

By: Representative Smith (39th)

To: Medicaid

HOUSE BILL NO. 1135

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE PROHIBITION ON PARTICIPATION IN THE MEDICAID PROGRAM
3 FOR THE BEDS IN A NURSING HOME AT A CONTINUING CARE RETIREMENT
4 COMMUNITY IN LOWNDES COUNTY; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the
9 following activities without obtaining the required certificate of
10 need:

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

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

20 (c) Any change in the existing bed complement of any
21 health care facility through the addition or conversion of any
22 beds or the alteration, modernizing or refurbishing of any unit or
23 department in which the beds may be located; however, if a health
24 care facility has voluntarily delicensed some of its existing bed
25 complement, it may later relicense some or all of its delicensed
26 beds without the necessity of having to acquire a certificate of
27 need. The State Department of Health shall maintain a record of
28 the delicensing health care facility and its voluntarily

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

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

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

62 (xiii) Extracorporeal shock wave lithotripsy
63 services;

64 (xiv) Long-term care hospital services;

65 (xv) Positron Emission Tomography (PET) services;

66 (e) The relocation of one or more health services from
67 one physical facility or site to another physical facility or
68 site, unless such relocation, which does not involve a capital
69 expenditure by or on behalf of a health care facility, (i) is to a
70 physical facility or site within one thousand three hundred twenty
71 (1,320) feet from the main entrance of the health care facility
72 where the health care service is located, or (ii) is the result of
73 an order of a court of appropriate jurisdiction or a result of
74 pending litigation in such court, or by order of the State
75 Department of Health, or by order of any other agency or legal
76 entity of the state, the federal government, or any political
77 subdivision of either, whose order is also approved by the State
78 Department of Health;

79 (f) The acquisition or otherwise control of any major
80 medical equipment for the provision of medical services; provided,
81 however, (i) the acquisition of any major medical equipment used
82 only for research purposes, and (ii) the acquisition of major
83 medical equipment to replace medical equipment for which a
84 facility is already providing medical services and for which the
85 State Department of Health has been notified before the date of
86 such acquisition shall be exempt from this paragraph; an
87 acquisition for less than fair market value must be reviewed, if
88 the acquisition at fair market value would be subject to review;

89 (g) Changes of ownership of existing health care
90 facilities in which a notice of intent is not filed with the State
91 Department of Health at least thirty (30) days prior to the date
92 such change of ownership occurs, or a change in services or bed
93 capacity as prescribed in paragraph (c) or (d) of this subsection
94 as a result of the change of ownership; an acquisition for less

95 than fair market value must be reviewed, if the acquisition at
96 fair market value would be subject to review;

97 (h) The change of ownership of any health care facility
98 defined in subparagraphs (iv), (vi) and (viii) of Section
99 41-7-173(h), in which a notice of intent as described in paragraph
100 (g) has not been filed and if the Executive Director, Division of
101 Medicaid, Office of the Governor, has not certified in writing
102 that there will be no increase in allowable costs to Medicaid from
103 revaluation of the assets or from increased interest and
104 depreciation as a result of the proposed change of ownership;

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

109 (j) Any capital expenditure or deferred capital
110 expenditure by or on behalf of a health care facility not covered
111 by paragraphs (a) through (h);

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

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

125 (a) The department may issue a certificate of need to
126 any person proposing the new construction of any health care
127 facility defined in subparagraphs (iv) and (vi) of Section

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

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

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

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

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

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

188 (f) The State Department of Health may issue a
189 certificate of need for conversion of a county hospital facility
190 in Itawamba County to a nursing facility, not to exceed sixty (60)
191 beds, including any necessary construction, renovation or
192 expansion. 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 (f).

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

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

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

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

251 (j) The department may issue certificates of need to
252 allow any existing freestanding long-term care facility in
253 Tishomingo County and Hancock County that on July 1, 1995, is
254 licensed with fewer than sixty (60) beds. For the purposes of
255 this paragraph (j), the provision of Section 41-7-193(1) requiring
256 substantial compliance with the projection of need as reported in
257 the current State Health Plan is waived. From and after July 1,
258 1999, there shall be no prohibition or restrictions on
259 participation in the Medicaid program (Section 43-13-101 et seq.)

260 for the beds in the long-term care facilities that were authorized
261 under this paragraph (j).

262 (k) The department may issue a certificate of need for
263 the construction of a nursing facility at a continuing care
264 retirement community in Lowndes County. The total number of beds
265 that may be authorized under the authority of this paragraph (k)
266 shall not exceed sixty (60) beds. From and after July 1, 2005,
267 there shall be no prohibition or restrictions on participation in
268 the Medicaid program (Section 43-13-101 et seq.) for the beds in
269 the nursing facility that were authorized under this paragraph
270 (k).

271 (l) Provided that funds are specifically appropriated
272 therefor by the Legislature, the department may issue a
273 certificate of need to a rehabilitation hospital in Hinds County
274 for the construction of a sixty-bed long-term care nursing
275 facility dedicated to the care and treatment of persons with
276 severe disabilities including persons with spinal cord and
277 closed-head injuries and ventilator-dependent patients. The
278 provision of Section 41-7-193(1) regarding substantial compliance
279 with projection of need as reported in the current State Health
280 Plan is hereby waived for the purpose of this paragraph.

