

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 589

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI  
2 CODE OF 1972, TO ADD HOSPICE FACILITIES AND HOSPICE SERVICES TO  
3 THOSE ACTIVITIES REQUIRING THE ISSUANCE OF A HEALTH CARE  
4 CERTIFICATE OF NEED BY THE STATE DEPARTMENT OF HEALTH; AND FOR  
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is  
8 amended as follows:

9 41-7-173. For the purposes of Section 41-7-171 et seq., the  
10 following words shall have the meanings ascribed herein, unless  
11 the context otherwise requires:

12 (a) "Affected person" means (i) the applicant; (ii) a  
13 person residing within the geographic area to be served by the  
14 applicant's proposal; (iii) a person who regularly uses health  
15 care facilities or HMO's located in the geographic area of the  
16 proposal which provide similar service to that which is proposed;  
17 (iv) health care facilities and HMO's which have, prior to receipt  
18 of the application under review, formally indicated an intention  
19 to provide service similar to that of the proposal being  
20 considered at a future date; (v) third-party payers who reimburse  
21 health care facilities located in the geographical area of the  
22 proposal; or (vi) any agency that establishes rates for health  
23 care services or HMO's located in the geographic area of the  
24 proposal.

25 (b) "Certificate of need" means a written order of the  
26 State Department of Health setting forth the affirmative finding  
27 that a proposal in prescribed application form, sufficiently  
28 satisfies the plans, standards and criteria prescribed for such

29 service or other project by Section 41-7-171 et seq., and by rules  
30 and regulations promulgated thereunder by the State Department of  
31 Health.

32 (c) (i) "Capital expenditure" when pertaining to  
33 defined major medical equipment, shall mean an expenditure which,  
34 under generally accepted accounting principles consistently  
35 applied, is not properly chargeable as an expense of operation and  
36 maintenance and which exceeds One Million Five Hundred Thousand  
37 Dollars (\$1,500,000.00).

38 (ii) "Capital expenditure," when pertaining to  
39 other than major medical equipment, shall mean any expenditure  
40 which under generally accepted accounting principles consistently  
41 applied is not properly chargeable as an expense of operation and  
42 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

43 (iii) A "capital expenditure" shall include the  
44 acquisition, whether by lease, sufferance, gift, devise, legacy,  
45 settlement of a trust or other means, of any facility or part  
46 thereof, or equipment for a facility, the expenditure for which  
47 would have been considered a capital expenditure if acquired by  
48 purchase. Transactions which are separated in time but are  
49 planned to be undertaken within twelve (12) months of each other  
50 and are components of an overall plan for meeting patient care  
51 objectives shall, for purposes of this definition, be viewed in  
52 their entirety without regard to their timing.

53 (iv) In those instances where a health care  
54 facility or other provider of health services proposes to provide  
55 a service in which the capital expenditure for major medical  
56 equipment or other than major medical equipment or a combination  
57 of the two (2) may have been split between separate parties, the  
58 total capital expenditure required to provide the proposed service  
59 shall be considered in determining the necessity of certificate of  
60 need review and in determining the appropriate certificate of need  
61 review fee to be paid. The capital expenditure associated with

62 facilities and equipment to provide services in Mississippi shall  
63 be considered regardless of where the capital expenditure was  
64 made, in state or out of state, and regardless of the domicile of  
65 the party making the capital expenditure, in state or out of  
66 state.

67 (d) "Change of ownership" includes, but is not limited  
68 to, inter vivos gifts, purchases, transfers, lease arrangements,  
69 cash and/or stock transactions or other comparable arrangements  
70 whenever any person or entity acquires or controls a majority  
71 interest of the facility or service. Changes of ownership from  
72 partnerships, single proprietorships or corporations to another  
73 form of ownership are specifically included. However, "change of  
74 ownership" shall not include any inherited interest acquired as a  
75 result of a testamentary instrument or under the laws of descent  
76 and distribution of the State of Mississippi.

77 (e) "Commencement of construction" means that all of  
78 the following have been completed with respect to a proposal or  
79 project proposing construction, renovating, remodeling or  
80 alteration:

81 (i) A legally binding written contract has been  
82 consummated by the proponent and a lawfully licensed contractor to  
83 construct and/or complete the intent of the proposal within a  
84 specified period of time in accordance with final architectural  
85 plans which have been approved by the licensing authority of the  
86 State Department of Health;

87 (ii) Any and all permits and/or approvals deemed  
88 lawfully necessary by all authorities with responsibility for such  
89 have been secured; and

90 (iii) Actual bona fide undertaking of the subject  
91 proposal has commenced, and a progress payment of at least one  
92 percent (1%) of the total cost price of the contract has been paid  
93 to the contractor by the proponent, and the requirements of this

94 paragraph (e) have been certified to in writing by the State  
95 Department of Health.

96 Force account expenditures, such as deposits, securities,  
97 bonds, et cetera, may, in the discretion of the State Department  
98 of Health, be excluded from any or all of the provisions of  
99 defined commencement of construction.

100 (f) "Consumer" means an individual who is not a  
101 provider of health care as defined in paragraph (q) of this  
102 section.

103 (g) "Develop," when used in connection with health  
104 services, means to undertake those activities which, on their  
105 completion, will result in the offering of a new institutional  
106 health service or the incurring of a financial obligation as  
107 defined under applicable state law in relation to the offering of  
108 such services.

109 (h) "Health care facility" includes hospitals,  
110 psychiatric hospitals, chemical dependency hospitals, skilled  
111 nursing facilities, end stage renal disease (ESRD) facilities,  
112 including freestanding hemodialysis units, intermediate care  
113 facilities, ambulatory surgical facilities, intermediate care  
114 facilities for the mentally retarded, home health agencies,  
115 psychiatric residential treatment facilities, pediatric skilled  
116 nursing facilities, long-term care hospitals, comprehensive  
117 medical rehabilitation facilities and hospices, including  
118 facilities owned or operated by the state or a political  
119 subdivision or instrumentality of the state, but does not include  
120 Christian Science sanatoriums operated or listed and certified by  
121 the First Church of Christ, Scientist, Boston, Massachusetts.  
122 This definition shall not apply to facilities for the private  
123 practice, either independently or by incorporated medical groups,  
124 of physicians, dentists or health care professionals except where  
125 such facilities are an integral part of an institutional health

126 service. The various health care facilities listed in this  
127 paragraph shall be defined as follows:

128 (i) "Hospital" means an institution which is  
129 primarily engaged in providing to inpatients, by or under the  
130 supervision of physicians, diagnostic services and therapeutic  
131 services for medical diagnosis, treatment and care of injured,  
132 disabled or sick persons, or rehabilitation services for the  
133 rehabilitation of injured, disabled or sick persons. Such term  
134 does not include psychiatric hospitals.

135 (ii) "Psychiatric hospital" means an institution  
136 which is primarily engaged in providing to inpatients, by or under  
137 the supervision of a physician, psychiatric services for the  
138 diagnosis and treatment of mentally ill persons.

139 (iii) "Chemical dependency hospital" means an  
140 institution which is primarily engaged in providing to inpatients,  
141 by or under the supervision of a physician, medical and related  
142 services for the diagnosis and treatment of chemical dependency  
143 such as alcohol and drug abuse.

144 (iv) "Skilled nursing facility" means an  
145 institution or a distinct part of an institution which is  
146 primarily engaged in providing to inpatients skilled nursing care  
147 and related services for patients who require medical or nursing  
148 care or rehabilitation services for the rehabilitation of injured,  
149 disabled or sick persons.

150 (v) "End stage renal disease (ESRD) facilities"  
151 means kidney disease treatment centers, which includes  
152 freestanding hemodialysis units and limited care facilities. The  
153 term "limited care facility" generally refers to an  
154 off-hospital-premises facility, regardless of whether it is  
155 provider or nonprovider operated, which is engaged primarily in  
156 furnishing maintenance hemodialysis services to stabilized  
157 patients.

158 (vi) "Intermediate care facility" means an  
159 institution which provides, on a regular basis, health related  
160 care and services to individuals who do not require the degree of  
161 care and treatment which a hospital or skilled nursing facility is  
162 designed to provide, but who, because of their mental or physical  
163 condition, require health related care and services (above the  
164 level of room and board).

165 (vii) "Ambulatory surgical facility" means a  
166 facility primarily organized or established for the purpose of  
167 performing surgery for outpatients and is a separate identifiable  
168 legal entity from any other health care facility. Such term does  
169 not include the offices of private physicians or dentists, whether  
170 for individual or group practice, and does not include any  
171 abortion facility as defined in Section 41-75-1(e).

172 (viii) "Intermediate care facility for the  
173 mentally retarded" means an intermediate care facility that  
174 provides health or rehabilitative services in a planned program of  
175 activities to the mentally retarded, also including, but not  
176 limited to, cerebral palsy and other conditions covered by the  
177 Federal Developmentally Disabled Assistance and Bill of Rights  
178 Act, Public Law 94-103.

179 (ix) "Home health agency" means a public or  
180 privately owned agency or organization, or a subdivision of such  
181 an agency or organization, properly authorized to conduct business  
182 in Mississippi, which is primarily engaged in providing to  
183 individuals at the written direction of a licensed physician, in  
184 the individual's place of residence, skilled nursing services  
185 provided by or under the supervision of a registered nurse  
186 licensed to practice in Mississippi, and one or more of the  
187 following services or items:

- 188 1. Physical, occupational or speech therapy;
- 189 2. Medical social services;

- 190                   3. Part-time or intermittent services of a  
191 home health aide;
- 192                   4. Other services as approved by the  
193 licensing agency for home health agencies;
- 194                   5. Medical supplies, other than drugs and  
195 biologicals, and the use of medical appliances; or
- 196                   6. Medical services provided by an intern or  
197 resident-in-training at a hospital under a teaching program of  
198 such hospital.

