

By: Representatives Compretta, Smith (59th), Dedeaux, Fredericks, Guice, Ishee, Patterson, Peranich, Simpson, Upshaw

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1221
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE
3 CERTIFICATES OF NEED TO THE OWNER OF A NURSING FACILITY IN
4 OPERATION AT THE TIME OF HURRICANE KATRINA IN HANCOCK COUNTY THAT
5 WAS NOT OPERATIONAL ON DECEMBER 31, 2005, BECAUSE OF DAMAGE
6 SUSTAINED FROM HURRICANE KATRINA TO AUTHORIZE THE CONSTRUCTION OF
7 A NEW NURSING FACILITY IN HARRISON COUNTY, THE RELOCATION OF
8 FORTY-NINE NURSING FACILITY BEDS FROM THE HANCOCK COUNTY FACILITY
9 TO THE NEW HARRISON COUNTY FACILITY, THE ESTABLISHMENT OF NOT MORE
10 THAN TWENTY NON-MEDICAID NURSING FACILITY BEDS AT THE HANCOCK
11 COUNTY FACILITY, AND THE ESTABLISHMENT OF NOT MORE THAN TWENTY
12 NON-MEDICAID BEDS AT THE NEW HARRISON COUNTY FACILITY; TO PROVIDE
13 THAT THE CERTIFICATES OF NEED FOR THE NON-MEDICAID NURSING
14 FACILITY BEDS SHALL BE SUBJECT TO THE CONDITION THAT THOSE BEDS
15 SHALL ALWAYS BE NON-MEDICAID BEDS OR THE DEPARTMENT WILL REVOKE
16 THE LICENSE OF THE FACILITY THAT VIOLATES THAT CONDITION; AND FOR
17 RELATED PURPOSES.

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

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

21 41-7-191. (1) No person shall engage in any of the
22 following activities without obtaining the required certificate of
23 need:

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

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

33 (c) Any change in the existing bed complement of any
34 health care facility through the addition or conversion of any

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

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

- 60 (i) Open heart surgery services;
- 61 (ii) Cardiac catheterization services;
- 62 (iii) Comprehensive inpatient rehabilitation
63 services;
- 64 (iv) Licensed psychiatric services;
- 65 (v) Licensed chemical dependency services;
- 66 (vi) Radiation therapy services;

67 (vii) Diagnostic imaging services of an invasive
68 nature, i.e. invasive digital angiography;
69 (viii) Nursing home care as defined in
70 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
71 (ix) Home health services;
72 (x) Swing-bed services;
73 (xi) Ambulatory surgical services;
74 (xii) Magnetic resonance imaging services;
75 (xiii) Extracorporeal shock wave lithotripsy
76 services;
77 (xiv) Long-term care hospital services;
78 (xv) Positron Emission Tomography (PET) services;
79 (e) The relocation of one or more health services from
80 one physical facility or site to another physical facility or
81 site, unless such relocation, which does not involve a capital
82 expenditure by or on behalf of a health care facility, (i) is to a
83 physical facility or site within one thousand three hundred twenty
84 (1,320) feet from the main entrance of the health care facility
85 where the health care service is located, or (ii) is the result of
86 an order of a court of appropriate jurisdiction or a result of
87 pending litigation in such court, or by order of the State
88 Department of Health, or by order of any other agency or legal
89 entity of the state, the federal government, or any political
90 subdivision of either, whose order is also approved by the State
91 Department of Health;
92 (f) The acquisition or otherwise control of any major
93 medical equipment for the provision of medical services; provided,
94 however, (i) the acquisition of any major medical equipment used
95 only for research purposes, and (ii) the acquisition of major
96 medical equipment to replace medical equipment for which a
97 facility is already providing medical services and for which the
98 State Department of Health has been notified before the date of
99 such acquisition shall be exempt from this paragraph; an

100 acquisition for less than fair market value must be reviewed, if
101 the acquisition at fair market value would be subject to review;

102 (g) Changes of ownership of existing health care
103 facilities in which a notice of intent is not filed with the State
104 Department of Health at least thirty (30) days prior to the date
105 such change of ownership occurs, or a change in services or bed
106 capacity as prescribed in paragraph (c) or (d) of this subsection
107 as a result of the change of ownership; an acquisition for less
108 than fair market value must be reviewed, if the acquisition at
109 fair market value would be subject to review;

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

118 (i) Any activity described in paragraphs (a) through
119 (h) if undertaken by any person if that same activity would
120 require certificate of need approval if undertaken by a health
121 care facility;

122 (j) Any capital expenditure or deferred capital
123 expenditure by or on behalf of a health care facility not covered
124 by paragraphs (a) through (h);

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

131 (2) The State Department of Health shall not grant approval
132 for or issue a certificate of need to any person proposing the new

133 construction of, addition to, or expansion of any health care
134 facility defined in subparagraphs (iv) (skilled nursing facility)
135 and (vi) (intermediate care facility) of Section 41-7-173(h) or
136 the conversion of vacant hospital beds to provide skilled or
137 intermediate nursing home care, except as hereinafter authorized:

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

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

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

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

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

192 (e) The State Department of Health may issue a
193 certificate of need for the construction of a nursing facility or
194 the conversion of beds to nursing facility beds at a personal care
195 facility for the elderly in Lowndes County that is owned and
196 operated by a Mississippi nonprofit corporation, not to exceed
197 sixty (60) beds. From and after July 1, 1999, there shall be no
198 prohibition or restrictions on participation in the Medicaid

199 program (Section 43-13-101 et seq.) for the beds in the nursing
200 facility that were authorized under this paragraph (e).