281 (m) The State Department of Health may issue a
282 certificate of need to a county-owned hospital in the Second
283 Judicial District of Panola County for the conversion of not more
284 than seventy-two (72) hospital beds to nursing facility beds,
285 provided that the recipient of the certificate of need agrees in
286 writing that none of the beds at the nursing facility will be
287 certified for participation in the Medicaid program (Section
288 43-13-101 et seq.), and that no claim will be submitted for
289 Medicaid reimbursement in the nursing facility in any day or for
290 any patient in the nursing facility. This written agreement by
291 the recipient of the certificate of need shall be a condition of
292 the issuance of the certificate of need under this paragraph, and

293 the agreement shall be fully binding on any subsequent owner of
294 the nursing facility if the ownership of the nursing facility is
295 transferred at any time after the issuance of the certificate of
296 need. After this written agreement is executed, the Division of
297 Medicaid and the State Department of Health shall not certify any
298 of the beds in the nursing facility for participation in the
299 Medicaid program. If the nursing facility violates the terms of
300 the written agreement by admitting or keeping in the nursing
301 facility on a regular or continuing basis any patients who are
302 participating in the Medicaid program, the State Department of
303 Health shall revoke the license of the nursing facility, at the
304 time that the department determines, after a hearing complying
305 with due process, that the nursing facility has violated the
306 condition upon which the certificate of need was issued, as
307 provided in this paragraph and in the written agreement. If the
308 certificate of need authorized under this paragraph is not issued
309 within twelve (12) months after July 1, 2001, the department shall
310 deny the application for the certificate of need and shall not
311 issue the certificate of need at any time after the twelve-month
312 period, unless the issuance is contested. If the certificate of
313 need is issued and substantial construction of the nursing
314 facility beds has not commenced within eighteen (18) months after
315 July 1, 2001, the State Department of Health, after a hearing
316 complying with due process, shall revoke the certificate of need
317 if it is still outstanding, and the department shall not issue a
318 license for the nursing facility at any time after the
319 eighteen-month period. Provided, however, that if the issuance of
320 the certificate of need is contested, the department shall require
321 substantial construction of the nursing facility beds within six
322 (6) months after final adjudication on the issuance of the
323 certificate of need.

324 (n) The department may issue a certificate of need for
325 the new construction, addition or conversion of skilled nursing

326 facility beds in Madison County, provided that the recipient of
327 the certificate of need agrees in writing that the skilled nursing
328 facility will not at any time participate in the Medicaid program
329 (Section 43-13-101 et seq.) or admit or keep any patients in the
330 skilled nursing facility who are participating in the Medicaid
331 program. This written agreement by the recipient of the
332 certificate of need shall be fully binding on any subsequent owner
333 of the skilled nursing facility, if the ownership of the facility
334 is transferred at any time after the issuance of the certificate
335 of need. Agreement that the skilled nursing facility will not
336 participate in the Medicaid program shall be a condition of the
337 issuance of a certificate of need to any person under this
338 paragraph (n), and if such skilled nursing facility at any time
339 after the issuance of the certificate of need, regardless of the
340 ownership of the facility, participates in the Medicaid program or
341 admits or keeps any patients in the facility who are participating
342 in the Medicaid program, the State Department of Health shall
343 revoke the certificate of need, if it is still outstanding, and
344 shall deny or revoke the license of the skilled nursing facility,
345 at the time that the department determines, after a hearing
346 complying with due process, that the facility has failed to comply
347 with any of the conditions upon which the certificate of need was
348 issued, as provided in this paragraph and in the written agreement
349 by the recipient of the certificate of need. The total number of
350 nursing facility beds that may be authorized by any certificate of
351 need issued under this paragraph (n) shall not exceed sixty (60)
352 beds. If the certificate of need authorized under this paragraph
353 is not issued within twelve (12) months after July 1, 1998, the
354 department shall deny the application for the certificate of need
355 and shall not issue the certificate of need at any time after the
356 twelve-month period, unless the issuance is contested. If the
357 certificate of need is issued and substantial construction of the
358 nursing facility beds has not commenced within eighteen (18)

359 months after the effective date of July 1, 1998, the State
360 Department of Health, after a hearing complying with due process,
361 shall revoke the certificate of need if it is still outstanding,
362 and the department shall not issue a license for the nursing
363 facility at any time after the eighteen-month period. Provided,
364 however, that if the issuance of the certificate of need is
365 contested, the department shall require substantial construction
366 of the nursing facility beds within six (6) months after final
367 adjudication on the issuance of the certificate of need.

368 (o) The department may issue a certificate of need for
369 the new construction, addition or conversion of skilled nursing
370 facility beds in Leake County, provided that the recipient of the
371 certificate of need agrees in writing that the skilled nursing
372 facility will not at any time participate in the Medicaid program
373 (Section 43-13-101 et seq.) or admit or keep any patients in the
374 skilled nursing facility who are participating in the Medicaid
375 program. This written agreement by the recipient of the
376 certificate of need shall be fully binding on any subsequent owner
377 of the skilled nursing facility, if the ownership of the facility
378 is transferred at any time after the issuance of the certificate
379 of need. Agreement that the skilled nursing facility will not
380 participate in the Medicaid program shall be a condition of the
381 issuance of a certificate of need to any person under this
382 paragraph (o), and if such skilled nursing facility at any time
383 after the issuance of the certificate of need, regardless of the
384 ownership of the facility, participates in the Medicaid program or
385 admits or keeps any patients in the facility who are participating
386 in the Medicaid program, the State Department of Health shall
387 revoke the certificate of need, if it is still outstanding, and
388 shall deny or revoke the license of the skilled nursing facility,
389 at the time that the department determines, after a hearing
390 complying with due process, that the facility has failed to comply
391 with any of the conditions upon which the certificate of need was

392 issued, as provided in this paragraph and in the written agreement
393 by the recipient of the certificate of need. The total number of
394 nursing facility beds that may be authorized by any certificate of
395 need issued under this paragraph (o) shall not exceed sixty (60)
396 beds. If the certificate of need authorized under this paragraph
397 is not issued within twelve (12) months after July 1, 2001, the
398 department shall deny the application for the certificate of need
399 and shall not issue the certificate of need at any time after the
400 twelve-month period, unless the issuance is contested. If the
401 certificate of need is issued and substantial construction of the
402 nursing facility beds has not commenced within eighteen (18)
403 months after the effective date of July 1, 2001, the State
404 Department of Health, after a hearing complying with due process,
405 shall revoke the certificate of need if it is still outstanding,
406 and the department shall not issue a license for the nursing
407 facility at any time after the eighteen-month period. Provided,
408 however, that if the issuance of the certificate of need is
409 contested, the department shall require substantial construction
410 of the nursing facility beds within six (6) months after final
411 adjudication on the issuance of the certificate of need.