199           Further, all skilled nursing services and those services  
200 listed in items 1. through 4. of this subparagraph (ix) must be  
201 provided directly by the licensed home health agency. For  
202 purposes of this subparagraph, "directly" means either through an  
203 agency employee or by an arrangement with another individual not  
204 defined as a health care facility.

205           This subparagraph (ix) shall not apply to health care  
206 facilities which had contracts for the above services with a home  
207 health agency on January 1, 1990.

208                   (x) "Psychiatric residential treatment facility"  
209 means any nonhospital establishment with permanent licensed  
210 facilities which provides a twenty-four-hour program of care by  
211 qualified therapists including, but not limited to, duly licensed  
212 mental health professionals, psychiatrists, psychologists,  
213 psychotherapists and licensed certified social workers, for  
214 emotionally disturbed children and adolescents referred to such  
215 facility by a court, local school district or by the Department of  
216 Human Services, who are not in an acute phase of illness requiring  
217 the services of a psychiatric hospital, and are in need of such  
218 restorative treatment services. For purposes of this paragraph,  
219 the term "emotionally disturbed" means a condition exhibiting one  
220 or more of the following characteristics over a long period of  
221 time and to a marked degree, which adversely affects educational  
222 performance:

- 223                   1. An inability to learn which cannot be  
224 explained by intellectual, sensory or health factors;  
225                   2. An inability to build or maintain  
226 satisfactory relationships with peers and teachers;  
227                   3. Inappropriate types of behavior or  
228 feelings under normal circumstances;  
229                   4. A general pervasive mood of unhappiness or  
230 depression; or  
231                   5. A tendency to develop physical symptoms or  
232 fears associated with personal or school problems. An  
233 establishment furnishing primarily domiciliary care is not within  
234 this definition.

235                   (xi) "Pediatric skilled nursing facility" means an  
236 institution or a distinct part of an institution that is primarily  
237 engaged in providing to inpatients skilled nursing care and  
238 related services for persons under twenty-one (21) years of age  
239 who require medical or nursing care or rehabilitation services for  
240 the rehabilitation of injured, disabled or sick persons.

241                   (xii) "Long-term care hospital" means a  
242 freestanding, Medicare-certified hospital that has an average  
243 length of inpatient stay greater than twenty-five (25) days, which  
244 is primarily engaged in providing chronic or long-term medical  
245 care to patients who do not require more than three (3) hours of  
246 rehabilitation or comprehensive rehabilitation per day, and has a  
247 transfer agreement with an acute care medical center and a  
248 comprehensive medical rehabilitation facility. Long-term care  
249 hospitals shall not use rehabilitation, comprehensive medical  
250 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
251 nursing home, skilled nursing facility, or sub-acute care facility  
252 in association with its name.

253                   (xiii) "Comprehensive medical rehabilitation  
254 facility" means a hospital or hospital unit that is licensed  
255 and/or certified as a comprehensive medical rehabilitation



256 facility which provides specialized programs that are accredited  
257 by the Commission on Accreditation of Rehabilitation Facilities  
258 and supervised by a physician board certified or board eligible in  
259 Physiatry or other doctor of medicine or osteopathy with at least  
260 two (2) years of training in the medical direction of a  
261 comprehensive rehabilitation program that:

262                   1. Includes evaluation and treatment of  
263 individuals with physical disabilities;

264                   2. Emphasizes education and training of  
265 individuals with disabilities;

266                   3. Incorporates at least the following core  
267 disciplines:

268                               (i) Physical Therapy;

269                               (ii) Occupational Therapy;

270                               (iii) Speech and Language Therapy;

271                               (iv) Rehabilitation Nursing; and

272                   4. Incorporates at least three (3) of the  
273 following disciplines:

274                               (i) Psychology;

275                               (ii) Audiology;

276                               (iii) Respiratory Therapy;

277                               (iv) Therapeutic Recreation;

278                               (v) Orthotics;

279                               (vi) Prosthetics;

280                               (vii) Special Education;

281                               (viii) Vocational Rehabilitation;

282                               (ix) Psychotherapy;

283                               (x) Social Work;

284                               (xi) Rehabilitation Engineering.

285           These specialized programs include, but are not limited to:  
286 spinal cord injury programs, head injury programs and infant and  
287 early childhood development programs.

288                               (xiv) "Hospice" as defined by Section 41-85-3(d).

289 (i) "Health maintenance organization" or "HMO" means a  
290 public or private organization organized under the laws of this  
291 state or the federal government which:

292 (i) Provides or otherwise makes available to  
293 enrolled participants health care services, including  
294 substantially the following basic health care services: usual  
295 physician services, hospitalization, laboratory, x-ray, emergency  
296 and preventive services, and out-of-area coverage;

297 (ii) Is compensated (except for copayments) for  
298 the provision of the basic health care services listed in  
299 subparagraph (i) of this paragraph to enrolled participants on a  
300 predetermined basis; and

301 (iii) Provides physician services primarily:

- 302 1. Directly through physicians who are either  
303 employees or partners of such organization; or  
304 2. Through arrangements with individual  
305 physicians or one or more groups of physicians (organized on a  
306 group practice or individual practice basis).

307 (j) "Health service area" means a geographic area of  
308 the state designated in the State Health Plan as the area to be  
309 used in planning for specified health facilities and services and  
310 to be used when considering certificate of need applications to  
311 provide health facilities and services.

312 (k) "Health services" means clinically related (i.e.,  
313 diagnostic, treatment or rehabilitative) services and includes  
314 alcohol, drug abuse, mental health and home health care services.

315 (l) "Institutional health services" shall mean health  
316 services provided in or through health care facilities and shall  
317 include the entities in or through which such services are  
318 provided.

319 (m) "Major medical equipment" means medical equipment  
320 designed for providing medical or any health related service which  
321 costs in excess of One Million Five Hundred Thousand Dollars

322 (\$1,500,000.00). However, this definition shall not be applicable  
323 to clinical laboratories if they are determined by the State  
324 Department of Health to be independent of any physician's office,  
325 hospital or other health care facility or otherwise not so defined  
326 by federal or state law, or rules and regulations promulgated  
327 thereunder.

328 (n) "State Department of Health" shall mean the state  
329 agency created under Section 41-3-15, which shall be considered to  
330 be the State Health Planning and Development Agency, as defined in  
331 paragraph (t) of this section.

332 (o) "Offer," when used in connection with health  
333 services, means that it has been determined by the State  
334 Department of Health that the health care facility is capable of  
335 providing specified health services.

336 (p) "Person" means an individual, a trust or estate,  
337 partnership, corporation (including associations, joint stock  
338 companies and insurance companies), the state or a political  
339 subdivision or instrumentality of the state.

340 (q) "Provider" shall mean any person who is a provider  
341 or representative of a provider of health care services requiring  
342 a certificate of need under Section 41-7-171 et seq., or who has  
343 any financial or indirect interest in any provider of services.

344 (r) "Secretary" means the Secretary of Health and Human  
345 Services, and any officer or employee of the Department of Health  
346 and Human Services to whom the authority involved has been  
347 delegated.

348 (s) "State Health Plan" means the sole and official  
349 statewide health plan for Mississippi which identifies priority  
350 state health needs and establishes standards and criteria for  
351 health-related activities which require certificate of need review  
352 in compliance with Section 41-7-191.

353 (t) "State Health Planning and Development Agency"  
354 means the agency of state government designated to perform health

355 planning and resource development programs for the State of  
356 Mississippi.

357 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is  
358 amended as follows:

359 41-7-191. (1) No person shall engage in any of the  
360 following activities without obtaining the required certificate of  
361 need:

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

364 (b) The relocation of a health care facility or portion  
365 thereof, or major medical equipment, unless such relocation of a  
366 health care facility or portion thereof, or major medical  
367 equipment, which does not involve a capital expenditure by or on  
368 behalf of a health care facility, is within five thousand two  
369 hundred eighty (5,280) feet from the main entrance of the health  
370 care facility;

371 (c) Any change in the existing bed complement of any  
372 health care facility through the addition or conversion of any  
373 beds or the alteration, modernizing or refurbishing of any unit or  
374 department in which the beds may be located; however, if a health  
375 care facility has voluntarily delicensed some of its existing bed  
376 complement, it may later relicense some or all of its delicensed  
377 beds without the necessity of having to acquire a certificate of  
378 need. The State Department of Health shall maintain a record of  
379 the delicensing health care facility and its voluntarily  
380 delicensed beds and continue counting those beds as part of the  
381 state's total bed count for health care planning purposes. If a  
382 health care facility that has voluntarily delicensed some of its  
383 beds later desires to relicense some or all of its voluntarily  
384 delicensed beds, it shall notify the State Department of Health of  
385 its intent to increase the number of its licensed beds. The State  
386 Department of Health shall survey the health care facility within  
387 thirty (30) days of that notice and, if appropriate, issue the

388 health care facility a new license reflecting the new contingent  
389 of beds. However, in no event may a health care facility that has  
390 voluntarily delicensed some of its beds be reissued a license to  
391 operate beds in excess of its bed count before the voluntary  
392 delicensure of some of its beds without seeking certificate of  
393 need approval;

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

398 (i) Open heart surgery services;

399 (ii) Cardiac catheterization services;

400 (iii) Comprehensive inpatient rehabilitation  
401 services;

402 (iv) Licensed psychiatric services;

403 (v) Licensed chemical dependency services;

404 (vi) Radiation therapy services;

405 (vii) Diagnostic imaging services of an invasive  
406 nature, i.e. invasive digital angiography;

407 (viii) Nursing home care as defined in  
408 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

409 (ix) Home health services;

410 (x) Swing-bed services;

411 (xi) Ambulatory surgical services;

412 (xii) Magnetic resonance imaging services;

413 (xiii) Extracorporeal shock wave lithotripsy  
414 services;

415 (xiv) Long-term care hospital services;

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

417 and

418 (xvi) Hospice services as defined by Section

419 41-85-3(f).

