

By: Representative Woods

To: Public Health and Human Services

HOUSE BILL NO. 83

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A  
3 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW ACUTE CARE  
4 HOSPITAL IN THE CITY OF OLIVE BRANCH IN DESOTO COUNTY; AND FOR  
5 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

95 as a result of the change of ownership; an acquisition for less  
96 than fair market value must be reviewed, if the acquisition at  
97 fair market value would be subject to review;

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

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

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

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

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

126 (a) The department may issue a certificate of need to  
127 any person proposing the new construction of any health care

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

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

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

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

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

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

189 (f) The State Department of Health may issue a  
190 certificate of need for conversion of a county hospital facility  
191 in Itawamba County to a nursing facility, not to exceed sixty (60)  
192 beds, including any necessary construction, renovation or  
193 expansion. From and after July 1, 1999, there shall be no

194 prohibition or restrictions on participation in the Medicaid  
195 program (Section 43-13-101 et seq.) for the beds in the nursing  
196 facility that were authorized under this paragraph (f).

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

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

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

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

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

260 participation in the Medicaid program (Section 43-13-101 et seq.)  
261 for the beds in the long-term care facilities that were authorized  
262 under this paragraph (j).

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

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

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

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

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

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

390 (o) The department may issue a certificate of need for  
391 the new construction, addition or conversion of skilled nursing

392 facility beds in Leake County, provided that the recipient of the  
393 certificate of need agrees in writing that the skilled nursing  
394 facility will not at any time participate in the Medicaid program  
395 (Section 43-13-101 et seq.) or admit or keep any patients in the  
396 skilled nursing facility who are participating in the Medicaid  
397 program. This written agreement by the recipient of the  
398 certificate of need shall be fully binding on any subsequent owner  
399 of the skilled nursing facility, if the ownership of the facility  
400 is transferred at any time after the issuance of the certificate  
401 of need. Agreement that the skilled nursing facility will not  
402 participate in the Medicaid program shall be a condition of the  
403 issuance of a certificate of need to any person under this  
404 paragraph (o), and if such skilled nursing facility at any time  
405 after the issuance of the certificate of need, regardless of the  
406 ownership of the facility, participates in the Medicaid program or  
407 admits or keeps any patients in the facility who are participating  
408 in the Medicaid program, the State Department of Health shall  
409 revoke the certificate of need, if it is still outstanding, and  
410 shall deny or revoke the license of the skilled nursing facility,  
411 at the time that the department determines, after a hearing  
412 complying with due process, that the facility has failed to comply  
413 with any of the conditions upon which the certificate of need was  
414 issued, as provided in this paragraph and in the written agreement  
415 by the recipient of the certificate of need. The total number of  
416 nursing facility beds that may be authorized by any certificate of  
417 need issued under this paragraph (o) shall not exceed sixty (60)  
418 beds. If the certificate of need authorized under this paragraph  
419 is not issued within twelve (12) months after July 1, 2001, the  
420 department shall deny the application for the certificate of need  
421 and shall not issue the certificate of need at any time after the  
422 twelve-month period, unless the issuance is contested. If the  
423 certificate of need is issued and substantial construction of the  
424 nursing facility beds has not commenced within eighteen (18)

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

434 (p) The department may issue a certificate of need for  
435 the construction of a municipally-owned nursing facility within  
436 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
437 beds, provided that the recipient of the certificate of need  
438 agrees in writing that the skilled nursing facility will not at  
439 any time participate in the Medicaid program (Section 43-13-101 et  
440 seq.) or admit or keep any patients in the skilled nursing  
441 facility who are participating in the Medicaid program. This  
442 written agreement by the recipient of the certificate of need  
443 shall be fully binding on any subsequent owner of the skilled  
444 nursing facility, if the ownership of the facility is transferred  
445 at any time after the issuance of the certificate of need.  
446 Agreement that the skilled nursing facility will not participate  
447 in the Medicaid program shall be a condition of the issuance of a  
448 certificate of need to any person under this paragraph (p), and if  
449 such skilled nursing facility at any time after the issuance of  
450 the certificate of need, regardless of the ownership of the  
451 facility, participates in the Medicaid program or admits or keeps  
452 any patients in the facility who are participating in the Medicaid  
453 program, the State Department of Health shall revoke the  
454 certificate of need, if it is still outstanding, and shall deny or  
455 revoke the license of the skilled nursing facility, at the time  
456 that the department determines, after a hearing complying with due  
457 process, that the facility has failed to comply with any of the