412 (p) The department may issue a certificate of need for
413 the construction of a municipally-owned nursing facility within
414 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
415 beds, provided that the recipient of the certificate of need
416 agrees in writing that the skilled nursing facility will not at
417 any time participate in the Medicaid program (Section 43-13-101 et
418 seq.) or admit or keep any patients in the skilled nursing
419 facility who are participating in the Medicaid program. This
420 written agreement by the recipient of the certificate of need
421 shall be fully binding on any subsequent owner of the skilled
422 nursing facility, if the ownership of the facility is transferred
423 at any time after the issuance of the certificate of need.
424 Agreement that the skilled nursing facility will not participate

425 in the Medicaid program shall be a condition of the issuance of a
426 certificate of need to any person under this paragraph (p), and if
427 such skilled nursing facility at any time after the issuance of
428 the certificate of need, regardless of the ownership of the
429 facility, participates in the Medicaid program or admits or keeps
430 any patients in the facility who are participating in the Medicaid
431 program, the State Department of Health shall revoke the
432 certificate of need, if it is still outstanding, and shall deny or
433 revoke the license of the skilled nursing facility, at the time
434 that the department determines, after a hearing complying with due
435 process, that the facility has failed to comply with any of the
436 conditions upon which the certificate of need was issued, as
437 provided in this paragraph and in the written agreement by the
438 recipient of the certificate of need. The provision of Section
439 43-7-193(1) regarding substantial compliance of the projection of
440 need as reported in the current State Health Plan is waived for
441 the purposes of this paragraph. If the certificate of need
442 authorized under this paragraph is not issued within twelve (12)
443 months after July 1, 1998, the department shall deny the
444 application for the certificate of need and shall not issue the
445 certificate of need at any time after the twelve-month period,
446 unless the issuance is contested. If the certificate of need is
447 issued and substantial construction of the nursing facility beds
448 has not commenced within eighteen (18) months after July 1, 1998,
449 the State Department of Health, after a hearing complying with due
450 process, shall revoke the certificate of need if it is still
451 outstanding, and the department shall not issue a license for the
452 nursing facility at any time after the eighteen-month period.
453 Provided, however, that if the issuance of the certificate of need
454 is contested, the department shall require substantial
455 construction of the nursing facility beds within six (6) months
456 after final adjudication on the issuance of the certificate of
457 need.

458 (q) (i) Beginning on July 1, 1999, the State
459 Department of Health shall issue certificates of need during each
460 of the next four (4) fiscal years for the construction or
461 expansion of nursing facility beds or the conversion of other beds
462 to nursing facility beds in each county in the state having a need
463 for fifty (50) or more additional nursing facility beds, as shown
464 in the fiscal year 1999 State Health Plan, in the manner provided
465 in this paragraph (q). The total number of nursing facility beds
466 that may be authorized by any certificate of need authorized under
467 this paragraph (q) shall not exceed sixty (60) beds.

468 (ii) Subject to the provisions of subparagraph
469 (v), during each of the next four (4) fiscal years, the department
470 shall issue six (6) certificates of need for new nursing facility
471 beds, as follows: During fiscal years 2000, 2001 and 2002, one
472 (1) certificate of need shall be issued for new nursing facility
473 beds in the county in each of the four (4) Long-Term Care Planning
474 Districts designated in the fiscal year 1999 State Health Plan
475 that has the highest need in the district for those beds; and two
476 (2) certificates of need shall be issued for new nursing facility
477 beds in the two (2) counties from the state at large that have the
478 highest need in the state for those beds, when considering the
479 need on a statewide basis and without regard to the Long-Term Care
480 Planning Districts in which the counties are located. During
481 fiscal year 2003, one (1) certificate of need shall be issued for
482 new nursing facility beds in any county having a need for fifty
483 (50) or more additional nursing facility beds, as shown in the
484 fiscal year 1999 State Health Plan, that has not received a
485 certificate of need under this paragraph (q) during the three (3)
486 previous fiscal years. During fiscal year 2000, in addition to
487 the six (6) certificates of need authorized in this subparagraph,
488 the department also shall issue a certificate of need for new
489 nursing facility beds in Amite County and a certificate of need
490 for new nursing facility beds in Carroll County.

491 (iii) Subject to the provisions of subparagraph
492 (v), the certificate of need issued under subparagraph (ii) for
493 nursing facility beds in each Long-Term Care Planning District
494 during each fiscal year shall first be available for nursing
495 facility beds in the county in the district having the highest
496 need for those beds, as shown in the fiscal year 1999 State Health
497 Plan. If there are no applications for a certificate of need for
498 nursing facility beds in the county having the highest need for
499 those beds by the date specified by the department, then the
500 certificate of need shall be available for nursing facility beds
501 in other counties in the district in descending order of the need
502 for those beds, from the county with the second highest need to
503 the county with the lowest need, until an application is received
504 for nursing facility beds in an eligible county in the district.

505 (iv) Subject to the provisions of subparagraph
506 (v), the certificate of need issued under subparagraph (ii) for
507 nursing facility beds in the two (2) counties from the state at
508 large during each fiscal year shall first be available for nursing
509 facility beds in the two (2) counties that have the highest need
510 in the state for those beds, as shown in the fiscal year 1999
511 State Health Plan, when considering the need on a statewide basis
512 and without regard to the Long-Term Care Planning Districts in
513 which the counties are located. If there are no applications for
514 a certificate of need for nursing facility beds in either of the
515 two (2) counties having the highest need for those beds on a
516 statewide basis by the date specified by the department, then the
517 certificate of need shall be available for nursing facility beds
518 in other counties from the state at large in descending order of
519 the need for those beds on a statewide basis, from the county with
520 the second highest need to the county with the lowest need, until
521 an application is received for nursing facility beds in an
522 eligible county from the state at large.