420           (e) The relocation of one or more health services from  
421 one physical facility or site to another physical facility or  
422 site, unless such relocation, which does not involve a capital  
423 expenditure by or on behalf of a health care facility, (i) is to a  
424 physical facility or site within one thousand three hundred twenty  
425 (1,320) feet from the main entrance of the health care facility  
426 where the health care service is located, or (ii) is the result of  
427 an order of a court of appropriate jurisdiction or a result of  
428 pending litigation in such court, or by order of the State  
429 Department of Health, or by order of any other agency or legal  
430 entity of the state, the federal government, or any political  
431 subdivision of either, whose order is also approved by the State  
432 Department of Health;

433           (f) The acquisition or otherwise control of any major  
434 medical equipment for the provision of medical services; provided,  
435 however, (i) the acquisition of any major medical equipment used  
436 only for research purposes, and (ii) the acquisition of major  
437 medical equipment to replace medical equipment for which a  
438 facility is already providing medical services and for which the  
439 State Department of Health has been notified before the date of  
440 such acquisition shall be exempt from this paragraph; an  
441 acquisition for less than fair market value must be reviewed, if  
442 the acquisition at fair market value would be subject to review;

443           (g) Changes of ownership of existing health care  
444 facilities in which a notice of intent is not filed with the State  
445 Department of Health at least thirty (30) days prior to the date  
446 such change of ownership occurs, or a change in services or bed  
447 capacity as prescribed in paragraph (c) or (d) of this subsection  
448 as a result of the change of ownership; an acquisition for less  
449 than fair market value must be reviewed, if the acquisition at  
450 fair market value would be subject to review;

451           (h) The change of ownership of any health care facility  
452 defined in subparagraphs (iv), (vi) and (viii) of Section

453 41-7-173(h), in which a notice of intent as described in paragraph  
454 (g) has not been filed and if the Executive Director, Division of  
455 Medicaid, Office of the Governor, has not certified in writing  
456 that there will be no increase in allowable costs to Medicaid from  
457 revaluation of the assets or from increased interest and  
458 depreciation as a result of the proposed change of ownership;

459 (i) Any activity described in paragraphs (a) through  
460 (h) if undertaken by any person if that same activity would  
461 require certificate of need approval if undertaken by a health  
462 care facility;

463 (j) Any capital expenditure or deferred capital  
464 expenditure by or on behalf of a health care facility not covered  
465 by paragraphs (a) through (h);

466 (k) The contracting of a health care facility as  
467 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
468 to establish a home office, subunit, or branch office in the space  
469 operated as a health care facility through a formal arrangement  
470 with an existing health care facility as defined in subparagraph  
471 (ix) of Section 41-7-173(h).

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

479 (a) The department may issue a certificate of need to  
480 any person proposing the new construction of any health care  
481 facility defined in subparagraphs (iv) and (vi) of Section  
482 41-7-173(h) as part of a life care retirement facility, in any  
483 county bordering on the Gulf of Mexico in which is located a  
484 National Aeronautics and Space Administration facility, not to  
485 exceed forty (40) beds. From and after July 1, 1999, there shall

486 be no prohibition or restrictions on participation in the Medicaid  
487 program (Section 43-13-101 et seq.) for the beds in the health  
488 care facility that were authorized under this paragraph (a).

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

496 (c) The department may issue a certificate of need for  
497 the addition to or expansion of any skilled nursing facility that  
498 is part of an existing continuing care retirement community  
499 located in Madison County, provided that the recipient of the  
500 certificate of need agrees in writing that the skilled nursing  
501 facility will not at any time participate in the Medicaid program  
502 (Section 43-13-101 et seq.) or admit or keep any patients in the  
503 skilled nursing facility who are participating in the Medicaid  
504 program. This written agreement by the recipient of the  
505 certificate of need shall be fully binding on any subsequent owner  
506 of the skilled nursing facility, if the ownership of the facility  
507 is transferred at any time after the issuance of the certificate  
508 of need. Agreement that the skilled nursing facility will not  
509 participate in the Medicaid program shall be a condition of the  
510 issuance of a certificate of need to any person under this  
511 paragraph (c), and if such skilled nursing facility at any time  
512 after the issuance of the certificate of need, regardless of the  
513 ownership of the facility, participates in the Medicaid program or  
514 admits or keeps any patients in the facility who are participating  
515 in the Medicaid program, the State Department of Health shall  
516 revoke the certificate of need, if it is still outstanding, and  
517 shall deny or revoke the license of the skilled nursing facility,  
518 at the time that the department determines, after a hearing



519 complying with due process, that the facility has failed to comply  
520 with any of the conditions upon which the certificate of need was  
521 issued, as provided in this paragraph and in the written agreement  
522 by the recipient of the certificate of need. The total number of  
523 beds that may be authorized under the authority of this paragraph  
524 (c) shall not exceed sixty (60) beds.

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

533 (e) The State Department of Health may issue a  
534 certificate of need for the construction of a nursing facility or  
535 the conversion of beds to nursing facility beds at a personal care  
536 facility for the elderly in Lowndes County that is owned and  
537 operated by a Mississippi nonprofit corporation, not to exceed  
538 sixty (60) beds. From and after July 1, 1999, there shall be no  
539 prohibition or restrictions on participation in the Medicaid  
540 program (Section 43-13-101 et seq.) for the beds in the nursing  
541 facility that were authorized under this paragraph (e).

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

550 (g) The State Department of Health may issue a  
551 certificate of need for the construction or expansion of nursing

552 facility beds or the conversion of other beds to nursing facility  
553 beds in either Hinds, Madison or Rankin County, not to exceed  
554 sixty (60) beds. From and after July 1, 1999, there shall be no  
555 prohibition or restrictions on participation in the Medicaid  
556 program (Section 43-13-101 et seq.) for the beds in the nursing  
557 facility that were authorized under this paragraph (g).

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

566 (i) The department may issue a certificate of need for  
567 the new construction of a skilled nursing facility in Leake  
568 County, provided that the recipient of the certificate of need  
569 agrees in writing that the skilled nursing facility will not at  
570 any time participate in the Medicaid program (Section 43-13-101 et  
571 seq.) or admit or keep any patients in the skilled nursing  
572 facility who are participating in the Medicaid program. This  
573 written agreement by the recipient of the certificate of need  
574 shall be fully binding on any subsequent owner of the skilled  
575 nursing facility, if the ownership of the facility is transferred  
576 at any time after the issuance of the certificate of need.  
577 Agreement that the skilled nursing facility will not participate  
578 in the Medicaid program shall be a condition of the issuance of a  
579 certificate of need to any person under this paragraph (i), and if  
580 such skilled nursing facility at any time after the issuance of  
581 the certificate of need, regardless of the ownership of the  
582 facility, participates in the Medicaid program or admits or keeps  
583 any patients in the facility who are participating in the Medicaid  
584 program, the State Department of Health shall revoke the

585 certificate of need, if it is still outstanding, and shall deny or  
586 revoke the license of the skilled nursing facility, at the time  
587 that the department determines, after a hearing complying with due  
588 process, that the facility has failed to comply with any of the  
589 conditions upon which the certificate of need was issued, as  
590 provided in this paragraph and in the written agreement by the  
591 recipient of the certificate of need. The provision of Section  
592 43-7-193(1) regarding substantial compliance of the projection of  
593 need as reported in the current State Health Plan is waived for  
594 the purposes of this paragraph. The total number of nursing  
595 facility beds that may be authorized by any certificate of need  
596 issued under this paragraph (i) shall not exceed sixty (60) beds.  
597 If the skilled nursing facility authorized by the certificate of  
598 need issued under this paragraph is not constructed and fully  
599 operational within eighteen (18) months after July 1, 1994, the  
600 State Department of Health, after a hearing complying with due  
601 process, shall revoke the certificate of need, if it is still  
602 outstanding, and shall not issue a license for the skilled nursing  
603 facility at any time after the expiration of the eighteen-month  
604 period.

605           (j) The department may issue certificates of need to  
606 allow any existing freestanding long-term care facility in  
607 Tishomingo County and Hancock County that on July 1, 1995, is  
608 licensed with fewer than sixty (60) beds. For the purposes of  
609 this paragraph (j), the provision of Section 41-7-193(1) requiring  
610 substantial compliance with the projection of need as reported in  
611 the current State Health Plan is waived. From and after July 1,  
612 1999, there shall be no prohibition or restrictions on  
613 participation in the Medicaid program (Section 43-13-101 et seq.)  
614 for the beds in the long-term care facilities that were authorized  
615 under this paragraph (j).

