

By: Senator(s) Brown

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2645

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE NUMBER OF MEDICAID REIMBURSABLE NURSING FACILITY
3 BEDS AUTHORIZED UNDER A CON GRANTED TO A CONTINUING CARE
4 RETIREMENT COMMUNITY IN COLUMBUS (LOWNDES COUNTY), MISSISSIPPI;
5 AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

263 (k) The department may issue a certificate of need for
264 the construction of a nursing facility at a continuing care
265 retirement community in Lowndes County. The total number of beds
266 that may be authorized under the authority of this paragraph (k)
267 shall not exceed sixty (60) beds. From and after July 1, 2006,
268 the prohibition on the facility participating in the Medicaid
269 program (Section 43-13-101 et seq.) that was a condition of
270 issuance of the certificate of need under this paragraph (k) shall
271 no longer be in effect, and the nursing facility may participate
272 in the Medicaid program for all sixty (60) beds. * * *

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

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

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

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

359 certificate of need is issued and substantial construction of the
360 nursing facility beds has not commenced within eighteen (18)
361 months after the effective date of July 1, 1998, the State
362 Department of Health, after a hearing complying with due process,
363 shall revoke the certificate of need if it is still outstanding,
364 and the department shall not issue a license for the nursing
365 facility at any time after the eighteen-month period. Provided,
366 however, that if the issuance of the certificate of need is
367 contested, the department shall require substantial construction
368 of the nursing facility beds within six (6) months after final
369 adjudication on the issuance of the certificate of need.

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

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

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

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

458 after final adjudication on the issuance of the certificate of
459 need.

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

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

491 nursing facility beds in Amite County and a certificate of need
492 for new nursing facility beds in Carroll County.

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

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

523 an application is received for nursing facility beds in an
524 eligible county from the state at large.

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

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

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

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

556 qualifications of the other applicants for the certificate of
557 need.

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

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

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

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

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

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

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

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

647 (c) Of the total number of beds authorized under this
648 subsection, the department shall issue a certificate of need to a
649 hospital currently operating Medicaid-certified acute psychiatric
650 beds for adolescents in DeSoto County, for the establishment of a
651 forty-bed psychiatric residential treatment facility in DeSoto
652 County, provided that the hospital agrees in writing (i) that the
653 hospital shall give priority for the use of those forty (40) beds
654 to Mississippi residents who are presently being treated in

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

682 (d) Of the total number of beds authorized under this
683 subsection, the department may issue a certificate or certificates
684 of need for the construction or expansion of psychiatric
685 residential treatment facility beds or the conversion of other
686 beds to psychiatric treatment facility beds, not to exceed thirty
687 (30) psychiatric residential treatment facility beds, in either

688 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
689 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

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

721 on participation in the Medicaid program (Section 43-13-101 et
722 seq.) for the person receiving the certificate of need authorized
723 under this paragraph or for the beds converted pursuant to the
724 authority of that certificate of need.

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

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

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

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

787 authorized under this subparagraph (a)(ii) or for the beds
788 converted pursuant to the authority of that certificate of need.

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

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

814 (iv) The department shall issue a certificate of
815 need to the Region 7 Mental Health/Retardation Commission for the
816 construction or expansion of child/adolescent psychiatric beds or
817 the conversion of other beds to child/adolescent psychiatric beds
818 in any of the counties served by the commission. For purposes of
819 this subparagraph, the provisions of Section 41-7-193(1) requiring

820 substantial compliance with the projection of need as reported in
821 the current State Health Plan is waived. The total number of beds
822 that may be authorized under the authority of this subparagraph
823 shall not exceed twenty (20) beds. There shall be no prohibition
824 or restrictions on participation in the Medicaid program (Section
825 43-13-101 et seq.) for the person receiving the certificate of
826 need authorized under this subparagraph (a)(iv) or for the beds
827 converted pursuant to the authority of that certificate of need.

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

853 to comply with any of the conditions upon which the certificate of
854 need was issued, as provided in this subparagraph and in the
855 written agreement by the recipient of the certificate of need.

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

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

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

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

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

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

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

950 (8) The Department of Health shall not grant approval for or
951 issue a certificate of need to any person proposing the new

952 construction of, addition to or expansion of a health care
953 facility as defined in subparagraph (viii) of Section 41-7-173(h).

954 (9) The Department of Health shall not grant approval for or
955 issue a certificate of need to any person proposing the
956 establishment of, or expansion of the currently approved territory
957 of, or the contracting to establish a home office, subunit or
958 branch office within the space operated as a health care facility
959 as defined in Section 41-7-173(h)(i) through (viii) by a health
960 care facility as defined in subparagraph (ix) of Section
961 41-7-173(h).

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

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

985 certificate of need under Section 41-7-171 et seq.,
986 notwithstanding any provision in Section 41-7-171 et seq. to the
987 contrary.