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

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

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

225 (i) The department may issue a certificate of need for
226 the new construction of a skilled nursing facility in Leake
227 County, provided that the recipient of the certificate of need
228 agrees in writing that the skilled nursing facility will not at
229 any time participate in the Medicaid program (Section 43-13-101 et
230 seq.) or admit or keep any patients in the skilled nursing
231 facility who are participating in the Medicaid program. This

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

264 (j) The department may issue certificates of need to
265 allow any existing freestanding long-term care facility in
266 Tishomingo County and Hancock County that on July 1, 1995, is
267 licensed with fewer than sixty (60) beds. For the purposes of
268 this paragraph (j), the provision of Section 41-7-193(1) requiring
269 substantial compliance with the projection of need as reported in
270 the current State Health Plan is waived. From and after July 1,
271 1999, there shall be no prohibition or restrictions on
272 participation in the Medicaid program (Section 43-13-101 et seq.)
273 for the beds in the long-term care facilities that were authorized
274 under this paragraph (j).

275 (k) The department may issue a certificate of need for
276 the construction of a nursing facility at a continuing care
277 retirement community in Lowndes County. The total number of beds
278 that may be authorized under the authority of this paragraph (k)
279 shall not exceed sixty (60) beds. From and after July 1, 2001,
280 the prohibition on the facility participating in the Medicaid
281 program (Section 43-13-101 et seq.) that was a condition of
282 issuance of the certificate of need under this paragraph (k) shall
283 be revised as follows: The nursing facility may participate in
284 the Medicaid program from and after July 1, 2001, if the owner of
285 the facility on July 1, 2001, agrees in writing that no more than
286 thirty (30) of the beds at the facility will be certified for
287 participation in the Medicaid program, and that no claim will be
288 submitted for Medicaid reimbursement for more than thirty (30)
289 patients in the facility in any month or for any patient in the
290 facility who is in a bed that is not Medicaid-certified. This
291 written agreement by the owner of the facility shall be a
292 condition of licensure of the facility, and the agreement shall be
293 fully binding on any subsequent owner of the facility if the
294 ownership of the facility is transferred at any time after July 1,
295 2001. After this written agreement is executed, the Division of
296 Medicaid and the State Department of Health shall not certify more

297 than thirty (30) of the beds in the facility for participation in
298 the Medicaid program. If the facility violates the terms of the
299 written agreement by admitting or keeping in the facility on a
300 regular or continuing basis more than thirty (30) patients who are
301 participating in the Medicaid program, the State Department of
302 Health shall revoke the license of the facility, at the time that
303 the department determines, after a hearing complying with due
304 process, that the facility has violated the written agreement.

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

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

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

358 (n) The department may issue a certificate of need for
359 the new construction, addition or conversion of skilled nursing
360 facility beds in Madison County, provided that the recipient of
361 the certificate of need agrees in writing that the skilled nursing
362 facility will not at any time participate in the Medicaid program

363 (Section 43-13-101 et seq.) or admit or keep any patients in the
364 skilled nursing facility who are participating in the Medicaid
365 program. This written agreement by the recipient of the
366 certificate of need shall be fully binding on any subsequent owner
367 of the skilled nursing facility, if the ownership of the facility
368 is transferred at any time after the issuance of the certificate
369 of need. Agreement that the skilled nursing facility will not
370 participate in the Medicaid program shall be a condition of the
371 issuance of a certificate of need to any person under this
372 paragraph (n), and if such skilled nursing facility at any time
373 after the issuance of the certificate of need, regardless of the
374 ownership of the facility, participates in the Medicaid program or
375 admits or keeps any patients in the facility who are participating
376 in the Medicaid program, the State Department of Health shall
377 revoke the certificate of need, if it is still outstanding, and
378 shall deny or revoke the license of the skilled nursing facility,
379 at the time that the department determines, after a hearing
380 complying with due process, that the facility has failed to comply
381 with any of the conditions upon which the certificate of need was
382 issued, as provided in this paragraph and in the written agreement
383 by the recipient of the certificate of need. The total number of
384 nursing facility beds that may be authorized by any certificate of
385 need issued under this paragraph (n) shall not exceed sixty (60)
386 beds. If the certificate of need authorized under this paragraph
387 is not issued within twelve (12) months after July 1, 1998, the
388 department shall deny the application for the certificate of need
389 and shall not issue the certificate of need at any time after the
390 twelve-month period, unless the issuance is contested. If the
391 certificate of need is issued and substantial construction of the
392 nursing facility beds has not commenced within eighteen (18)
393 months after the effective date of July 1, 1998, the State
394 Department of Health, after a hearing complying with due process,
395 shall revoke the certificate of need if it is still outstanding,

396 and the department shall not issue a license for the nursing
397 facility at any time after the eighteen-month period. Provided,
398 however, that if the issuance of the certificate of need is
399 contested, the department shall require substantial construction
400 of the nursing facility beds within six (6) months after final
401 adjudication on the issuance of the certificate of need.

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

429 need issued under this paragraph (o) shall not exceed sixty (60)
430 beds. If the certificate of need authorized under this paragraph
431 is not issued within twelve (12) months after July 1, 2001, the
432 department shall deny the application for the certificate of need
433 and shall not issue the certificate of need at any time after the
434 twelve-month period, unless the issuance is contested. If the
435 certificate of need is issued and substantial construction of the
436 nursing facility beds has not commenced within eighteen (18)
437 months after the effective date of July 1, 2001, the State
438 Department of Health, after a hearing complying with due process,
439 shall revoke the certificate of need if it is still outstanding,
440 and the department shall not issue a license for the nursing
441 facility at any time after the eighteen-month period. Provided,
442 however, that if the issuance of the certificate of need is
443 contested, the department shall require substantial construction
444 of the nursing facility beds within six (6) months after final
445 adjudication on the issuance of the certificate of need.