616           (k) The department may issue a certificate of need for  
617 the construction of a nursing facility at a continuing care

618 retirement community in Lowndes County. The total number of beds  
619 that may be authorized under the authority of this paragraph (k)  
620 shall not exceed sixty (60) beds. From and after July 1, 2001,  
621 the prohibition on the facility participating in the Medicaid  
622 program (Section 43-13-101 et seq.) that was a condition of  
623 issuance of the certificate of need under this paragraph (k) shall  
624 be revised as follows: The nursing facility may participate in  
625 the Medicaid program from and after July 1, 2001, if the owner of  
626 the facility on July 1, 2001, agrees in writing that no more than  
627 thirty (30) of the beds at the facility will be certified for  
628 participation in the Medicaid program, and that no claim will be  
629 submitted for Medicaid reimbursement for more than thirty (30)  
630 patients in the facility in any month or for any patient in the  
631 facility who is in a bed that is not Medicaid-certified. This  
632 written agreement by the owner of the facility shall be a  
633 condition of licensure of the facility, and the agreement shall be  
634 fully binding on any subsequent owner of the facility if the  
635 ownership of the facility is transferred at any time after July 1,  
636 2001. After this written agreement is executed, the Division of  
637 Medicaid and the State Department of Health shall not certify more  
638 than thirty (30) of the beds in the facility for participation in  
639 the Medicaid program. If the facility violates the terms of the  
640 written agreement by admitting or keeping in the facility on a  
641 regular or continuing basis more than thirty (30) patients who are  
642 participating in the Medicaid program, the State Department of  
643 Health shall revoke the license of the facility, at the time that  
644 the department determines, after a hearing complying with due  
645 process, that the facility has violated the written agreement.

646 (1) Provided that funds are specifically appropriated  
647 therefor by the Legislature, the department may issue a  
648 certificate of need to a rehabilitation hospital in Hinds County  
649 for the construction of a sixty-bed long-term care nursing  
650 facility dedicated to the care and treatment of persons with

651 severe disabilities including persons with spinal cord and  
652 closed-head injuries and ventilator-dependent patients. The  
653 provision of Section 41-7-193(1) regarding substantial compliance  
654 with projection of need as reported in the current State Health  
655 Plan is hereby waived for the purpose of this paragraph.

656 (m) The State Department of Health may issue a  
657 certificate of need to a county-owned hospital in the Second  
658 Judicial District of Panola County for the conversion of not more  
659 than seventy-two (72) hospital beds to nursing facility beds,  
660 provided that the recipient of the certificate of need agrees in  
661 writing that none of the beds at the nursing facility will be  
662 certified for participation in the Medicaid program (Section  
663 43-13-101 et seq.), and that no claim will be submitted for  
664 Medicaid reimbursement in the nursing facility in any day or for  
665 any patient in the nursing facility. This written agreement by  
666 the recipient of the certificate of need shall be a condition of  
667 the issuance of the certificate of need under this paragraph, and  
668 the agreement shall be fully binding on any subsequent owner of  
669 the nursing facility if the ownership of the nursing facility is  
670 transferred at any time after the issuance of the certificate of  
671 need. After this written agreement is executed, the Division of  
672 Medicaid and the State Department of Health shall not certify any  
673 of the beds in the nursing facility for participation in the  
674 Medicaid program. If the nursing facility violates the terms of  
675 the written agreement by admitting or keeping in the nursing  
676 facility on a regular or continuing basis any patients who are  
677 participating in the Medicaid program, the State Department of  
678 Health shall revoke the license of the nursing facility, at the  
679 time that the department determines, after a hearing complying  
680 with due process, that the nursing facility has violated the  
681 condition upon which the certificate of need was issued, as  
682 provided in this paragraph and in the written agreement. If the  
683 certificate of need authorized under this paragraph is not issued

684 within twelve (12) months after July 1, 2001, the department shall  
685 deny the application for the certificate of need and shall not  
686 issue the certificate of need at any time after the twelve-month  
687 period, unless the issuance is contested. If the certificate of  
688 need is issued and substantial construction of the nursing  
689 facility beds has not commenced within eighteen (18) months after  
690 July 1, 2001, the State Department of Health, after a hearing  
691 complying with due process, shall revoke the certificate of need  
692 if it is still outstanding, and the department shall not issue a  
693 license for the nursing facility at any time after the  
694 eighteen-month period. Provided, however, that if the issuance of  
695 the certificate of need is contested, the department shall require  
696 substantial construction of the nursing facility beds within six  
697 (6) months after final adjudication on the issuance of the  
698 certificate of need.

699 (n) The department may issue a certificate of need for  
700 the new construction, addition or conversion of skilled nursing  
701 facility beds in Madison County, provided that the recipient of  
702 the certificate of need agrees in writing that the skilled nursing  
703 facility will not at any time participate in the Medicaid program  
704 (Section 43-13-101 et seq.) or admit or keep any patients in the  
705 skilled nursing facility who are participating in the Medicaid  
706 program. This written agreement by the recipient of the  
707 certificate of need shall be fully binding on any subsequent owner  
708 of the skilled nursing facility, if the ownership of the facility  
709 is transferred at any time after the issuance of the certificate  
710 of need. Agreement that the skilled nursing facility will not  
711 participate in the Medicaid program shall be a condition of the  
712 issuance of a certificate of need to any person under this  
713 paragraph (n), and if such skilled nursing facility at any time  
714 after the issuance of the certificate of need, regardless of the  
715 ownership of the facility, participates in the Medicaid program or  
716 admits or keeps any patients in the facility who are participating

717 in the Medicaid program, the State Department of Health shall  
718 revoke the certificate of need, if it is still outstanding, and  
719 shall deny or revoke the license of the skilled nursing facility,  
720 at the time that the department determines, after a hearing  
721 complying with due process, that the facility has failed to comply  
722 with any of the conditions upon which the certificate of need was  
723 issued, as provided in this paragraph and in the written agreement  
724 by the recipient of the certificate of need. The total number of  
725 nursing facility beds that may be authorized by any certificate of  
726 need issued under this paragraph (n) shall not exceed sixty (60)  
727 beds. If the certificate of need authorized under this paragraph  
728 is not issued within twelve (12) months after July 1, 1998, the  
729 department shall deny the application for the certificate of need  
730 and shall not issue the certificate of need at any time after the  
731 twelve-month period, unless the issuance is contested. If the  
732 certificate of need is issued and substantial construction of the  
733 nursing facility beds has not commenced within eighteen (18)  
734 months after the effective date of July 1, 1998, the State  
735 Department of Health, after a hearing complying with due process,  
736 shall revoke the certificate of need if it is still outstanding,  
737 and the department shall not issue a license for the nursing  
738 facility at any time after the eighteen-month period. Provided,  
739 however, that if the issuance of the certificate of need is  
740 contested, the department shall require substantial construction  
741 of the nursing facility beds within six (6) months after final  
742 adjudication on the issuance of the certificate of need.

743 (o) The department may issue a certificate of need for  
744 the new construction, addition or conversion of skilled nursing  
745 facility beds in Leake County, provided that the recipient of the  
746 certificate of need agrees in writing that the skilled nursing  
747 facility will not at any time participate in the Medicaid program  
748 (Section 43-13-101 et seq.) or admit or keep any patients in the  
749 skilled nursing facility who are participating in the Medicaid

750 program. This written agreement by the recipient of the  
751 certificate of need shall be fully binding on any subsequent owner  
752 of the skilled nursing facility, if the ownership of the facility  
753 is transferred at any time after the issuance of the certificate  
754 of need. Agreement that the skilled nursing facility will not  
755 participate in the Medicaid program shall be a condition of the  
756 issuance of a certificate of need to any person under this  
757 paragraph (o), and if such skilled nursing facility at any time  
758 after the issuance of the certificate of need, regardless of the  
759 ownership of the facility, participates in the Medicaid program or  
760 admits or keeps any patients in the facility who are participating  
761 in the Medicaid program, the State Department of Health shall  
762 revoke the certificate of need, if it is still outstanding, and  
763 shall deny or revoke the license of the skilled nursing facility,  
764 at the time that the department determines, after a hearing  
765 complying with due process, that the facility has failed to comply  
766 with any of the conditions upon which the certificate of need was  
767 issued, as provided in this paragraph and in the written agreement  
768 by the recipient of the certificate of need. The total number of  
769 nursing facility beds that may be authorized by any certificate of  
770 need issued under this paragraph (o) shall not exceed sixty (60)  
771 beds. If the certificate of need authorized under this paragraph  
772 is not issued within twelve (12) months after July 1, 2001, the  
773 department shall deny the application for the certificate of need  
774 and shall not issue the certificate of need at any time after the  
775 twelve-month period, unless the issuance is contested. If the  
776 certificate of need is issued and substantial construction of the  
777 nursing facility beds has not commenced within eighteen (18)  
778 months after the effective date of July 1, 2001, the State  
779 Department of Health, after a hearing complying with due process,  
780 shall revoke the certificate of need if it is still outstanding,  
781 and the department shall not issue a license for the nursing  
782 facility at any time after the eighteen-month period. Provided,



783 however, that if the issuance of the certificate of need is  
784 contested, the department shall require substantial construction  
785 of the nursing facility beds within six (6) months after final  
786 adjudication on the issuance of the certificate of need.

