 2005.