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

475 \* \* \* However, \* \* \* if the issuance of the certificate of need is  
476 contested, the department shall require substantial construction  
477 of the nursing facility beds within six (6) months after final  
478 adjudication on the issuance of the certificate of need.

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

489 (ii) Subject to the provisions of subparagraph  
490 (v), during each of the next four (4) fiscal years, the department

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

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

524 the county with the lowest need, until an application is received  
525 for nursing facility beds in an eligible county in the district.

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

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

557 additional nursing facility beds in that county during the  
558 four-year period, and that county shall be excluded in determining  
559 which counties have the highest need for nursing facility beds in  
560 succeeding fiscal years.

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

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

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

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

585 (ii) Not more than twenty (20) beds may be  
586 authorized by any certificate of need issued under this paragraph  
587 (r), and not more than a total of sixty (60) beds may be  
588 authorized in any Long-Term Care Planning District by all  
589 certificates of need issued under this paragraph (r). However,

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

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

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

616 (a) Of the total number of beds authorized under this  
617 subsection, the department shall issue a certificate of need to a  
618 privately-owned psychiatric residential treatment facility in  
619 Simpson County for the conversion of sixteen (16) intermediate  
620 care facility for the mentally retarded (ICF-MR) beds to  
621 psychiatric residential treatment facility beds, provided that  
622 facility agrees in writing that the facility shall give priority

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

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

656 participating in the Mississippi Medicaid program, the State  
657 Department of Health shall revoke the license of the facility, at  
658 the time that the department determines, after a hearing complying  
659 with due process, that the facility has violated the condition  
660 upon which the certificate of need was issued, as provided in this  
661 paragraph and in the written agreement.

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

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

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

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

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

717 (f) The department shall issue a certificate of need to  
718 a one-hundred-thirty-four-bed specialty hospital located on  
719 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
720 at 5900 Highway 39 North in Meridian (Lauderdale County),  
721 Mississippi, for the addition, construction or expansion of

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

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

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

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

788 chemical dependency hospital, at the time that the department  
789 determines, after a hearing complying with due process, that the  
790 hospital, psychiatric hospital or chemical dependency hospital has  
791 failed to comply with any of the conditions upon which the  
792 certificate of need was issued, as provided in this subparagraph  
793 and in the written agreement by the recipient of the certificate  
794 of need.

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

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

820 subparagraph (a)(iii) or for the beds converted pursuant to the  
821 authority of that certificate of need.

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

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

847                 (v) The department may issue a certificate of need  
848 to any county hospital located in Leflore County for the  
849 construction or expansion of adult psychiatric beds or the  
850 conversion of other beds to adult psychiatric beds, not to exceed  
851 twenty (20) beds, provided that the recipient of the certificate  
852 of need agrees in writing that the adult psychiatric beds will not

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

875           (vi) The department may issue a certificate or  
876 certificates of need for the expansion of child psychiatric beds  
877 or the conversion of other beds to child psychiatric beds at the  
878 University of Mississippi Medical Center. For purposes of this  
879 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
880 requiring substantial compliance with the projection of need as  
881 reported in the current State Health Plan is waived. The total  
882 number of beds that may be authorized under the authority of this  
883 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
884 shall be no prohibition or restrictions on participation in the  
885 Medicaid program (Section 43-13-101 et seq.) for the hospital

886 receiving the certificate of need authorized under this  
887 subparagraph (a)(vi) or for the beds converted pursuant to the  
888 authority of that certificate of need.