787 (p) The department may issue a certificate of need for  
788 the construction of a municipally-owned nursing facility within  
789 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
790 beds, provided that the recipient of the certificate of need  
791 agrees in writing that the skilled nursing facility will not at  
792 any time participate in the Medicaid program (Section 43-13-101 et  
793 seq.) or admit or keep any patients in the skilled nursing  
794 facility who are participating in the Medicaid program. This  
795 written agreement by the recipient of the certificate of need  
796 shall be fully binding on any subsequent owner of the skilled  
797 nursing facility, if the ownership of the facility is transferred  
798 at any time after the issuance of the certificate of need.

799 Agreement that the skilled nursing facility will not participate  
800 in the Medicaid program shall be a condition of the issuance of a  
801 certificate of need to any person under this paragraph (p), and if  
802 such skilled nursing facility at any time after the issuance of  
803 the certificate of need, regardless of the ownership of the  
804 facility, participates in the Medicaid program or admits or keeps  
805 any patients in the facility who are participating in the Medicaid  
806 program, the State Department of Health shall revoke the  
807 certificate of need, if it is still outstanding, and shall deny or  
808 revoke the license of the skilled nursing facility, at the time  
809 that the department determines, after a hearing complying with due  
810 process, that the facility has failed to comply with any of the  
811 conditions upon which the certificate of need was issued, as  
812 provided in this paragraph and in the written agreement by the  
813 recipient of the certificate of need. The provision of Section  
814 43-7-193(1) regarding substantial compliance of the projection of  
815 need as reported in the current State Health Plan is waived for

816 the purposes of this paragraph. If the certificate of need  
817 authorized under this paragraph is not issued within twelve (12)  
818 months after July 1, 1998, the department shall deny the  
819 application for the certificate of need and shall not issue the  
820 certificate of need at any time after the twelve-month period,  
821 unless the issuance is contested. If the certificate of need is  
822 issued and substantial construction of the nursing facility beds  
823 has not commenced within eighteen (18) months after July 1, 1998,  
824 the State Department of Health, after a hearing complying with due  
825 process, shall revoke the certificate of need if it is still  
826 outstanding, and the department shall not issue a license for the  
827 nursing facility at any time after the eighteen-month period.  
828 Provided, however, that if the issuance of the certificate of need  
829 is contested, the department shall require substantial  
830 construction of the nursing facility beds within six (6) months  
831 after final adjudication on the issuance of the certificate of  
832 need.

833 (q) (i) Beginning on July 1, 1999, the State  
834 Department of Health shall issue certificates of need during each  
835 of the next four (4) fiscal years for the construction or  
836 expansion of nursing facility beds or the conversion of other beds  
837 to nursing facility beds in each county in the state having a need  
838 for fifty (50) or more additional nursing facility beds, as shown  
839 in the fiscal year 1999 State Health Plan, in the manner provided  
840 in this paragraph (q). The total number of nursing facility beds  
841 that may be authorized by any certificate of need authorized under  
842 this paragraph (q) shall not exceed sixty (60) beds.

843 (ii) Subject to the provisions of subparagraph  
844 (v), during each of the next four (4) fiscal years, the department  
845 shall issue six (6) certificates of need for new nursing facility  
846 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
847 (1) certificate of need shall be issued for new nursing facility  
848 beds in the county in each of the four (4) Long-Term Care Planning

849 Districts designated in the fiscal year 1999 State Health Plan  
850 that has the highest need in the district for those beds; and two  
851 (2) certificates of need shall be issued for new nursing facility  
852 beds in the two (2) counties from the state at large that have the  
853 highest need in the state for those beds, when considering the  
854 need on a statewide basis and without regard to the Long-Term Care  
855 Planning Districts in which the counties are located. During  
856 fiscal year 2003, one (1) certificate of need shall be issued for  
857 new nursing facility beds in any county having a need for fifty  
858 (50) or more additional nursing facility beds, as shown in the  
859 fiscal year 1999 State Health Plan, that has not received a  
860 certificate of need under this paragraph (q) during the three (3)  
861 previous fiscal years. During fiscal year 2000, in addition to  
862 the six (6) certificates of need authorized in this subparagraph,  
863 the department also shall issue a certificate of need for new  
864 nursing facility beds in Amite County and a certificate of need  
865 for new nursing facility beds in Carroll County.

866 (iii) Subject to the provisions of subparagraph  
867 (v), the certificate of need issued under subparagraph (ii) for  
868 nursing facility beds in each Long-Term Care Planning District  
869 during each fiscal year shall first be available for nursing  
870 facility beds in the county in the district having the highest  
871 need for those beds, as shown in the fiscal year 1999 State Health  
872 Plan. If there are no applications for a certificate of need for  
873 nursing facility beds in the county having the highest need for  
874 those beds by the date specified by the department, then the  
875 certificate of need shall be available for nursing facility beds  
876 in other counties in the district in descending order of the need  
877 for those beds, from the county with the second highest need to  
878 the county with the lowest need, until an application is received  
879 for nursing facility beds in an eligible county in the district.

880 (iv) Subject to the provisions of subparagraph  
881 (v), the certificate of need issued under subparagraph (ii) for

882 nursing facility beds in the two (2) counties from the state at  
883 large during each fiscal year shall first be available for nursing  
884 facility beds in the two (2) counties that have the highest need  
885 in the state for those beds, as shown in the fiscal year 1999  
886 State Health Plan, when considering the need on a statewide basis  
887 and without regard to the Long-Term Care Planning Districts in  
888 which the counties are located. If there are no applications for  
889 a certificate of need for nursing facility beds in either of the  
890 two (2) counties having the highest need for those beds on a  
891 statewide basis by the date specified by the department, then the  
892 certificate of need shall be available for nursing facility beds  
893 in other counties from the state at large in descending order of  
894 the need for those beds on a statewide basis, from the county with  
895 the second highest need to the county with the lowest need, until  
896 an application is received for nursing facility beds in an  
897 eligible county from the state at large.

898 (v) If a certificate of need is authorized to be  
899 issued under this paragraph (q) for nursing facility beds in a  
900 county on the basis of the need in the Long-Term Care Planning  
901 District during any fiscal year of the four-year period, a  
902 certificate of need shall not also be available under this  
903 paragraph (q) for additional nursing facility beds in that county  
904 on the basis of the need in the state at large, and that county  
905 shall be excluded in determining which counties have the highest  
906 need for nursing facility beds in the state at large for that  
907 fiscal year. After a certificate of need has been issued under  
908 this paragraph (q) for nursing facility beds in a county during  
909 any fiscal year of the four-year period, a certificate of need  
910 shall not be available again under this paragraph (q) for  
911 additional nursing facility beds in that county during the  
912 four-year period, and that county shall be excluded in determining  
913 which counties have the highest need for nursing facility beds in  
914 succeeding fiscal years.

915                   (vi) If more than one (1) application is made for  
916 a certificate of need for nursing home facility beds available  
917 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
918 County, and one (1) of the applicants is a county-owned hospital  
919 located in the county where the nursing facility beds are  
920 available, the department shall give priority to the county-owned  
921 hospital in granting the certificate of need if the following  
922 conditions are met:

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

926                   2. The county-owned hospital's qualifications  
927 for the certificate of need, as shown in its application and as  
928 determined by the department, are at least equal to the  
929 qualifications of the other applicants for the certificate of  
930 need.

931                   (r) (i) Beginning on July 1, 1999, the State  
932 Department of Health shall issue certificates of need during each  
933 of the next two (2) fiscal years for the construction or expansion  
934 of nursing facility beds or the conversion of other beds to  
935 nursing facility beds in each of the four (4) Long-Term Care  
936 Planning Districts designated in the fiscal year 1999 State Health  
937 Plan, to provide care exclusively to patients with Alzheimer's  
938 disease.

939                   (ii) Not more than twenty (20) beds may be  
940 authorized by any certificate of need issued under this paragraph  
941 (r), and not more than a total of sixty (60) beds may be  
942 authorized in any Long-Term Care Planning District by all  
943 certificates of need issued under this paragraph (r). However,  
944 the total number of beds that may be authorized by all  
945 certificates of need issued under this paragraph (r) during any  
946 fiscal year shall not exceed one hundred twenty (120) beds, and  
947 the total number of beds that may be authorized in any Long-Term

948 Care Planning District during any fiscal year shall not exceed  
949 forty (40) beds. Of the certificates of need that are issued for  
950 each Long-Term Care Planning District during the next two (2)  
951 fiscal years, at least one (1) shall be issued for beds in the  
952 northern part of the district, at least one (1) shall be issued  
953 for beds in the central part of the district, and at least one (1)  
954 shall be issued for beds in the southern part of the district.

955 (iii) The State Department of Health, in  
956 consultation with the Department of Mental Health and the Division  
957 of Medicaid, shall develop and prescribe the staffing levels,  
958 space requirements and other standards and requirements that must  
959 be met with regard to the nursing facility beds authorized under  
960 this paragraph (r) to provide care exclusively to patients with  
961 Alzheimer's disease.

962 (3) The State Department of Health may grant approval for  
963 and issue certificates of need to any person proposing the new  
964 construction of, addition to, conversion of beds of or expansion  
965 of any health care facility defined in subparagraph (x)  
966 (psychiatric residential treatment facility) of Section  
967 41-7-173(h). The total number of beds which may be authorized by  
968 such certificates of need shall not exceed three hundred  
969 thirty-four (334) beds for the entire state.