523 (v) If a certificate of need is authorized to be
524 issued under this paragraph (q) for nursing facility beds in a
525 county on the basis of the need in the Long-Term Care Planning
526 District during any fiscal year of the four-year period, a
527 certificate of need shall not also be available under this
528 paragraph (q) for additional nursing facility beds in that county
529 on the basis of the need in the state at large, and that county
530 shall be excluded in determining which counties have the highest
531 need for nursing facility beds in the state at large for that
532 fiscal year. After a certificate of need has been issued under
533 this paragraph (q) for nursing facility beds in a county during
534 any fiscal year of the four-year period, a certificate of need
535 shall not be available again under this paragraph (q) for
536 additional nursing facility beds in that county during the
537 four-year period, and that county shall be excluded in determining
538 which counties have the highest need for nursing facility beds in
539 succeeding fiscal years.

540 (vi) If more than one (1) application is made for
541 a certificate of need for nursing home facility beds available
542 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
543 County, and one (1) of the applicants is a county-owned hospital
544 located in the county where the nursing facility beds are
545 available, the department shall give priority to the county-owned
546 hospital in granting the certificate of need if the following
547 conditions are met:

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

551 2. The county-owned hospital's qualifications
552 for the certificate of need, as shown in its application and as
553 determined by the department, are at least equal to the
554 qualifications of the other applicants for the certificate of
555 need.

556 (r) (i) Beginning on July 1, 1999, the State
557 Department of Health shall issue certificates of need during each
558 of the next two (2) fiscal years for the construction or expansion
559 of nursing facility beds or the conversion of other beds to
560 nursing facility beds in each of the four (4) Long-Term Care
561 Planning Districts designated in the fiscal year 1999 State Health
562 Plan, to provide care exclusively to patients with Alzheimer's
563 disease.

564 (ii) Not more than twenty (20) beds may be
565 authorized by any certificate of need issued under this paragraph
566 (r), and not more than a total of sixty (60) beds may be
567 authorized in any Long-Term Care Planning District by all
568 certificates of need issued under this paragraph (r). However,
569 the total number of beds that may be authorized by all
570 certificates of need issued under this paragraph (r) during any
571 fiscal year shall not exceed one hundred twenty (120) beds, and
572 the total number of beds that may be authorized in any Long-Term
573 Care Planning District during any fiscal year shall not exceed
574 forty (40) beds. Of the certificates of need that are issued for
575 each Long-Term Care Planning District during the next two (2)
576 fiscal years, at least one (1) shall be issued for beds in the
577 northern part of the district, at least one (1) shall be issued
578 for beds in the central part of the district, and at least one (1)
579 shall be issued for beds in the southern part of the district.

580 (iii) The State Department of Health, in
581 consultation with the Department of Mental Health and the Division
582 of Medicaid, shall develop and prescribe the staffing levels,
583 space requirements and other standards and requirements that must
584 be met with regard to the nursing facility beds authorized under
585 this paragraph (r) to provide care exclusively to patients with
586 Alzheimer's disease.

587 (3) The State Department of Health may grant approval for
588 and issue certificates of need to any person proposing the new

589 construction of, addition to, conversion of beds of or expansion
590 of any health care facility defined in subparagraph (x)
591 (psychiatric residential treatment facility) of Section
592 41-7-173(h). The total number of beds which may be authorized by
593 such certificates of need shall not exceed three hundred
594 thirty-four (334) beds for the entire state.

595 (a) Of the total number of beds authorized under this
596 subsection, the department shall issue a certificate of need to a
597 privately-owned psychiatric residential treatment facility in
598 Simpson County for the conversion of sixteen (16) intermediate
599 care facility for the mentally retarded (ICF-MR) beds to
600 psychiatric residential treatment facility beds, provided that
601 facility agrees in writing that the facility shall give priority
602 for the use of those sixteen (16) beds to Mississippi residents
603 who are presently being treated in out-of-state facilities.

604 (b) Of the total number of beds authorized under this
605 subsection, the department may issue a certificate or certificates
606 of need for the construction or expansion of psychiatric
607 residential treatment facility beds or the conversion of other
608 beds to psychiatric residential treatment facility beds in Warren
609 County, not to exceed sixty (60) psychiatric residential treatment
610 facility beds, provided that the facility agrees in writing that
611 no more than thirty (30) of the beds at the psychiatric
612 residential treatment facility will be certified for participation
613 in the Medicaid program (Section 43-13-101 et seq.) for the use of
614 any patients other than those who are participating only in the
615 Medicaid program of another state, and that no claim will be
616 submitted to the Division of Medicaid for Medicaid reimbursement
617 for more than thirty (30) patients in the psychiatric residential
618 treatment facility in any day or for any patient in the
619 psychiatric residential treatment facility who is in a bed that is
620 not Medicaid-certified. This written agreement by the recipient
621 of the certificate of need shall be a condition of the issuance of

622 the certificate of need under this paragraph, and the agreement
623 shall be fully binding on any subsequent owner of the psychiatric
624 residential treatment facility if the ownership of the facility is
625 transferred at any time after the issuance of the certificate of
626 need. After this written agreement is executed, the Division of
627 Medicaid and the State Department of Health shall not certify more
628 than thirty (30) of the beds in the psychiatric residential
629 treatment facility for participation in the Medicaid program for
630 the use of any patients other than those who are participating
631 only in the Medicaid program of another state. If the psychiatric
632 residential treatment facility violates the terms of the written
633 agreement by admitting or keeping in the facility on a regular or
634 continuing basis more than thirty (30) patients who are
635 participating in the Mississippi Medicaid program, the State
636 Department of Health shall revoke the license of the facility, at
637 the time that the department determines, after a hearing complying
638 with due process, that the facility has violated the condition
639 upon which the certificate of need was issued, as provided in this
640 paragraph and in the written agreement.