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

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

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

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

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

952 federal regulations for participation in the swing-bed program  
953 which receives such certificate of need shall develop a procedure  
954 to insure that before a patient is allowed to stay in the swing  
955 beds of the hospital, there are no vacant nursing home beds  
956 available for that patient located within a fifty-mile radius of  
957 the hospital. When any such hospital has a patient staying in the  
958 swing beds of the hospital and the hospital receives notice from a  
959 nursing home located within such radius that there is a vacant bed  
960 available for that patient, the hospital shall transfer the  
961 patient to the nursing home within a reasonable time after receipt  
962 of the notice. Any hospital which is subject to the requirements  
963 of the two (2) preceding sentences of this subsection may be  
964 suspended from participation in the swing-bed program for a  
965 reasonable period of time by the State Department of Health if the  
966 department, after a hearing complying with due process, determines  
967 that the hospital has failed to comply with any of those  
968 requirements.

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

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

981 (10) Health care facilities owned and/or operated by the  
982 state or its agencies are exempt from the restraints in this  
983 section against issuance of a certificate of need if such addition  
984 or expansion consists of repairing or renovation necessary to

985 comply with the state licensure law. This exception shall not  
986 apply to the new construction of any building by such state  
987 facility. This exception shall not apply to any health care  
988 facilities owned and/or operated by counties, municipalities,  
989 districts, unincorporated areas, other defined persons, or any  
990 combination thereof.

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

1007 (12) The new construction, renovation or expansion of or  
1008 addition to any veterans homes or domiciliaries for eligible  
1009 veterans of the State of Mississippi as authorized under Section  
1010 35-1-19 shall not require the issuance of a certificate of need,  
1011 notwithstanding any provision in Section 41-7-171 et seq. to the  
1012 contrary.

1013 (13) The new construction of a nursing facility or nursing  
1014 facility beds or the conversion of other beds to nursing facility  
1015 beds shall not require the issuance of a certificate of need,  
1016 notwithstanding any provision in Section 41-7-171 et seq. to the  
1017 contrary, if the conditions of this subsection are met.

1018           (a) Before any construction or conversion may be  
1019 undertaken without a certificate of need, the owner of the nursing  
1020 facility, in the case of an existing facility, or the applicant to  
1021 construct a nursing facility, in the case of new construction,  
1022 first must file a written notice of intent and sign a written  
1023 agreement with the State Department of Health that the entire  
1024 nursing facility will not at any time participate in or have any  
1025 beds certified for participation in the Medicaid program (Section  
1026 43-13-101 et seq.), will not admit or keep any patients in the  
1027 nursing facility who are participating in the Medicaid program,  
1028 and will not submit any claim for Medicaid reimbursement for any  
1029 patient in the facility. This written agreement by the owner or  
1030 applicant shall be a condition of exercising the authority under  
1031 this subsection without a certificate of need, and the agreement  
1032 shall be fully binding on any subsequent owner of the nursing  
1033 facility if the ownership of the facility is transferred at any  
1034 time after the agreement is signed. After the written agreement  
1035 is signed, the Division of Medicaid and the State Department of  
1036 Health shall not certify any beds in the nursing facility for  
1037 participation in the Medicaid program. If the nursing facility  
1038 violates the terms of the written agreement by participating in  
1039 the Medicaid program, having any beds certified for participation  
1040 in the Medicaid program, admitting or keeping any patient in the  
1041 facility who is participating in the Medicaid program, or  
1042 submitting any claim for Medicaid reimbursement for any patient in  
1043 the facility, the State Department of Health shall revoke the  
1044 license of the nursing facility at the time that the department  
1045 determines, after a hearing complying with due process, that the  
1046 facility has violated the terms of the written agreement.

1047           (b) For the purposes of this subsection, participation  
1048 in the Medicaid program by a nursing facility includes Medicaid  
1049 reimbursement of coinsurance and deductibles for recipients who  
1050 are qualified Medicare beneficiaries and/or those who are dually

1051 eligible. Any nursing facility exercising the authority under  
1052 this subsection may not bill or submit a claim to the Division of  
1053 Medicaid for services to qualified Medicare beneficiaries and/or  
1054 those who are dually eligible.