970 (a) Of the total number of beds authorized under this  
971 subsection, the department shall issue a certificate of need to a  
972 privately-owned psychiatric residential treatment facility in  
973 Simpson County for the conversion of sixteen (16) intermediate  
974 care facility for the mentally retarded (ICF-MR) beds to  
975 psychiatric residential treatment facility beds, provided that  
976 facility agrees in writing that the facility shall give priority  
977 for the use of those sixteen (16) beds to Mississippi residents  
978 who are presently being treated in out-of-state facilities.

979 (b) Of the total number of beds authorized under this  
980 subsection, the department may issue a certificate or certificates

981 of need for the construction or expansion of psychiatric  
982 residential treatment facility beds or the conversion of other  
983 beds to psychiatric residential treatment facility beds in Warren  
984 County, not to exceed sixty (60) psychiatric residential treatment  
985 facility beds, provided that the facility agrees in writing that  
986 no more than thirty (30) of the beds at the psychiatric  
987 residential treatment facility will be certified for participation  
988 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
989 any patients other than those who are participating only in the  
990 Medicaid program of another state, and that no claim will be  
991 submitted to the Division of Medicaid for Medicaid reimbursement  
992 for more than thirty (30) patients in the psychiatric residential  
993 treatment facility in any day or for any patient in the  
994 psychiatric residential treatment facility who is in a bed that is  
995 not Medicaid-certified. This written agreement by the recipient  
996 of the certificate of need shall be a condition of the issuance of  
997 the certificate of need under this paragraph, and the agreement  
998 shall be fully binding on any subsequent owner of the psychiatric  
999 residential treatment facility if the ownership of the facility is  
1000 transferred at any time after the issuance of the certificate of  
1001 need. After this written agreement is executed, the Division of  
1002 Medicaid and the State Department of Health shall not certify more  
1003 than thirty (30) of the beds in the psychiatric residential  
1004 treatment facility for participation in the Medicaid program for  
1005 the use of any patients other than those who are participating  
1006 only in the Medicaid program of another state. If the psychiatric  
1007 residential treatment facility violates the terms of the written  
1008 agreement by admitting or keeping in the facility on a regular or  
1009 continuing basis more than thirty (30) patients who are  
1010 participating in the Mississippi Medicaid program, the State  
1011 Department of Health shall revoke the license of the facility, at  
1012 the time that the department determines, after a hearing complying  
1013 with due process, that the facility has violated the condition

1014 upon which the certificate of need was issued, as provided in this  
1015 paragraph and in the written agreement.

1016 The State Department of Health, on or before July 1, 2002,  
1017 shall transfer the certificate of need authorized under the  
1018 authority of this paragraph (b), or reissue the certificate of  
1019 need if it has expired, to River Region Health System.

1020 (c) Of the total number of beds authorized under this  
1021 subsection, the department shall issue a certificate of need to a  
1022 hospital currently operating Medicaid-certified acute psychiatric  
1023 beds for adolescents in DeSoto County, for the establishment of a  
1024 forty-bed psychiatric residential treatment facility in DeSoto  
1025 County, provided that the hospital agrees in writing (i) that the  
1026 hospital shall give priority for the use of those forty (40) beds  
1027 to Mississippi residents who are presently being treated in  
1028 out-of-state facilities, and (ii) that no more than fifteen (15)  
1029 of the beds at the psychiatric residential treatment facility will  
1030 be certified for participation in the Medicaid program (Section  
1031 43-13-101 et seq.), and that no claim will be submitted for  
1032 Medicaid reimbursement for more than fifteen (15) patients in the  
1033 psychiatric residential treatment facility in any day or for any  
1034 patient in the psychiatric residential treatment facility who is  
1035 in a bed that is not Medicaid-certified. This written agreement  
1036 by the recipient of the certificate of need shall be a condition  
1037 of the issuance of the certificate of need under this paragraph,  
1038 and the agreement shall be fully binding on any subsequent owner  
1039 of the psychiatric residential treatment facility if the ownership  
1040 of the facility is transferred at any time after the issuance of  
1041 the certificate of need. After this written agreement is  
1042 executed, the Division of Medicaid and the State Department of  
1043 Health shall not certify more than fifteen (15) of the beds in the  
1044 psychiatric residential treatment facility for participation in  
1045 the Medicaid program. If the psychiatric residential treatment  
1046 facility violates the terms of the written agreement by admitting



1047 or keeping in the facility on a regular or continuing basis more  
1048 than fifteen (15) patients who are participating in the Medicaid  
1049 program, the State Department of Health shall revoke the license  
1050 of the facility, at the time that the department determines, after  
1051 a hearing complying with due process, that the facility has  
1052 violated the condition upon which the certificate of need was  
1053 issued, as provided in this paragraph and in the written  
1054 agreement.

1055 (d) Of the total number of beds authorized under this  
1056 subsection, the department may issue a certificate or certificates  
1057 of need for the construction or expansion of psychiatric  
1058 residential treatment facility beds or the conversion of other  
1059 beds to psychiatric treatment facility beds, not to exceed thirty  
1060 (30) psychiatric residential treatment facility beds, in either  
1061 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1062 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1063 (e) Of the total number of beds authorized under this  
1064 subsection (3) the department shall issue a certificate of need to  
1065 a privately-owned, nonprofit psychiatric residential treatment  
1066 facility in Hinds County for an eight-bed expansion of the  
1067 facility, provided that the facility agrees in writing that the  
1068 facility shall give priority for the use of those eight (8) beds  
1069 to Mississippi residents who are presently being treated in  
1070 out-of-state facilities.

1071 (f) The department shall issue a certificate of need to  
1072 a one-hundred-thirty-four-bed specialty hospital located on  
1073 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1074 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1075 Mississippi, for the addition, construction or expansion of  
1076 child/adolescent psychiatric residential treatment facility beds  
1077 in Lauderdale County. As a condition of issuance of the  
1078 certificate of need under this paragraph, the facility shall give  
1079 priority in admissions to the child/adolescent psychiatric

1080 residential treatment facility beds authorized under this  
1081 paragraph to patients who otherwise would require out-of-state  
1082 placement. The Division of Medicaid, in conjunction with the  
1083 Department of Human Services, shall furnish the facility a list of  
1084 all out-of-state patients on a quarterly basis. Furthermore,  
1085 notice shall also be provided to the parent, custodial parent or  
1086 guardian of each out-of-state patient notifying them of the  
1087 priority status granted by this paragraph. For purposes of this  
1088 paragraph, the provisions of Section 41-7-193(1) requiring  
1089 substantial compliance with the projection of need as reported in  
1090 the current State Health Plan are waived. The total number of  
1091 child/adolescent psychiatric residential treatment facility beds  
1092 that may be authorized under the authority of this paragraph shall  
1093 be sixty (60) beds. There shall be no prohibition or restrictions  
1094 on participation in the Medicaid program (Section 43-13-101 et  
1095 seq.) for the person receiving the certificate of need authorized  
1096 under this paragraph or for the beds converted pursuant to the  
1097 authority of that certificate of need.

1098       (4) (a) From and after July 1, 1993, the department shall  
1099 not issue a certificate of need to any person for the new  
1100 construction of any hospital, psychiatric hospital or chemical  
1101 dependency hospital that will contain any child/adolescent  
1102 psychiatric or child/adolescent chemical dependency beds, or for  
1103 the conversion of any other health care facility to a hospital,  
1104 psychiatric hospital or chemical dependency hospital that will  
1105 contain any child/adolescent psychiatric or child/adolescent  
1106 chemical dependency beds, or for the addition of any  
1107 child/adolescent psychiatric or child/adolescent chemical  
1108 dependency beds in any hospital, psychiatric hospital or chemical  
1109 dependency hospital, or for the conversion of any beds of another  
1110 category in any hospital, psychiatric hospital or chemical  
1111 dependency hospital to child/adolescent psychiatric or

1112 child/adolescent chemical dependency beds, except as hereinafter  
1113 authorized:

1114           (i) The department may issue certificates of need  
1115 to any person for any purpose described in this subsection,  
1116 provided that the hospital, psychiatric hospital or chemical  
1117 dependency hospital does not participate in the Medicaid program  
1118 (Section 43-13-101 et seq.) at the time of the application for the  
1119 certificate of need and the owner of the hospital, psychiatric  
1120 hospital or chemical dependency hospital agrees in writing that  
1121 the hospital, psychiatric hospital or chemical dependency hospital  
1122 will not at any time participate in the Medicaid program or admit  
1123 or keep any patients who are participating in the Medicaid program  
1124 in the hospital, psychiatric hospital or chemical dependency  
1125 hospital. This written agreement by the recipient of the  
1126 certificate of need shall be fully binding on any subsequent owner  
1127 of the hospital, psychiatric hospital or chemical dependency  
1128 hospital, if the ownership of the facility is transferred at any  
1129 time after the issuance of the certificate of need. Agreement  
1130 that the hospital, psychiatric hospital or chemical dependency  
1131 hospital will not participate in the Medicaid program shall be a  
1132 condition of the issuance of a certificate of need to any person  
1133 under this subparagraph (a)(i), and if such hospital, psychiatric  
1134 hospital or chemical dependency hospital at any time after the  
1135 issuance of the certificate of need, regardless of the ownership  
1136 of the facility, participates in the Medicaid program or admits or  
1137 keeps any patients in the hospital, psychiatric hospital or  
1138 chemical dependency hospital who are participating in the Medicaid  
1139 program, the State Department of Health shall revoke the  
1140 certificate of need, if it is still outstanding, and shall deny or  
1141 revoke the license of the hospital, psychiatric hospital or  
1142 chemical dependency hospital, at the time that the department  
1143 determines, after a hearing complying with due process, that the  
1144 hospital, psychiatric hospital or chemical dependency hospital has

1145 failed to comply with any of the conditions upon which the  
1146 certificate of need was issued, as provided in this subparagraph  
1147 and in the written agreement by the recipient of the certificate  
1148 of need.