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

462 the certificate of need, regardless of the ownership of the
463 facility, participates in the Medicaid program or admits or keeps
464 any patients in the facility who are participating in the Medicaid
465 program, the State Department of Health shall revoke the
466 certificate of need, if it is still outstanding, and shall deny or
467 revoke the license of the skilled nursing facility, at the time
468 that the department determines, after a hearing complying with due
469 process, that the facility has failed to comply with any of the
470 conditions upon which the certificate of need was issued, as
471 provided in this paragraph and in the written agreement by the
472 recipient of the certificate of need. The provision of Section
473 43-7-193(1) regarding substantial compliance of the projection of
474 need as reported in the current State Health Plan is waived for
475 the purposes of this paragraph. If the certificate of need
476 authorized under this paragraph is not issued within twelve (12)
477 months after July 1, 1998, the department shall deny the
478 application for the certificate of need and shall not issue the
479 certificate of need at any time after the twelve-month period,
480 unless the issuance is contested. If the certificate of need is
481 issued and substantial construction of the nursing facility beds
482 has not commenced within eighteen (18) months after July 1, 1998,
483 the State Department of Health, after a hearing complying with due
484 process, shall revoke the certificate of need if it is still
485 outstanding, and the department shall not issue a license for the
486 nursing facility at any time after the eighteen-month period.
487 Provided, however, that if the issuance of the certificate of need
488 is contested, the department shall require substantial
489 construction of the nursing facility beds within six (6) months
490 after final adjudication on the issuance of the certificate of
491 need.

492 (q) (i) Beginning on July 1, 1999, the State
493 Department of Health shall issue certificates of need during each
494 of the next four (4) fiscal years for the construction or

495 expansion of nursing facility beds or the conversion of other beds
496 to nursing facility beds in each county in the state having a need
497 for fifty (50) or more additional nursing facility beds, as shown
498 in the fiscal year 1999 State Health Plan, in the manner provided
499 in this paragraph (q). The total number of nursing facility beds
500 that may be authorized by any certificate of need authorized under
501 this paragraph (q) shall not exceed sixty (60) beds.

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

525 (iii) Subject to the provisions of subparagraph
526 (v), the certificate of need issued under subparagraph (ii) for
527 nursing facility beds in each Long-Term Care Planning District

528 during each fiscal year shall first be available for nursing
529 facility beds in the county in the district having the highest
530 need for those beds, as shown in the fiscal year 1999 State Health
531 Plan. If there are no applications for a certificate of need for
532 nursing facility beds in the county having the highest need for
533 those beds by the date specified by the department, then the
534 certificate of need shall be available for nursing facility beds
535 in other counties in the district in descending order of the need
536 for those beds, from the county with the second highest need to
537 the county with the lowest need, until an application is received
538 for nursing facility beds in an eligible county in the district.

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

557 (v) If a certificate of need is authorized to be
558 issued under this paragraph (q) for nursing facility beds in a
559 county on the basis of the need in the Long-Term Care Planning
560 District during any fiscal year of the four-year period, a

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

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

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

585 2. The county-owned hospital's qualifications
586 for the certificate of need, as shown in its application and as
587 determined by the department, are at least equal to the
588 qualifications of the other applicants for the certificate of
589 need.

590 (r) (i) Beginning on July 1, 1999, the State
591 Department of Health shall issue certificates of need during each
592 of the next two (2) fiscal years for the construction or expansion
593 of nursing facility beds or the conversion of other beds to

594 nursing facility beds in each of the four (4) Long-Term Care
595 Planning Districts designated in the fiscal year 1999 State Health
596 Plan, to provide care exclusively to patients with Alzheimer's
597 disease.

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

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

621 (s) The State Department of Health shall issue
622 certificates of need to the owner of a nursing facility in
623 operation at the time of Hurricane Katrina in Hancock County that
624 was not operational on December 31, 2005, because of damage
625 sustained from Hurricane Katrina to authorize the following: (i)
626 the construction of a new nursing facility in Harrison County;

627 (ii) the relocation of forty-nine (49) nursing facility beds from
628 the Hancock County facility to the new Harrison County facility;
629 (iii) the establishment of not more than twenty (20) non-Medicaid
630 nursing facility beds at the Hancock County facility; and (iv) the
631 establishment of not more than twenty (20) non-Medicaid beds at
632 the new Harrison County facility. The certificates of need that
633 authorize the non-Medicaid nursing facility beds under
634 subparagraphs (iii) and (iv) of this paragraph (s) shall be
635 subject to the following conditions: The owner of the Hancock
636 County facility and the new Harrison County facility must agree in
637 writing that no more than fifty (50) of the beds at the Hancock
638 County facility and no more than forty-nine (49) of the beds at
639 the Harrison County facility will be certified for participation
640 in the Medicaid program, and that no claim will be submitted for
641 Medicaid reimbursement for more than fifty (50) patients in the
642 Hancock County facility in any month, or for more than forty-nine
643 (49) patients in the Harrison County facility in any month, or for
644 any patient in either facility who is in a bed that is not
645 Medicaid-certified. This written agreement by the owner of the
646 nursing facilities shall be a condition of the issuance of the
647 certificates of need under this paragraph (s), and the agreement
648 shall be fully binding on any later owner or owners of either
649 facility if the ownership of either facility is transferred at any
650 time after the certificates of need are issued. After this
651 written agreement is executed, the Division of Medicaid and the
652 State Department of Health shall not certify more than fifty (50)
653 of the beds at the Hancock County facility or more than forty-nine
654 (49) of the beds at the Harrison County facility for participation
655 in the Medicaid program. If the Hancock County facility violates
656 the terms of the written agreement by admitting or keeping in the
657 facility on a regular or continuing basis more than fifty (50)
658 patients who are participating in the Medicaid program, or if the
659 Harrison County facility violates the terms of the written

660 agreement by admitting or keeping in the facility on a regular or
661 continuing basis more than forty-nine (49) patients who are
662 participating in the Medicaid program, the State Department of
663 Health shall revoke the license of the facility that is in
664 violation of the agreement, at the time that the department
665 determines, after a hearing complying with due process, that the
666 facility has violated the agreement.