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

645 (c) Of the total number of beds authorized under this
646 subsection, the department shall issue a certificate of need to a
647 hospital currently operating Medicaid-certified acute psychiatric
648 beds for adolescents in DeSoto County, for the establishment of a
649 forty-bed psychiatric residential treatment facility in DeSoto
650 County, provided that the hospital agrees in writing (i) that the
651 hospital shall give priority for the use of those forty (40) beds
652 to Mississippi residents who are presently being treated in
653 out-of-state facilities, and (ii) that no more than fifteen (15)
654 of the beds at the psychiatric residential treatment facility will

655 be certified for participation in the Medicaid program (Section
656 43-13-101 et seq.), and that no claim will be submitted for
657 Medicaid reimbursement for more than fifteen (15) patients in the
658 psychiatric residential treatment facility in any day or for any
659 patient in the psychiatric residential treatment facility who is
660 in a bed that is not Medicaid-certified. This written agreement
661 by the recipient of the certificate of need shall be a condition
662 of the issuance of the certificate of need under this paragraph,
663 and the agreement shall be fully binding on any subsequent owner
664 of the psychiatric residential treatment facility if the ownership
665 of the facility is transferred at any time after the issuance of
666 the certificate of need. After this written agreement is
667 executed, the Division of Medicaid and the State Department of
668 Health shall not certify more than fifteen (15) of the beds in the
669 psychiatric residential treatment facility for participation in
670 the Medicaid program. If the psychiatric residential treatment
671 facility violates the terms of the written agreement by admitting
672 or keeping in the facility on a regular or continuing basis more
673 than fifteen (15) patients who are participating in the Medicaid
674 program, the State Department of Health shall revoke the license
675 of the facility, at the time that the department determines, after
676 a hearing complying with due process, that the facility has
677 violated the condition upon which the certificate of need was
678 issued, as provided in this paragraph and in the written
679 agreement.

680 (d) Of the total number of beds authorized under this
681 subsection, the department may issue a certificate or certificates
682 of need for the construction or expansion of psychiatric
683 residential treatment facility beds or the conversion of other
684 beds to psychiatric treatment facility beds, not to exceed thirty
685 (30) psychiatric residential treatment facility beds, in either
686 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
687 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

688 (e) Of the total number of beds authorized under this
689 subsection (3) the department shall issue a certificate of need to
690 a privately-owned, nonprofit psychiatric residential treatment
691 facility in Hinds County for an eight-bed expansion of the
692 facility, provided that the facility agrees in writing that the
693 facility shall give priority for the use of those eight (8) beds
694 to Mississippi residents who are presently being treated in
695 out-of-state facilities.

696 (f) The department shall issue a certificate of need to
697 a one-hundred-thirty-four-bed specialty hospital located on
698 twenty-nine and forty-four one-hundredths (29.44) commercial acres
699 at 5900 Highway 39 North in Meridian (Lauderdale County),
700 Mississippi, for the addition, construction or expansion of
701 child/adolescent psychiatric residential treatment facility beds
702 in Lauderdale County. As a condition of issuance of the
703 certificate of need under this paragraph, the facility shall give
704 priority in admissions to the child/adolescent psychiatric
705 residential treatment facility beds authorized under this
706 paragraph to patients who otherwise would require out-of-state
707 placement. The Division of Medicaid, in conjunction with the
708 Department of Human Services, shall furnish the facility a list of
709 all out-of-state patients on a quarterly basis. Furthermore,
710 notice shall also be provided to the parent, custodial parent or
711 guardian of each out-of-state patient notifying them of the
712 priority status granted by this paragraph. For purposes of this
713 paragraph, the provisions of Section 41-7-193(1) requiring
714 substantial compliance with the projection of need as reported in
715 the current State Health Plan are waived. The total number of
716 child/adolescent psychiatric residential treatment facility beds
717 that may be authorized under the authority of this paragraph shall
718 be sixty (60) beds. There shall be no prohibition or restrictions
719 on participation in the Medicaid program (Section 43-13-101 et
720 seq.) for the person receiving the certificate of need authorized

721 under this paragraph or for the beds converted pursuant to the
722 authority of that certificate of need.

723 (4) (a) From and after July 1, 1993, the department shall
724 not issue a certificate of need to any person for the new
725 construction of any hospital, psychiatric hospital or chemical
726 dependency hospital that will contain any child/adolescent
727 psychiatric or child/adolescent chemical dependency beds, or for
728 the conversion of any other health care facility to a hospital,
729 psychiatric hospital or chemical dependency hospital that will
730 contain any child/adolescent psychiatric or child/adolescent
731 chemical dependency beds, or for the addition of any
732 child/adolescent psychiatric or child/adolescent chemical
733 dependency beds in any hospital, psychiatric hospital or chemical
734 dependency hospital, or for the conversion of any beds of another
735 category in any hospital, psychiatric hospital or chemical
736 dependency hospital to child/adolescent psychiatric or
737 child/adolescent chemical dependency beds, except as hereinafter
738 authorized:

739 (i) The department may issue certificates of need
740 to any person for any purpose described in this subsection,
741 provided that the hospital, psychiatric hospital or chemical
742 dependency hospital does not participate in the Medicaid program
743 (Section 43-13-101 et seq.) at the time of the application for the
744 certificate of need and the owner of the hospital, psychiatric
745 hospital or chemical dependency hospital agrees in writing that
746 the hospital, psychiatric hospital or chemical dependency hospital
747 will not at any time participate in the Medicaid program or admit
748 or keep any patients who are participating in the Medicaid program
749 in the hospital, psychiatric hospital or chemical dependency
750 hospital. This written agreement by the recipient of the
751 certificate of need shall be fully binding on any subsequent owner
752 of the hospital, psychiatric hospital or chemical dependency
753 hospital, if the ownership of the facility is transferred at any