1149           (ii) The department may issue a certificate of  
1150 need for the conversion of existing beds in a county hospital in  
1151 Choctaw County from acute care beds to child/adolescent chemical  
1152 dependency beds. For purposes of this subparagraph, the  
1153 provisions of Section 41-7-193(1) requiring substantial compliance  
1154 with the projection of need as reported in the current State  
1155 Health Plan is waived. The total number of beds that may be  
1156 authorized under authority of this subparagraph shall not exceed  
1157 twenty (20) beds. There shall be no prohibition or restrictions  
1158 on participation in the Medicaid program (Section 43-13-101 et  
1159 seq.) for the hospital receiving the certificate of need  
1160 authorized under this subparagraph (a)(ii) or for the beds  
1161 converted pursuant to the authority of that certificate of need.

1162           (iii) The department may issue a certificate or  
1163 certificates of need for the construction or expansion of  
1164 child/adolescent psychiatric beds or the conversion of other beds  
1165 to child/adolescent psychiatric beds in Warren County. For  
1166 purposes of this subparagraph, the provisions of Section  
1167 41-7-193(1) requiring substantial compliance with the projection  
1168 of need as reported in the current State Health Plan are waived.  
1169 The total number of beds that may be authorized under the  
1170 authority of this subparagraph shall not exceed twenty (20) beds.  
1171 There shall be no prohibition or restrictions on participation in  
1172 the Medicaid program (Section 43-13-101 et seq.) for the person  
1173 receiving the certificate of need authorized under this  
1174 subparagraph (a)(iii) or for the beds converted pursuant to the  
1175 authority of that certificate of need.

1176           If by January 1, 2002, there has been no significant  
1177 commencement of construction of the beds authorized under this

1178 subparagraph (a)(iii), or no significant action taken to convert  
1179 existing beds to the beds authorized under this subparagraph, then  
1180 the certificate of need that was previously issued under this  
1181 subparagraph shall expire. If the previously issued certificate  
1182 of need expires, the department may accept applications for  
1183 issuance of another certificate of need for the beds authorized  
1184 under this subparagraph, and may issue a certificate of need to  
1185 authorize the construction, expansion or conversion of the beds  
1186 authorized under this subparagraph.

1187           (iv) The department shall issue a certificate of  
1188 need to the Region 7 Mental Health/Retardation Commission for the  
1189 construction or expansion of child/adolescent psychiatric beds or  
1190 the conversion of other beds to child/adolescent psychiatric beds  
1191 in any of the counties served by the commission. For purposes of  
1192 this subparagraph, the provisions of Section 41-7-193(1) requiring  
1193 substantial compliance with the projection of need as reported in  
1194 the current State Health Plan is waived. The total number of beds  
1195 that may be authorized under the authority of this subparagraph  
1196 shall not exceed twenty (20) beds. There shall be no prohibition  
1197 or restrictions on participation in the Medicaid program (Section  
1198 43-13-101 et seq.) for the person receiving the certificate of  
1199 need authorized under this subparagraph (a)(iv) or for the beds  
1200 converted pursuant to the authority of that certificate of need.

1201           (v) The department may issue a certificate of need  
1202 to any county hospital located in Leflore County for the  
1203 construction or expansion of adult psychiatric beds or the  
1204 conversion of other beds to adult psychiatric beds, not to exceed  
1205 twenty (20) beds, provided that the recipient of the certificate  
1206 of need agrees in writing that the adult psychiatric beds will not  
1207 at any time be certified for participation in the Medicaid program  
1208 and that the hospital will not admit or keep any patients who are  
1209 participating in the Medicaid program in any of such adult  
1210 psychiatric beds. This written agreement by the recipient of the

1211 certificate of need shall be fully binding on any subsequent owner  
1212 of the hospital if the ownership of the hospital is transferred at  
1213 any time after the issuance of the certificate of need. Agreement  
1214 that the adult psychiatric beds will not be certified for  
1215 participation in the Medicaid program shall be a condition of the  
1216 issuance of a certificate of need to any person under this  
1217 subparagraph (a)(v), and if such hospital at any time after the  
1218 issuance of the certificate of need, regardless of the ownership  
1219 of the hospital, has any of such adult psychiatric beds certified  
1220 for participation in the Medicaid program or admits or keeps any  
1221 Medicaid patients in such adult psychiatric beds, the State  
1222 Department of Health shall revoke the certificate of need, if it  
1223 is still outstanding, and shall deny or revoke the license of the  
1224 hospital at the time that the department determines, after a  
1225 hearing complying with due process, that the hospital has failed  
1226 to comply with any of the conditions upon which the certificate of  
1227 need was issued, as provided in this subparagraph and in the  
1228 written agreement by the recipient of the certificate of need.

1229           (vi) The department may issue a certificate or  
1230 certificates of need for the expansion of child psychiatric beds  
1231 or the conversion of other beds to child psychiatric beds at the  
1232 University of Mississippi Medical Center. For purposes of this  
1233 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
1234 requiring substantial compliance with the projection of need as  
1235 reported in the current State Health Plan is waived. The total  
1236 number of beds that may be authorized under the authority of this  
1237 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
1238 shall be no prohibition or restrictions on participation in the  
1239 Medicaid program (Section 43-13-101 et seq.) for the hospital  
1240 receiving the certificate of need authorized under this  
1241 subparagraph (a)(vi) or for the beds converted pursuant to the  
1242 authority of that certificate of need.

1243           (b) From and after July 1, 1990, no hospital,  
1244 psychiatric hospital or chemical dependency hospital shall be  
1245 authorized to add any child/adolescent psychiatric or  
1246 child/adolescent chemical dependency beds or convert any beds of  
1247 another category to child/adolescent psychiatric or  
1248 child/adolescent chemical dependency beds without a certificate of  
1249 need under the authority of subsection (1)(c) of this section.

1250           (5) The department may issue a certificate of need to a  
1251 county hospital in Winston County for the conversion of fifteen  
1252 (15) acute care beds to geriatric psychiatric care beds.

1253           (6) The State Department of Health shall issue a certificate  
1254 of need to a Mississippi corporation qualified to manage a  
1255 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1256 Harrison County, not to exceed eighty (80) beds, including any  
1257 necessary renovation or construction required for licensure and  
1258 certification, provided that the recipient of the certificate of  
1259 need agrees in writing that the long-term care hospital will not  
1260 at any time participate in the Medicaid program (Section 43-13-101  
1261 et seq.) or admit or keep any patients in the long-term care  
1262 hospital who are participating in the Medicaid program. This  
1263 written agreement by the recipient of the certificate of need  
1264 shall be fully binding on any subsequent owner of the long-term  
1265 care hospital, if the ownership of the facility is transferred at  
1266 any time after the issuance of the certificate of need. Agreement  
1267 that the long-term care hospital will not participate in the  
1268 Medicaid program shall be a condition of the issuance of a  
1269 certificate of need to any person under this subsection (6), and  
1270 if such long-term care hospital at any time after the issuance of  
1271 the certificate of need, regardless of the ownership of the  
1272 facility, participates in the Medicaid program or admits or keeps  
1273 any patients in the facility who are participating in the Medicaid  
1274 program, the State Department of Health shall revoke the  
1275 certificate of need, if it is still outstanding, and shall deny or

1276 revoke the license of the long-term care hospital, at the time  
1277 that the department determines, after a hearing complying with due  
1278 process, that the facility has failed to comply with any of the  
1279 conditions upon which the certificate of need was issued, as  
1280 provided in this subsection and in the written agreement by the  
1281 recipient of the certificate of need. For purposes of this  
1282 subsection, the provision of Section 41-7-193(1) requiring  
1283 substantial compliance with the projection of need as reported in  
1284 the current State Health Plan is hereby waived.

1285 (7) The State Department of Health may issue a certificate  
1286 of need to any hospital in the state to utilize a portion of its  
1287 beds for the "swing-bed" concept. Any such hospital must be in  
1288 conformance with the federal regulations regarding such swing-bed  
1289 concept at the time it submits its application for a certificate  
1290 of need to the State Department of Health, except that such  
1291 hospital may have more licensed beds or a higher average daily  
1292 census (ADC) than the maximum number specified in federal  
1293 regulations for participation in the swing-bed program. Any  
1294 hospital meeting all federal requirements for participation in the  
1295 swing-bed program which receives such certificate of need shall  
1296 render services provided under the swing-bed concept to any  
1297 patient eligible for Medicare (Title XVIII of the Social Security  
1298 Act) who is certified by a physician to be in need of such  
1299 services, and no such hospital shall permit any patient who is  
1300 eligible for both Medicaid and Medicare or eligible only for  
1301 Medicaid to stay in the swing beds of the hospital for more than  
1302 thirty (30) days per admission unless the hospital receives prior  
1303 approval for such patient from the Division of Medicaid, Office of  
1304 the Governor. Any hospital having more licensed beds or a higher  
1305 average daily census (ADC) than the maximum number specified in  
1306 federal regulations for participation in the swing-bed program  
1307 which receives such certificate of need shall develop a procedure  
1308 to insure that before a patient is allowed to stay in the swing



1309 beds of the hospital, there are no vacant nursing home beds  
1310 available for that patient located within a fifty-mile radius of  
1311 the hospital. When any such hospital has a patient staying in the  
1312 swing beds of the hospital and the hospital receives notice from a  
1313 nursing home located within such radius that there is a vacant bed  
1314 available for that patient, the hospital shall transfer the  
1315 patient to the nursing home within a reasonable time after receipt  
1316 of the notice. Any hospital which is subject to the requirements  
1317 of the two (2) preceding sentences of this subsection may be  
1318 suspended from participation in the swing-bed program for a  
1319 reasonable period of time by the State Department of Health if the  
1320 department, after a hearing complying with due process, determines  
1321 that the hospital has failed to comply with any of those  
1322 requirements.