667 (3) The State Department of Health may grant approval for
668 and issue certificates of need to any person proposing the new
669 construction of, addition to, conversion of beds of or expansion
670 of any health care facility defined in subparagraph (x)
671 (psychiatric residential treatment facility) of Section
672 41-7-173(h). The total number of beds which may be authorized by
673 such certificates of need shall not exceed three hundred
674 thirty-four (334) beds for the entire state.

675 (a) Of the total number of beds authorized under this
676 subsection, the department shall issue a certificate of need to a
677 privately-owned psychiatric residential treatment facility in
678 Simpson County for the conversion of sixteen (16) intermediate
679 care facility for the mentally retarded (ICF-MR) beds to
680 psychiatric residential treatment facility beds, provided that
681 facility agrees in writing that the facility shall give priority
682 for the use of those sixteen (16) beds to Mississippi residents
683 who are presently being treated in out-of-state facilities.

684 (b) Of the total number of beds authorized under this
685 subsection, the department may issue a certificate or certificates
686 of need for the construction or expansion of psychiatric
687 residential treatment facility beds or the conversion of other
688 beds to psychiatric residential treatment facility beds in Warren
689 County, not to exceed sixty (60) psychiatric residential treatment
690 facility beds, provided that the facility agrees in writing that
691 no more than thirty (30) of the beds at the psychiatric
692 residential treatment facility will be certified for participation

693 in the Medicaid program (Section 43-13-101 et seq.) for the use of
694 any patients other than those who are participating only in the
695 Medicaid program of another state, and that no claim will be
696 submitted to the Division of Medicaid for Medicaid reimbursement
697 for more than thirty (30) patients in the psychiatric residential
698 treatment facility in any day or for any patient in the
699 psychiatric residential treatment facility who is in a bed that is
700 not Medicaid-certified. This written agreement by the recipient
701 of the certificate of need shall be a condition of the issuance of
702 the certificate of need under this paragraph, and the agreement
703 shall be fully binding on any subsequent owner of the psychiatric
704 residential treatment facility if the ownership of the facility is
705 transferred at any time after the issuance of the certificate of
706 need. After this written agreement is executed, the Division of
707 Medicaid and the State Department of Health shall not certify more
708 than thirty (30) of the beds in the psychiatric residential
709 treatment facility for participation in the Medicaid program for
710 the use of any patients other than those who are participating
711 only in the Medicaid program of another state. If the psychiatric
712 residential treatment facility violates the terms of the written
713 agreement by admitting or keeping in the facility on a regular or
714 continuing basis more than thirty (30) patients who are
715 participating in the Mississippi Medicaid program, the State
716 Department of Health shall revoke the license of the facility, at
717 the time that the department determines, after a hearing complying
718 with due process, that the facility has violated the condition
719 upon which the certificate of need was issued, as provided in this
720 paragraph and in the written agreement.

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

725 (c) Of the total number of beds authorized under this
726 subsection, the department shall issue a certificate of need to a
727 hospital currently operating Medicaid-certified acute psychiatric
728 beds for adolescents in DeSoto County, for the establishment of a
729 forty-bed psychiatric residential treatment facility in DeSoto
730 County, provided that the hospital agrees in writing (i) that the
731 hospital shall give priority for the use of those forty (40) beds
732 to Mississippi residents who are presently being treated in
733 out-of-state facilities, and (ii) that no more than fifteen (15)
734 of the beds at the psychiatric residential treatment facility will
735 be certified for participation in the Medicaid program (Section
736 43-13-101 et seq.), and that no claim will be submitted for
737 Medicaid reimbursement for more than fifteen (15) patients in the
738 psychiatric residential treatment facility in any day or for any
739 patient in the psychiatric residential treatment facility who is
740 in a bed that is not Medicaid-certified. This written agreement
741 by the recipient of the certificate of need shall be a condition
742 of the issuance of the certificate of need under this paragraph,
743 and the agreement shall be fully binding on any subsequent owner
744 of the psychiatric residential treatment facility if the ownership
745 of the facility is transferred at any time after the issuance of
746 the certificate of need. After this written agreement is
747 executed, the Division of Medicaid and the State Department of
748 Health shall not certify more than fifteen (15) of the beds in the
749 psychiatric residential treatment facility for participation in
750 the Medicaid program. If the psychiatric residential treatment
751 facility violates the terms of the written agreement by admitting
752 or keeping in the facility on a regular or continuing basis more
753 than fifteen (15) patients who are participating in the Medicaid
754 program, the State Department of Health shall revoke the license
755 of the facility, at the time that the department determines, after
756 a hearing complying with due process, that the facility has
757 violated the condition upon which the certificate of need was

758 issued, as provided in this paragraph and in the written
759 agreement.