754 time after the issuance of the certificate of need. Agreement
755 that the hospital, psychiatric hospital or chemical dependency
756 hospital will not participate in the Medicaid program shall be a
757 condition of the issuance of a certificate of need to any person
758 under this subparagraph (a)(i), and if such hospital, psychiatric
759 hospital or chemical dependency hospital at any time after the
760 issuance of the certificate of need, regardless of the ownership
761 of the facility, participates in the Medicaid program or admits or
762 keeps any patients in the hospital, psychiatric hospital or
763 chemical dependency hospital who are participating in the Medicaid
764 program, the State Department of Health shall revoke the
765 certificate of need, if it is still outstanding, and shall deny or
766 revoke the license of the hospital, psychiatric hospital or
767 chemical dependency hospital, at the time that the department
768 determines, after a hearing complying with due process, that the
769 hospital, psychiatric hospital or chemical dependency hospital has
770 failed to comply with any of the conditions upon which the
771 certificate of need was issued, as provided in this subparagraph
772 and in the written agreement by the recipient of the certificate
773 of need.

774 (ii) The department may issue a certificate of
775 need for the conversion of existing beds in a county hospital in
776 Choctaw County from acute care beds to child/adolescent chemical
777 dependency beds. For purposes of this subparagraph, the
778 provisions of Section 41-7-193(1) requiring substantial compliance
779 with the projection of need as reported in the current State
780 Health Plan is waived. The total number of beds that may be
781 authorized under authority of this subparagraph shall not exceed
782 twenty (20) beds. There shall be no prohibition or restrictions
783 on participation in the Medicaid program (Section 43-13-101 et
784 seq.) for the hospital receiving the certificate of need
785 authorized under this subparagraph (a)(ii) or for the beds
786 converted pursuant to the authority of that certificate of need.

787 (iii) The department may issue a certificate or
788 certificates of need for the construction or expansion of
789 child/adolescent psychiatric beds or the conversion of other beds
790 to child/adolescent psychiatric beds in Warren County. For
791 purposes of this subparagraph, the provisions of Section
792 41-7-193(1) requiring substantial compliance with the projection
793 of need as reported in the current State Health Plan are waived.
794 The total number of beds that may be authorized under the
795 authority of this subparagraph shall not exceed twenty (20) beds.
796 There shall be no prohibition or restrictions on participation in
797 the Medicaid program (Section 43-13-101 et seq.) for the person
798 receiving the certificate of need authorized under this
799 subparagraph (a)(iii) or for the beds converted pursuant to the
800 authority of that certificate of need.

801 If by January 1, 2002, there has been no significant
802 commencement of construction of the beds authorized under this
803 subparagraph (a)(iii), or no significant action taken to convert
804 existing beds to the beds authorized under this subparagraph, then
805 the certificate of need that was previously issued under this
806 subparagraph shall expire. If the previously issued certificate
807 of need expires, the department may accept applications for
808 issuance of another certificate of need for the beds authorized
809 under this subparagraph, and may issue a certificate of need to
810 authorize the construction, expansion or conversion of the beds
811 authorized under this subparagraph.

812 (iv) The department shall issue a certificate of
813 need to the Region 7 Mental Health/Retardation Commission for the
814 construction or expansion of child/adolescent psychiatric beds or
815 the conversion of other beds to child/adolescent psychiatric beds
816 in any of the counties served by the commission. For purposes of
817 this subparagraph, the provisions of Section 41-7-193(1) requiring
818 substantial compliance with the projection of need as reported in
819 the current State Health Plan is waived. The total number of beds

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

826 (v) The department may issue a certificate of need
827 to any county hospital located in Leflore County for the
828 construction or expansion of adult psychiatric beds or the
829 conversion of other beds to adult psychiatric beds, not to exceed
830 twenty (20) beds, provided that the recipient of the certificate
831 of need agrees in writing that the adult psychiatric beds will not
832 at any time be certified for participation in the Medicaid program
833 and that the hospital will not admit or keep any patients who are
834 participating in the Medicaid program in any of such adult
835 psychiatric beds. This written agreement by the recipient of the
836 certificate of need shall be fully binding on any subsequent owner
837 of the hospital if the ownership of the hospital is transferred at
838 any time after the issuance of the certificate of need. Agreement
839 that the adult psychiatric beds will not be certified for
840 participation in the Medicaid program shall be a condition of the
841 issuance of a certificate of need to any person under this
842 subparagraph (a)(v), and if such hospital at any time after the
843 issuance of the certificate of need, regardless of the ownership
844 of the hospital, has any of such adult psychiatric beds certified
845 for participation in the Medicaid program or admits or keeps any
846 Medicaid patients in such adult psychiatric beds, the State
847 Department of Health shall revoke the certificate of need, if it
848 is still outstanding, and shall deny or revoke the license of the
849 hospital at the time that the department determines, after a
850 hearing complying with due process, that the hospital has failed
851 to comply with any of the conditions upon which the certificate of

852 need was issued, as provided in this subparagraph and in the
853 written agreement by the recipient of the certificate of need.

854 (vi) The department may issue a certificate or
855 certificates of need for the expansion of child psychiatric beds
856 or the conversion of other beds to child psychiatric beds at the
857 University of Mississippi Medical Center. For purposes of this
858 subparagraph (a)(vi), the provision of Section 41-7-193(1)
859 requiring substantial compliance with the projection of need as
860 reported in the current State Health Plan is waived. The total
861 number of beds that may be authorized under the authority of this
862 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
863 shall be no prohibition or restrictions on participation in the
864 Medicaid program (Section 43-13-101 et seq.) for the hospital
865 receiving the certificate of need authorized under this
866 subparagraph (a)(vi) or for the beds converted pursuant to the
867 authority of that certificate of need.

868 (b) From and after July 1, 1990, no hospital,
869 psychiatric hospital or chemical dependency hospital shall be
870 authorized to add any child/adolescent psychiatric or
871 child/adolescent chemical dependency beds or convert any beds of
872 another category to child/adolescent psychiatric or
873 child/adolescent chemical dependency beds without a certificate of
874 need under the authority of subsection (1)(c) of this section.