1055 (c) The new construction of a nursing facility or  
1056 nursing facility beds or the conversion of other beds to nursing  
1057 facility beds described in this section must be either a part of a  
1058 completely new continuing care retirement community, as described  
1059 in the latest edition of the Mississippi State Health Plan, or an  
1060 addition to existing personal care and independent living  
1061 components, and so that the completed project will be a continuing  
1062 care retirement community, containing (i) independent living  
1063 accommodations, (ii) personal care beds, and (iii) the nursing  
1064 home facility beds. The three (3) components must be located on a  
1065 single site and be operated as one (1) inseparable facility. The  
1066 nursing facility component must contain a minimum of thirty (30)  
1067 beds. Any nursing facility beds authorized by this section will  
1068 not be counted against the bed need set forth in the State Health  
1069 Plan, as identified in Section 41-7-171 et seq.

1070 This subsection (13) shall stand repealed from and after July  
1071 1, 2005.

1072 (14) The State Department of Health shall issue a  
1073 certificate of need to any hospital which is currently licensed  
1074 for two hundred fifty (250) or more acute care beds and is located  
1075 in any general hospital service area not having a comprehensive  
1076 cancer center, for the establishment and equipping of such a  
1077 center which provides facilities and services for outpatient  
1078 radiation oncology therapy, outpatient medical oncology therapy,  
1079 and appropriate support services including the provision of  
1080 radiation therapy services. The provision of Section 41-7-193(1)  
1081 regarding substantial compliance with the projection of need as  
1082 reported in the current State Health Plan is waived for the  
1083 purpose of this subsection.

1084           (15) The State Department of Health may authorize the  
1085 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1086 North Panola Community Hospital to the South Panola Community  
1087 Hospital. The authorization for the transfer of those beds shall  
1088 be exempt from the certificate of need review process.

1089           (16) The State Department of Health shall issue any  
1090 certificates of need necessary for Mississippi State University  
1091 and a public or private health care provider to jointly acquire  
1092 and operate a linear accelerator and a magnetic resonance imaging  
1093 unit. Those certificates of need shall cover all capital  
1094 expenditures related to the project between Mississippi State  
1095 University and the health care provider, including, but not  
1096 limited to, the acquisition of the linear accelerator, the  
1097 magnetic resonance imaging unit and other radiological modalities;  
1098 the offering of linear accelerator and magnetic resonance imaging  
1099 services; and the cost of construction of facilities in which to  
1100 locate these services. The linear accelerator and the magnetic  
1101 resonance imaging unit shall be (a) located in the City of  
1102 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1103 Mississippi State University and the public or private health care  
1104 provider selected by Mississippi State University through a  
1105 request for proposals (RFP) process in which Mississippi State  
1106 University selects, and the Board of Trustees of State  
1107 Institutions of Higher Learning approves, the health care provider  
1108 that makes the best overall proposal; (c) available to Mississippi  
1109 State University for research purposes two-thirds (2/3) of the  
1110 time that the linear accelerator and magnetic resonance imaging  
1111 unit are operational; and (d) available to the public or private  
1112 health care provider selected by Mississippi State University and  
1113 approved by the Board of Trustees of State Institutions of Higher  
1114 Learning one-third (1/3) of the time for clinical, diagnostic and  
1115 treatment purposes. For purposes of this subsection, the  
1116 provisions of Section 41-7-193(1) requiring substantial compliance

1117 with the projection of need as reported in the current State  
1118 Health Plan are waived.

1119 (17) The State Department of Health shall issue a  
1120 certificate of need for the construction of a new acute care  
1121 hospital in the City of Olive Branch in DeSoto County, not to  
1122 exceed one hundred (100) acute care beds. For purposes of this  
1123 subsection, the provisions of Section 41-7-193(1) requiring  
1124 substantial compliance with the projection of need as reported in  
1125 the current State Health Plan are waived.

1126 (18) Nothing in this section or in any other provision of  
1127 Section 41-7-171 et seq. shall prevent any nursing facility from  
1128 designating an appropriate number of existing beds in the facility  
1129 as beds for providing care exclusively to patients with  
1130 Alzheimer's disease.

1131 **SECTION 2.** This act shall take effect and be in force from  
1132 and after July 1, 2006.