760 (d) Of the total number of beds authorized under this
761 subsection, the department may issue a certificate or certificates
762 of need for the construction or expansion of psychiatric
763 residential treatment facility beds or the conversion of other
764 beds to psychiatric treatment facility beds, not to exceed thirty
765 (30) psychiatric residential treatment facility beds, in either
766 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
767 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

768 (e) Of the total number of beds authorized under this
769 subsection (3) the department shall issue a certificate of need to
770 a privately-owned, nonprofit psychiatric residential treatment
771 facility in Hinds County for an eight-bed expansion of the
772 facility, provided that the facility agrees in writing that the
773 facility shall give priority for the use of those eight (8) beds
774 to Mississippi residents who are presently being treated in
775 out-of-state facilities.

776 (f) The department shall issue a certificate of need to
777 a one-hundred-thirty-four-bed specialty hospital located on
778 twenty-nine and forty-four one-hundredths (29.44) commercial acres
779 at 5900 Highway 39 North in Meridian (Lauderdale County),
780 Mississippi, for the addition, construction or expansion of
781 child/adolescent psychiatric residential treatment facility beds
782 in Lauderdale County. As a condition of issuance of the
783 certificate of need under this paragraph, the facility shall give
784 priority in admissions to the child/adolescent psychiatric
785 residential treatment facility beds authorized under this
786 paragraph to patients who otherwise would require out-of-state
787 placement. The Division of Medicaid, in conjunction with the
788 Department of Human Services, shall furnish the facility a list of
789 all out-of-state patients on a quarterly basis. Furthermore,
790 notice shall also be provided to the parent, custodial parent or

791 guardian of each out-of-state patient notifying them of the
792 priority status granted by this paragraph. For purposes of this
793 paragraph, the provisions of Section 41-7-193(1) requiring
794 substantial compliance with the projection of need as reported in
795 the current State Health Plan are waived. The total number of
796 child/adolescent psychiatric residential treatment facility beds
797 that may be authorized under the authority of this paragraph shall
798 be sixty (60) beds. There shall be no prohibition or restrictions
799 on participation in the Medicaid program (Section 43-13-101 et
800 seq.) for the person receiving the certificate of need authorized
801 under this paragraph or for the beds converted pursuant to the
802 authority of that certificate of need.

803 (4) (a) From and after July 1, 1993, the department shall
804 not issue a certificate of need to any person for the new
805 construction of any hospital, psychiatric hospital or chemical
806 dependency hospital that will contain any child/adolescent
807 psychiatric or child/adolescent chemical dependency beds, or for
808 the conversion of any other health care facility to a hospital,
809 psychiatric hospital or chemical dependency hospital that will
810 contain any child/adolescent psychiatric or child/adolescent
811 chemical dependency beds, or for the addition of any
812 child/adolescent psychiatric or child/adolescent chemical
813 dependency beds in any hospital, psychiatric hospital or chemical
814 dependency hospital, or for the conversion of any beds of another
815 category in any hospital, psychiatric hospital or chemical
816 dependency hospital to child/adolescent psychiatric or
817 child/adolescent chemical dependency beds, except as hereinafter
818 authorized:

819 (i) The department may issue certificates of need
820 to any person for any purpose described in this subsection,
821 provided that the hospital, psychiatric hospital or chemical
822 dependency hospital does not participate in the Medicaid program
823 (Section 43-13-101 et seq.) at the time of the application for the

824 certificate of need and the owner of the hospital, psychiatric
825 hospital or chemical dependency hospital agrees in writing that
826 the hospital, psychiatric hospital or chemical dependency hospital
827 will not at any time participate in the Medicaid program or admit
828 or keep any patients who are participating in the Medicaid program
829 in the hospital, psychiatric hospital or chemical dependency
830 hospital. This written agreement by the recipient of the
831 certificate of need shall be fully binding on any subsequent owner
832 of the hospital, psychiatric hospital or chemical dependency
833 hospital, if the ownership of the facility is transferred at any
834 time after the issuance of the certificate of need. Agreement
835 that the hospital, psychiatric hospital or chemical dependency
836 hospital will not participate in the Medicaid program shall be a
837 condition of the issuance of a certificate of need to any person
838 under this subparagraph (a)(i), and if such hospital, psychiatric
839 hospital or chemical dependency hospital at any time after the
840 issuance of the certificate of need, regardless of the ownership
841 of the facility, participates in the Medicaid program or admits or
842 keeps any patients in the hospital, psychiatric hospital or
843 chemical dependency hospital who are participating in the Medicaid
844 program, the State Department of Health shall revoke the
845 certificate of need, if it is still outstanding, and shall deny or
846 revoke the license of the hospital, psychiatric hospital or
847 chemical dependency hospital, at the time that the department
848 determines, after a hearing complying with due process, that the
849 hospital, psychiatric hospital or chemical dependency hospital has
850 failed to comply with any of the conditions upon which the
851 certificate of need was issued, as provided in this subparagraph
852 and in the written agreement by the recipient of the certificate
853 of need.

854 (ii) The department may issue a certificate of
855 need for the conversion of existing beds in a county hospital in
856 Choctaw County from acute care beds to child/adolescent chemical

857 dependency beds. For purposes of this subparagraph, the
858 provisions of Section 41-7-193(1) requiring substantial compliance
859 with the projection of need as reported in the current State
860 Health Plan is waived. The total number of beds that may be
861 authorized under authority of this subparagraph shall not exceed
862 twenty (20) beds. There shall be no prohibition or restrictions
863 on participation in the Medicaid program (Section 43-13-101 et
864 seq.) for the hospital receiving the certificate of need
865 authorized under this subparagraph (a)(ii) or for the beds
866 converted pursuant to the authority of that certificate of need.