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

878 (6) The State Department of Health shall issue a certificate
879 of need to a Mississippi corporation qualified to manage a
880 long-term care hospital as defined in Section 41-7-173(h)(xii) in
881 Harrison County, not to exceed eighty (80) beds, including any
882 necessary renovation or construction required for licensure and
883 certification, provided that the recipient of the certificate of
884 need agrees in writing that the long-term care hospital will not

885 at any time participate in the Medicaid program (Section 43-13-101
886 et seq.) or admit or keep any patients in the long-term care
887 hospital who are participating in the Medicaid program. This
888 written agreement by the recipient of the certificate of need
889 shall be fully binding on any subsequent owner of the long-term
890 care hospital, if the ownership of the facility is transferred at
891 any time after the issuance of the certificate of need. Agreement
892 that the long-term care hospital will not participate in the
893 Medicaid program shall be a condition of the issuance of a
894 certificate of need to any person under this subsection (6), and
895 if such long-term care hospital at any time after the issuance of
896 the certificate of need, regardless of the ownership of the
897 facility, participates in the Medicaid program or admits or keeps
898 any patients in the facility who are participating in the Medicaid
899 program, the State Department of Health shall revoke the
900 certificate of need, if it is still outstanding, and shall deny or
901 revoke the license of the long-term care hospital, at the time
902 that the department determines, after a hearing complying with due
903 process, that the facility has failed to comply with any of the
904 conditions upon which the certificate of need was issued, as
905 provided in this subsection and in the written agreement by the
906 recipient of the certificate of need. For purposes of this
907 subsection, the provision of Section 41-7-193(1) requiring
908 substantial compliance with the projection of need as reported in
909 the current State Health Plan is hereby waived.

910 (7) The State Department of Health may issue a certificate
911 of need to any hospital in the state to utilize a portion of its
912 beds for the "swing-bed" concept. Any such hospital must be in
913 conformance with the federal regulations regarding such swing-bed
914 concept at the time it submits its application for a certificate
915 of need to the State Department of Health, except that such
916 hospital may have more licensed beds or a higher average daily
917 census (ADC) than the maximum number specified in federal

918 regulations for participation in the swing-bed program. Any
919 hospital meeting all federal requirements for participation in the
920 swing-bed program which receives such certificate of need shall
921 render services provided under the swing-bed concept to any
922 patient eligible for Medicare (Title XVIII of the Social Security
923 Act) who is certified by a physician to be in need of such
924 services, and no such hospital shall permit any patient who is
925 eligible for both Medicaid and Medicare or eligible only for
926 Medicaid to stay in the swing beds of the hospital for more than
927 thirty (30) days per admission unless the hospital receives prior
928 approval for such patient from the Division of Medicaid, Office of
929 the Governor. Any hospital having more licensed beds or a higher
930 average daily census (ADC) than the maximum number specified in
931 federal regulations for participation in the swing-bed program
932 which receives such certificate of need shall develop a procedure
933 to insure that before a patient is allowed to stay in the swing
934 beds of the hospital, there are no vacant nursing home beds
935 available for that patient located within a fifty-mile radius of
936 the hospital. When any such hospital has a patient staying in the
937 swing beds of the hospital and the hospital receives notice from a
938 nursing home located within such radius that there is a vacant bed
939 available for that patient, the hospital shall transfer the
940 patient to the nursing home within a reasonable time after receipt
941 of the notice. Any hospital which is subject to the requirements
942 of the two (2) preceding sentences of this subsection may be
943 suspended from participation in the swing-bed program for a
944 reasonable period of time by the State Department of Health if the
945 department, after a hearing complying with due process, determines
946 that the hospital has failed to comply with any of those
947 requirements.

948 (8) The Department of Health shall not grant approval for or
949 issue a certificate of need to any person proposing the new
950 construction of, addition to or expansion of a health care

951 facility as defined in subparagraph (viii) of Section 41-7-173(h).

952 (9) The Department of Health shall not grant approval for or
953 issue a certificate of need to any person proposing the
954 establishment of, or expansion of the currently approved territory
955 of, or the contracting to establish a home office, subunit or
956 branch office within the space operated as a health care facility
957 as defined in Section 41-7-173(h)(i) through (viii) by a health
958 care facility as defined in subparagraph (ix) of Section
959 41-7-173(h).

960 (10) Health care facilities owned and/or operated by the
961 state or its agencies are exempt from the restraints in this
962 section against issuance of a certificate of need if such addition
963 or expansion consists of repairing or renovation necessary to
964 comply with the state licensure law. This exception shall not
965 apply to the new construction of any building by such state
966 facility. This exception shall not apply to any health care
967 facilities owned and/or operated by counties, municipalities,
968 districts, unincorporated areas, other defined persons, or any
969 combination thereof.

970 (11) The new construction, renovation or expansion of or
971 addition to any health care facility defined in subparagraph (ii)
972 (psychiatric hospital), subparagraph (iv) (skilled nursing
973 facility), subparagraph (vi) (intermediate care facility),
974 subparagraph (viii) (intermediate care facility for the mentally
975 retarded) and subparagraph (x) (psychiatric residential treatment
976 facility) of Section 41-7-173(h) which is owned by the State of
977 Mississippi and under the direction and control of the State
978 Department of Mental Health, and the addition of new beds or the
979 conversion of beds from one category to another in any such
980 defined health care facility which is owned by the State of
981 Mississippi and under the direction and control of the State
982 Department of Mental Health, shall not require the issuance of a
983 certificate of need under Section 41-7-171 et seq.,

984 notwithstanding any provision in Section 41-7-171 et seq. to the
985 contrary.