1323 (8) The Department of Health shall not grant approval for or  
1324 issue a certificate of need to any person proposing the new  
1325 construction of, addition to or expansion of a health care  
1326 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1327 (9) The Department of Health shall not grant approval for or  
1328 issue a certificate of need to any person proposing the  
1329 establishment of, or expansion of the currently approved territory  
1330 of, or the contracting to establish a home office, subunit or  
1331 branch office within the space operated as a health care facility  
1332 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1333 care facility as defined in subparagraph (ix) of Section  
1334 41-7-173(h).

1335 (10) Health care facilities owned and/or operated by the  
1336 state or its agencies are exempt from the restraints in this  
1337 section against issuance of a certificate of need if such addition  
1338 or expansion consists of repairing or renovation necessary to  
1339 comply with the state licensure law. This exception shall not  
1340 apply to the new construction of any building by such state  
1341 facility. This exception shall not apply to any health care

1342 facilities owned and/or operated by counties, municipalities,  
1343 districts, unincorporated areas, other defined persons, or any  
1344 combination thereof.

1345 (11) The new construction, renovation or expansion of or  
1346 addition to any health care facility defined in subparagraph (ii)  
1347 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1348 facility), subparagraph (vi) (intermediate care facility),  
1349 subparagraph (viii) (intermediate care facility for the mentally  
1350 retarded) and subparagraph (x) (psychiatric residential treatment  
1351 facility) of Section 41-7-173(h) which is owned by the State of  
1352 Mississippi and under the direction and control of the State  
1353 Department of Mental Health, and the addition of new beds or the  
1354 conversion of beds from one category to another in any such  
1355 defined health care facility which is owned by the State of  
1356 Mississippi and under the direction and control of the State  
1357 Department of Mental Health, shall not require the issuance of a  
1358 certificate of need under Section 41-7-171 et seq.,  
1359 notwithstanding any provision in Section 41-7-171 et seq. to the  
1360 contrary.

1361 (12) The new construction, renovation or expansion of or  
1362 addition to any veterans homes or domiciliaries for eligible  
1363 veterans of the State of Mississippi as authorized under Section  
1364 35-1-19 shall not require the issuance of a certificate of need,  
1365 notwithstanding any provision in Section 41-7-171 et seq. to the  
1366 contrary.

1367 (13) The new construction of a nursing facility or nursing  
1368 facility beds or the conversion of other beds to nursing facility  
1369 beds shall not require the issuance of a certificate of need,  
1370 notwithstanding any provision in Section 41-7-171 et seq. to the  
1371 contrary, if the conditions of this subsection are met.

1372 (a) Before any construction or conversion may be  
1373 undertaken without a certificate of need, the owner of the nursing  
1374 facility, in the case of an existing facility, or the applicant to

1375 construct a nursing facility, in the case of new construction,  
1376 first must file a written notice of intent and sign a written  
1377 agreement with the State Department of Health that the entire  
1378 nursing facility will not at any time participate in or have any  
1379 beds certified for participation in the Medicaid program (Section  
1380 43-13-101 et seq.), will not admit or keep any patients in the  
1381 nursing facility who are participating in the Medicaid program,  
1382 and will not submit any claim for Medicaid reimbursement for any  
1383 patient in the facility. This written agreement by the owner or  
1384 applicant shall be a condition of exercising the authority under  
1385 this subsection without a certificate of need, and the agreement  
1386 shall be fully binding on any subsequent owner of the nursing  
1387 facility if the ownership of the facility is transferred at any  
1388 time after the agreement is signed. After the written agreement  
1389 is signed, the Division of Medicaid and the State Department of  
1390 Health shall not certify any beds in the nursing facility for  
1391 participation in the Medicaid program. If the nursing facility  
1392 violates the terms of the written agreement by participating in  
1393 the Medicaid program, having any beds certified for participation  
1394 in the Medicaid program, admitting or keeping any patient in the  
1395 facility who is participating in the Medicaid program, or  
1396 submitting any claim for Medicaid reimbursement for any patient in  
1397 the facility, the State Department of Health shall revoke the  
1398 license of the nursing facility at the time that the department  
1399 determines, after a hearing complying with due process, that the  
1400 facility has violated the terms of the written agreement.

1401 (b) For the purposes of this subsection, participation  
1402 in the Medicaid program by a nursing facility includes Medicaid  
1403 reimbursement of coinsurance and deductibles for recipients who  
1404 are qualified Medicare beneficiaries and/or those who are dually  
1405 eligible. Any nursing facility exercising the authority under  
1406 this subsection may not bill or submit a claim to the Division of

1407 Medicaid for services to qualified Medicare beneficiaries and/or  
1408 those who are dually eligible.

1409           (c) The new construction of a nursing facility or  
1410 nursing facility beds or the conversion of other beds to nursing  
1411 facility beds described in this section must be either a part of a  
1412 completely new continuing care retirement community, as described  
1413 in the latest edition of the Mississippi State Health Plan, or an  
1414 addition to existing personal care and independent living  
1415 components, and so that the completed project will be a continuing  
1416 care retirement community, containing (i) independent living  
1417 accommodations, (ii) personal care beds, and (iii) the nursing  
1418 home facility beds. The three (3) components must be located on a  
1419 single site and be operated as one (1) inseparable facility. The  
1420 nursing facility component must contain a minimum of thirty (30)  
1421 beds. Any nursing facility beds authorized by this section will  
1422 not be counted against the bed need set forth in the State Health  
1423 Plan, as identified in Section 41-7-171 et seq.

1424           This subsection (13) shall stand repealed from and after July  
1425 1, 2005.

1426           (14) The State Department of Health shall issue a  
1427 certificate of need to any hospital which is currently licensed  
1428 for two hundred fifty (250) or more acute care beds and is located  
1429 in any general hospital service area not having a comprehensive  
1430 cancer center, for the establishment and equipping of such a  
1431 center which provides facilities and services for outpatient  
1432 radiation oncology therapy, outpatient medical oncology therapy,  
1433 and appropriate support services including the provision of  
1434 radiation therapy services. The provision of Section 41-7-193(1)  
1435 regarding substantial compliance with the projection of need as  
1436 reported in the current State Health Plan is waived for the  
1437 purpose of this subsection.

1438           (15) The State Department of Health may authorize the  
1439 transfer of hospital beds, not to exceed sixty (60) beds, from the

1440 North Panola Community Hospital to the South Panola Community  
1441 Hospital. The authorization for the transfer of those beds shall  
1442 be exempt from the certificate of need review process.

1443 (16) The State Department of Health shall issue any  
1444 certificates of need necessary for Mississippi State University  
1445 and a public or private health care provider to jointly acquire  
1446 and operate a linear accelerator and a magnetic resonance imaging  
1447 unit. Those certificates of need shall cover all capital  
1448 expenditures related to the project between Mississippi State  
1449 University and the health care provider, including, but not  
1450 limited to, the acquisition of the linear accelerator, the  
1451 magnetic resonance imaging unit and other radiological modalities;  
1452 the offering of linear accelerator and magnetic resonance imaging  
1453 services; and the cost of construction of facilities in which to  
1454 locate these services. The linear accelerator and the magnetic  
1455 resonance imaging unit shall be (a) located in the City of  
1456 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1457 Mississippi State University and the public or private health care  
1458 provider selected by Mississippi State University through a  
1459 request for proposals (RFP) process in which Mississippi State  
1460 University selects, and the Board of Trustees of State  
1461 Institutions of Higher Learning approves, the health care provider  
1462 that makes the best overall proposal; (c) available to Mississippi  
1463 State University for research purposes two-thirds (2/3) of the  
1464 time that the linear accelerator and magnetic resonance imaging  
1465 unit are operational; and (d) available to the public or private  
1466 health care provider selected by Mississippi State University and  
1467 approved by the Board of Trustees of State Institutions of Higher  
1468 Learning one-third (1/3) of the time for clinical, diagnostic and  
1469 treatment purposes. For purposes of this subsection, the  
1470 provisions of Section 41-7-193(1) requiring substantial compliance  
1471 with the projection of need as reported in the current State  
1472 Health Plan are waived.

1473           (17) Nothing in this section or in any other provision of  
1474 Section 41-7-171 et seq. shall prevent any nursing facility from  
1475 designating an appropriate number of existing beds in the facility  
1476 as beds for providing care exclusively to patients with  
1477 Alzheimer's disease.

1478           **SECTION 3.** This act shall take effect and be in force from  
1479 and after its passage.