867 (iii) The department may issue a certificate or
868 certificates of need for the construction or expansion of
869 child/adolescent psychiatric beds or the conversion of other beds
870 to child/adolescent psychiatric beds in Warren County. For
871 purposes of this subparagraph, the provisions of Section
872 41-7-193(1) requiring substantial compliance with the projection
873 of need as reported in the current State Health Plan are waived.
874 The total number of beds that may be authorized under the
875 authority of this subparagraph shall not exceed twenty (20) beds.
876 There shall be no prohibition or restrictions on participation in
877 the Medicaid program (Section 43-13-101 et seq.) for the person
878 receiving the certificate of need authorized under this
879 subparagraph (a)(iii) or for the beds converted pursuant to the
880 authority of that certificate of need.

881 If by January 1, 2002, there has been no significant
882 commencement of construction of the beds authorized under this
883 subparagraph (a)(iii), or no significant action taken to convert
884 existing beds to the beds authorized under this subparagraph, then
885 the certificate of need that was previously issued under this
886 subparagraph shall expire. If the previously issued certificate
887 of need expires, the department may accept applications for
888 issuance of another certificate of need for the beds authorized
889 under this subparagraph, and may issue a certificate of need to

890 authorize the construction, expansion or conversion of the beds
891 authorized under this subparagraph.

892 (iv) The department shall issue a certificate of
893 need to the Region 7 Mental Health/Retardation Commission for the
894 construction or expansion of child/adolescent psychiatric beds or
895 the conversion of other beds to child/adolescent psychiatric beds
896 in any of the counties served by the commission. For purposes of
897 this subparagraph, the provisions of Section 41-7-193(1) requiring
898 substantial compliance with the projection of need as reported in
899 the current State Health Plan is waived. The total number of beds
900 that may be authorized under the authority of this subparagraph
901 shall not exceed twenty (20) beds. There shall be no prohibition
902 or restrictions on participation in the Medicaid program (Section
903 43-13-101 et seq.) for the person receiving the certificate of
904 need authorized under this subparagraph (a)(iv) or for the beds
905 converted pursuant to the authority of that certificate of need.

906 (v) The department may issue a certificate of need
907 to any county hospital located in Leflore County for the
908 construction or expansion of adult psychiatric beds or the
909 conversion of other beds to adult psychiatric beds, not to exceed
910 twenty (20) beds, provided that the recipient of the certificate
911 of need agrees in writing that the adult psychiatric beds will not
912 at any time be certified for participation in the Medicaid program
913 and that the hospital will not admit or keep any patients who are
914 participating in the Medicaid program in any of such adult
915 psychiatric beds. This written agreement by the recipient of the
916 certificate of need shall be fully binding on any subsequent owner
917 of the hospital if the ownership of the hospital is transferred at
918 any time after the issuance of the certificate of need. Agreement
919 that the adult psychiatric beds will not be certified for
920 participation in the Medicaid program shall be a condition of the
921 issuance of a certificate of need to any person under this
922 subparagraph (a)(v), and if such hospital at any time after the

923 issuance of the certificate of need, regardless of the ownership
924 of the hospital, has any of such adult psychiatric beds certified
925 for participation in the Medicaid program or admits or keeps any
926 Medicaid patients in such adult psychiatric beds, the State
927 Department of Health shall revoke the certificate of need, if it
928 is still outstanding, and shall deny or revoke the license of the
929 hospital at the time that the department determines, after a
930 hearing complying with due process, that the hospital has failed
931 to comply with any of the conditions upon which the certificate of
932 need was issued, as provided in this subparagraph and in the
933 written agreement by the recipient of the certificate of need.

934 (vi) The department may issue a certificate or
935 certificates of need for the expansion of child psychiatric beds
936 or the conversion of other beds to child psychiatric beds at the
937 University of Mississippi Medical Center. For purposes of this
938 subparagraph (a)(vi), the provision of Section 41-7-193(1)
939 requiring substantial compliance with the projection of need as
940 reported in the current State Health Plan is waived. The total
941 number of beds that may be authorized under the authority of this
942 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
943 shall be no prohibition or restrictions on participation in the
944 Medicaid program (Section 43-13-101 et seq.) for the hospital
945 receiving the certificate of need authorized under this
946 subparagraph (a)(vi) or for the beds converted pursuant to the
947 authority of that certificate of need.

948 (b) From and after July 1, 1990, no hospital,
949 psychiatric hospital or chemical dependency hospital shall be
950 authorized to add any child/adolescent psychiatric or
951 child/adolescent chemical dependency beds or convert any beds of
952 another category to child/adolescent psychiatric or
953 child/adolescent chemical dependency beds without a certificate of
954 need under the authority of subsection (1)(c) of this section.

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

958 (6) The State Department of Health shall issue a certificate
959 of need to a Mississippi corporation qualified to manage a
960 long-term care hospital as defined in Section 41-7-173(h)(xii) in
961 Harrison County, not to exceed eighty (80) beds, including any
962 necessary renovation or construction required for licensure and
963 certification, provided that the recipient of the certificate of
964 need agrees in writing that the long-term care hospital will not
965 at any time participate in the Medicaid program (Section 43-13-101
966 et seq.) or admit or keep any patients in the long-term care
967 hospital who are participating in the Medicaid program. This
968 written agreement by the recipient of the certificate of need
969 shall be fully binding on any subsequent owner of the long-term
970 care hospital, if the ownership of the facility is transferred at
971 any time after the issuance of the certificate of need. Agreement
972 that the long-term care hospital will not participate in the
973 Medicaid program shall be a condition of the issuance of a
974 certificate of need to any person under this subsection (6), and
975 if such long-term care hospital at any time after the issuance of
976 the certificate of need, regardless of the ownership of the
977 facility, participates in the Medicaid program or admits or keeps
978 any patients in the facility who are participating in the Medicaid
979 program, the State Department of Health shall revoke the
980 certificate of need, if it is still outstanding, and shall deny or
981 revoke the license of the long-term care hospital, at the time
982 that the department determines, after a hearing complying with due
983 process, that the facility has failed to comply with any of the
984 conditions upon which the certificate of need was issued, as
985 provided in this subsection and in the written agreement by the
986 recipient of the certificate of need. For purposes of this
987 subsection, the provision of Section 41-7-193(1) requiring

988 substantial compliance with the projection of need as reported in
989 the current State Health Plan is hereby waived.