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

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

999 (a) Before any construction or conversion may be
1000 undertaken without a certificate of need, the owner of the nursing
1001 facility, in the case of an existing facility, or the applicant to
1002 construct a nursing facility, in the case of new construction,
1003 first must file a written notice of intent and sign a written
1004 agreement with the State Department of Health that the entire
1005 nursing facility will not at any time participate in or have any
1006 beds certified for participation in the Medicaid program (Section
1007 43-13-101 et seq.), will not admit or keep any patients in the
1008 nursing facility who are participating in the Medicaid program,
1009 and will not submit any claim for Medicaid reimbursement for any
1010 patient in the facility. This written agreement by the owner or
1011 applicant shall be a condition of exercising the authority under
1012 this subsection without a certificate of need, and the agreement
1013 shall be fully binding on any subsequent owner of the nursing
1014 facility if the ownership of the facility is transferred at any
1015 time after the agreement is signed. After the written agreement
1016 is signed, the Division of Medicaid and the State Department of
1017 Health shall not certify any beds in the nursing facility for

1018 participation in the Medicaid program. If the nursing facility
1019 violates the terms of the written agreement by participating in
1020 the Medicaid program, having any beds certified for participation
1021 in the Medicaid program, admitting or keeping any patient in the
1022 facility who is participating in the Medicaid program, or
1023 submitting any claim for Medicaid reimbursement for any patient in
1024 the facility, the State Department of Health shall revoke the
1025 license of the nursing facility at the time that the department
1026 determines, after a hearing complying with due process, that the
1027 facility has violated the terms of the written agreement.

1028 (b) For the purposes of this subsection, participation
1029 in the Medicaid program by a nursing facility includes Medicaid
1030 reimbursement of coinsurance and deductibles for recipients who
1031 are qualified Medicare beneficiaries and/or those who are dually
1032 eligible. Any nursing facility exercising the authority under
1033 this subsection may not bill or submit a claim to the Division of
1034 Medicaid for services to qualified Medicare beneficiaries and/or
1035 those who are dually eligible.

1036 (c) The new construction of a nursing facility or
1037 nursing facility beds or the conversion of other beds to nursing
1038 facility beds described in this section must be either a part of a
1039 completely new continuing care retirement community, as described
1040 in the latest edition of the Mississippi State Health Plan, or an
1041 addition to existing personal care and independent living
1042 components, and so that the completed project will be a continuing
1043 care retirement community, containing (i) independent living
1044 accommodations, (ii) personal care beds, and (iii) the nursing
1045 home facility beds. The three (3) components must be located on a
1046 single site and be operated as one (1) inseparable facility. The
1047 nursing facility component must contain a minimum of thirty (30)
1048 beds. Any nursing facility beds authorized by this section will
1049 not be counted against the bed need set forth in the State Health
1050 Plan, as identified in Section 41-7-171 et seq.

1051 This subsection (13) shall stand repealed from and after July
1052 1, 2005.

1053 (14) The State Department of Health shall issue a
1054 certificate of need to any hospital which is currently licensed
1055 for two hundred fifty (250) or more acute care beds and is located
1056 in any general hospital service area not having a comprehensive
1057 cancer center, for the establishment and equipping of such a
1058 center which provides facilities and services for outpatient
1059 radiation oncology therapy, outpatient medical oncology therapy,
1060 and appropriate support services including the provision of
1061 radiation therapy services. The provision of Section 41-7-193(1)
1062 regarding substantial compliance with the projection of need as
1063 reported in the current State Health Plan is waived for the
1064 purpose of this subsection.

1065 (15) The State Department of Health may authorize the
1066 transfer of hospital beds, not to exceed sixty (60) beds, from the
1067 North Panola Community Hospital to the South Panola Community
1068 Hospital. The authorization for the transfer of those beds shall
1069 be exempt from the certificate of need review process.

1070 (16) The State Department of Health shall issue any
1071 certificates of need necessary for Mississippi State University
1072 and a public or private health care provider to jointly acquire
1073 and operate a linear accelerator and a magnetic resonance imaging
1074 unit. Those certificates of need shall cover all capital
1075 expenditures related to the project between Mississippi State
1076 University and the health care provider, including, but not
1077 limited to, the acquisition of the linear accelerator, the
1078 magnetic resonance imaging unit and other radiological modalities;
1079 the offering of linear accelerator and magnetic resonance imaging
1080 services; and the cost of construction of facilities in which to
1081 locate these services. The linear accelerator and the magnetic
1082 resonance imaging unit shall be (a) located in the City of
1083 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by

1084 Mississippi State University and the public or private health care
1085 provider selected by Mississippi State University through a
1086 request for proposals (RFP) process in which Mississippi State
1087 University selects, and the Board of Trustees of State
1088 Institutions of Higher Learning approves, the health care provider
1089 that makes the best overall proposal; (c) available to Mississippi
1090 State University for research purposes two-thirds (2/3) of the
1091 time that the linear accelerator and magnetic resonance imaging
1092 unit are operational; and (d) available to the public or private
1093 health care provider selected by Mississippi State University and
1094 approved by the Board of Trustees of State Institutions of Higher
1095 Learning one-third (1/3) of the time for clinical, diagnostic and
1096 treatment purposes. For purposes of this subsection, the
1097 provisions of Section 41-7-193(1) requiring substantial compliance
1098 with the projection of need as reported in the current State
1099 Health Plan are waived.

1100 (17) Nothing in this section or in any other provision of
1101 Section 41-7-171 et seq. shall prevent any nursing facility from
1102 designating an appropriate number of existing beds in the facility
1103 as beds for providing care exclusively to patients with
1104 Alzheimer's disease.

1105 **SECTION 2.** This act shall take effect and be in force from
1106 and after July 1, 2006.