986 (12) The new construction, renovation or expansion of or
987 addition to any veterans homes or domiciliaries for eligible
988 veterans of the State of Mississippi as authorized under Section
989 35-1-19 shall not require the issuance of a certificate of need,
990 notwithstanding any provision in Section 41-7-171 et seq. to the
991 contrary.

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

997 (a) Before any construction or conversion may be
998 undertaken without a certificate of need, the owner of the nursing
999 facility, in the case of an existing facility, or the applicant to
1000 construct a nursing facility, in the case of new construction,
1001 first must file a written notice of intent and sign a written
1002 agreement with the State Department of Health that the entire
1003 nursing facility will not at any time participate in or have any
1004 beds certified for participation in the Medicaid program (Section
1005 43-13-101 et seq.), will not admit or keep any patients in the
1006 nursing facility who are participating in the Medicaid program,
1007 and will not submit any claim for Medicaid reimbursement for any
1008 patient in the facility. This written agreement by the owner or
1009 applicant shall be a condition of exercising the authority under
1010 this subsection without a certificate of need, and the agreement
1011 shall be fully binding on any subsequent owner of the nursing
1012 facility if the ownership of the facility is transferred at any
1013 time after the agreement is signed. After the written agreement
1014 is signed, the Division of Medicaid and the State Department of
1015 Health shall not certify any beds in the nursing facility for
1016 participation in the Medicaid program. If the nursing facility

1017 violates the terms of the written agreement by participating in
1018 the Medicaid program, having any beds certified for participation
1019 in the Medicaid program, admitting or keeping any patient in the
1020 facility who is participating in the Medicaid program, or
1021 submitting any claim for Medicaid reimbursement for any patient in
1022 the facility, the State Department of Health shall revoke the
1023 license of the nursing facility at the time that the department
1024 determines, after a hearing complying with due process, that the
1025 facility has violated the terms of the written agreement.

1026 (b) For the purposes of this subsection, participation
1027 in the Medicaid program by a nursing facility includes Medicaid
1028 reimbursement of coinsurance and deductibles for recipients who
1029 are qualified Medicare beneficiaries and/or those who are dually
1030 eligible. Any nursing facility exercising the authority under
1031 this subsection may not bill or submit a claim to the Division of
1032 Medicaid for services to qualified Medicare beneficiaries and/or
1033 those who are dually eligible.

1034 (c) The new construction of a nursing facility or
1035 nursing facility beds or the conversion of other beds to nursing
1036 facility beds described in this section must be either a part of a
1037 completely new continuing care retirement community, as described
1038 in the latest edition of the Mississippi State Health Plan, or an
1039 addition to existing personal care and independent living
1040 components, and so that the completed project will be a continuing
1041 care retirement community, containing (i) independent living
1042 accommodations, (ii) personal care beds, and (iii) the nursing
1043 home facility beds. The three (3) components must be located on a
1044 single site and be operated as one (1) inseparable facility. The
1045 nursing facility component must contain a minimum of thirty (30)
1046 beds. Any nursing facility beds authorized by this section will
1047 not be counted against the bed need set forth in the State Health
1048 Plan, as identified in Section 41-7-171 et seq.

1049 This subsection (13) shall stand repealed from and after July
1050 1, 2005.

1051 (14) The State Department of Health shall issue a
1052 certificate of need to any hospital which is currently licensed
1053 for two hundred fifty (250) or more acute care beds and is located
1054 in any general hospital service area not having a comprehensive
1055 cancer center, for the establishment and equipping of such a
1056 center which provides facilities and services for outpatient
1057 radiation oncology therapy, outpatient medical oncology therapy,
1058 and appropriate support services including the provision of
1059 radiation therapy services. The provision of Section 41-7-193(1)
1060 regarding substantial compliance with the projection of need as
1061 reported in the current State Health Plan is waived for the
1062 purpose of this subsection.

1063 (15) The State Department of Health may authorize the
1064 transfer of hospital beds, not to exceed sixty (60) beds, from the
1065 North Panola Community Hospital to the South Panola Community
1066 Hospital. The authorization for the transfer of those beds shall
1067 be exempt from the certificate of need review process.

1068 (16) The State Department of Health shall issue any
1069 certificates of need necessary for Mississippi State University
1070 and a public or private health care provider to jointly acquire
1071 and operate a linear accelerator and a magnetic resonance imaging
1072 unit. Those certificates of need shall cover all capital
1073 expenditures related to the project between Mississippi State
1074 University and the health care provider, including, but not
1075 limited to, the acquisition of the linear accelerator, the
1076 magnetic resonance imaging unit and other radiological modalities;
1077 the offering of linear accelerator and magnetic resonance imaging
1078 services; and the cost of construction of facilities in which to
1079 locate these services. The linear accelerator and the magnetic
1080 resonance imaging unit shall be (a) located in the City of
1081 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by

1082 Mississippi State University and the public or private health care
1083 provider selected by Mississippi State University through a
1084 request for proposals (RFP) process in which Mississippi State
1085 University selects, and the Board of Trustees of State
1086 Institutions of Higher Learning approves, the health care provider
1087 that makes the best overall proposal; (c) available to Mississippi
1088 State University for research purposes two-thirds (2/3) of the
1089 time that the linear accelerator and magnetic resonance imaging
1090 unit are operational; and (d) available to the public or private
1091 health care provider selected by Mississippi State University and
1092 approved by the Board of Trustees of State Institutions of Higher
1093 Learning one-third (1/3) of the time for clinical, diagnostic and
1094 treatment purposes. For purposes of this subsection, the
1095 provisions of Section 41-7-193(1) requiring substantial compliance
1096 with the projection of need as reported in the current State
1097 Health Plan are waived.

1098 (17) Nothing in this section or in any other provision of
1099 Section 41-7-171 et seq. shall prevent any nursing facility from
1100 designating an appropriate number of existing beds in the facility
1101 as beds for providing care exclusively to patients with
1102 Alzheimer's disease.

1103 **SECTION 2.** This act shall take effect and be in force from
1104 and after July 1, 2005.