990 (7) The State Department of Health may issue a certificate
991 of need to any hospital in the state to utilize a portion of its
992 beds for the "swing-bed" concept. Any such hospital must be in
993 conformance with the federal regulations regarding such swing-bed
994 concept at the time it submits its application for a certificate
995 of need to the State Department of Health, except that such
996 hospital may have more licensed beds or a higher average daily
997 census (ADC) than the maximum number specified in federal
998 regulations for participation in the swing-bed program. Any
999 hospital meeting all federal requirements for participation in the
1000 swing-bed program which receives such certificate of need shall
1001 render services provided under the swing-bed concept to any
1002 patient eligible for Medicare (Title XVIII of the Social Security
1003 Act) who is certified by a physician to be in need of such
1004 services, and no such hospital shall permit any patient who is
1005 eligible for both Medicaid and Medicare or eligible only for
1006 Medicaid to stay in the swing beds of the hospital for more than
1007 thirty (30) days per admission unless the hospital receives prior
1008 approval for such patient from the Division of Medicaid, Office of
1009 the Governor. Any hospital having more licensed beds or a higher
1010 average daily census (ADC) than the maximum number specified in
1011 federal regulations for participation in the swing-bed program
1012 which receives such certificate of need shall develop a procedure
1013 to insure that before a patient is allowed to stay in the swing
1014 beds of the hospital, there are no vacant nursing home beds
1015 available for that patient located within a fifty-mile radius of
1016 the hospital. When any such hospital has a patient staying in the
1017 swing beds of the hospital and the hospital receives notice from a
1018 nursing home located within such radius that there is a vacant bed
1019 available for that patient, the hospital shall transfer the
1020 patient to the nursing home within a reasonable time after receipt

1021 of the notice. Any hospital which is subject to the requirements
1022 of the two (2) preceding sentences of this subsection may be
1023 suspended from participation in the swing-bed program for a
1024 reasonable period of time by the State Department of Health if the
1025 department, after a hearing complying with due process, determines
1026 that the hospital has failed to comply with any of those
1027 requirements.

1028 (8) The Department of Health shall not grant approval for or
1029 issue a certificate of need to any person proposing the new
1030 construction of, addition to or expansion of a health care
1031 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1032 (9) The Department of Health shall not grant approval for or
1033 issue a certificate of need to any person proposing the
1034 establishment of, or expansion of the currently approved territory
1035 of, or the contracting to establish a home office, subunit or
1036 branch office within the space operated as a health care facility
1037 as defined in Section 41-7-173(h)(i) through (viii) by a health
1038 care facility as defined in subparagraph (ix) of Section
1039 41-7-173(h).

1040 (10) Health care facilities owned and/or operated by the
1041 state or its agencies are exempt from the restraints in this
1042 section against issuance of a certificate of need if such addition
1043 or expansion consists of repairing or renovation necessary to
1044 comply with the state licensure law. This exception shall not
1045 apply to the new construction of any building by such state
1046 facility. This exception shall not apply to any health care
1047 facilities owned and/or operated by counties, municipalities,
1048 districts, unincorporated areas, other defined persons, or any
1049 combination thereof.

1050 (11) The new construction, renovation or expansion of or
1051 addition to any health care facility defined in subparagraph (ii)
1052 (psychiatric hospital), subparagraph (iv) (skilled nursing
1053 facility), subparagraph (vi) (intermediate care facility),

1054 subparagraph (viii) (intermediate care facility for the mentally
1055 retarded) and subparagraph (x) (psychiatric residential treatment
1056 facility) of Section 41-7-173(h) which is owned by the State of
1057 Mississippi and under the direction and control of the State
1058 Department of Mental Health, and the addition of new beds or the
1059 conversion of beds from one category to another in any such
1060 defined health care facility which is owned by the State of
1061 Mississippi and under the direction and control of the State
1062 Department of Mental Health, shall not require the issuance of a
1063 certificate of need under Section 41-7-171 et seq.,
1064 notwithstanding any provision in Section 41-7-171 et seq. to the
1065 contrary.

1066 (12) The new construction, renovation or expansion of or
1067 addition to any veterans homes or domiciliaries for eligible
1068 veterans of the State of Mississippi as authorized under Section
1069 35-1-19 shall not require the issuance of a certificate of need,
1070 notwithstanding any provision in Section 41-7-171 et seq. to the
1071 contrary.

1072 (13) The new construction of a nursing facility or nursing
1073 facility beds or the conversion of other beds to nursing facility
1074 beds shall not require the issuance of a certificate of need,
1075 notwithstanding any provision in Section 41-7-171 et seq. to the
1076 contrary, if the conditions of this subsection are met.

1077 (a) Before any construction or conversion may be
1078 undertaken without a certificate of need, the owner of the nursing
1079 facility, in the case of an existing facility, or the applicant to
1080 construct a nursing facility, in the case of new construction,
1081 first must file a written notice of intent and sign a written
1082 agreement with the State Department of Health that the entire
1083 nursing facility will not at any time participate in or have any
1084 beds certified for participation in the Medicaid program (Section
1085 43-13-101 et seq.), will not admit or keep any patients in the
1086 nursing facility who are participating in the Medicaid program,

1087 and will not submit any claim for Medicaid reimbursement for any
1088 patient in the facility. This written agreement by the owner or
1089 applicant shall be a condition of exercising the authority under
1090 this subsection without a certificate of need, and the agreement
1091 shall be fully binding on any subsequent owner of the nursing
1092 facility if the ownership of the facility is transferred at any
1093 time after the agreement is signed. After the written agreement
1094 is signed, the Division of Medicaid and the State Department of
1095 Health shall not certify any beds in the nursing facility for
1096 participation in the Medicaid program. If the nursing facility
1097 violates the terms of the written agreement by participating in
1098 the Medicaid program, having any beds certified for participation
1099 in the Medicaid program, admitting or keeping any patient in the
1100 facility who is participating in the Medicaid program, or
1101 submitting any claim for Medicaid reimbursement for any patient in
1102 the facility, the State Department of Health shall revoke the
1103 license of the nursing facility at the time that the department
1104 determines, after a hearing complying with due process, that the
1105 facility has violated the terms of the written agreement.

1106 (b) For the purposes of this subsection, participation
1107 in the Medicaid program by a nursing facility includes Medicaid
1108 reimbursement of coinsurance and deductibles for recipients who
1109 are qualified Medicare beneficiaries and/or those who are dually
1110 eligible. Any nursing facility exercising the authority under
1111 this subsection may not bill or submit a claim to the Division of
1112 Medicaid for services to qualified Medicare beneficiaries and/or
1113 those who are dually eligible.

1114 (c) The new construction of a nursing facility or
1115 nursing facility beds or the conversion of other beds to nursing
1116 facility beds described in this section must be either a part of a
1117 completely new continuing care retirement community, as described
1118 in the latest edition of the Mississippi State Health Plan, or an
1119 addition to existing personal care and independent living

1120 components, and so that the completed project will be a continuing
1121 care retirement community, containing (i) independent living
1122 accommodations, (ii) personal care beds, and (iii) the nursing
1123 home facility beds. The three (3) components must be located on a
1124 single site and be operated as one (1) inseparable facility. The
1125 nursing facility component must contain a minimum of thirty (30)
1126 beds. Any nursing facility beds authorized by this section will
1127 not be counted against the bed need set forth in the State Health
1128 Plan, as identified in Section 41-7-171 et seq.

1129 This subsection (13) shall stand repealed from and after July
1130 1, 2005.

1131 (14) The State Department of Health shall issue a
1132 certificate of need to any hospital which is currently licensed
1133 for two hundred fifty (250) or more acute care beds and is located
1134 in any general hospital service area not having a comprehensive
1135 cancer center, for the establishment and equipping of such a
1136 center which provides facilities and services for outpatient
1137 radiation oncology therapy, outpatient medical oncology therapy,
1138 and appropriate support services including the provision of
1139 radiation therapy services. The provision of Section 41-7-193(1)
1140 regarding substantial compliance with the projection of need as
1141 reported in the current State Health Plan is waived for the
1142 purpose of this subsection.

1143 (15) The State Department of Health may authorize the
1144 transfer of hospital beds, not to exceed sixty (60) beds, from the
1145 North Panola Community Hospital to the South Panola Community
1146 Hospital. The authorization for the transfer of those beds shall
1147 be exempt from the certificate of need review process.

1148 (16) The State Department of Health shall issue any
1149 certificates of need necessary for Mississippi State University
1150 and a public or private health care provider to jointly acquire
1151 and operate a linear accelerator and a magnetic resonance imaging
1152 unit. Those certificates of need shall cover all capital

1153 expenditures related to the project between Mississippi State
1154 University and the health care provider, including, but not
1155 limited to, the acquisition of the linear accelerator, the
1156 magnetic resonance imaging unit and other radiological modalities;
1157 the offering of linear accelerator and magnetic resonance imaging
1158 services; and the cost of construction of facilities in which to
1159 locate these services. The linear accelerator and the magnetic
1160 resonance imaging unit shall be (a) located in the City of
1161 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1162 Mississippi State University and the public or private health care
1163 provider selected by Mississippi State University through a
1164 request for proposals (RFP) process in which Mississippi State
1165 University selects, and the Board of Trustees of State
1166 Institutions of Higher Learning approves, the health care provider
1167 that makes the best overall proposal; (c) available to Mississippi
1168 State University for research purposes two-thirds (2/3) of the
1169 time that the linear accelerator and magnetic resonance imaging
1170 unit are operational; and (d) available to the public or private
1171 health care provider selected by Mississippi State University and
1172 approved by the Board of Trustees of State Institutions of Higher
1173 Learning one-third (1/3) of the time for clinical, diagnostic and
1174 treatment purposes. For purposes of this subsection, the
1175 provisions of Section 41-7-193(1) requiring substantial compliance
1176 with the projection of need as reported in the current State
1177 Health Plan are waived.

1178 (17) Nothing in this section or in any other provision of
1179 Section 41-7-171 et seq. shall prevent any nursing facility from
1180 designating an appropriate number of existing beds in the facility
1181 as beds for providing care exclusively to patients with
1182 Alzheimer's disease.

1183 **SECTION 2.** This act shall take effect and be in force from
1184 and after July 1, 2006.