

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2731

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE REOPENING OF A HEALTH CARE FACILITY WHICH HAS
3 CEASED TO OPERATE FOR 12 MONTHS REQUIRES A CERTIFICATE OF NEED, TO
4 REVISE THE DEFINITION OF NEW HEALTH SERVICES, TO REVISE THE
5 DEFINITION OF RELOCATION OF HEALTH SERVICES REQUIRING A
6 CERTIFICATE OF NEED AND TO PROVIDE THAT THE REPLACEMENT OR
7 RELOCATION OF A CRITICAL ACCESS HOSPITAL IS EXEMPT FROM
8 CERTIFICATE OF NEED REVIEW; AND FOR RELATED PURPOSES.

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

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

12 41-7-191. (1) No person shall engage in any of the
13 following activities without obtaining the required certificate of
14 need:

15 (a) The construction, development or other
16 establishment of a new health care facility, which establishment
17 shall include the reopening of a health care facility that has
18 ceased to operate for a period of twelve (12) months or more;

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

26 (c) Any change in the existing bed complement of any
27 health care facility through the addition or conversion of any
28 beds or the alteration, modernizing or refurbishing of any unit or
29 department in which the beds may be located; however, if a health
30 care facility has voluntarily delicensed some of its existing bed

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

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

- 53 (i) Open heart surgery services;
- 54 (ii) Cardiac catheterization services;
- 55 (iii) Comprehensive inpatient rehabilitation
56 services;
- 57 (iv) Licensed psychiatric services;
- 58 (v) Licensed chemical dependency services;
- 59 (vi) Radiation therapy services;
- 60 (vii) Diagnostic imaging services of an invasive
61 nature, i.e. invasive digital angiography;
- 62 (viii) Nursing home care as defined in
63 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

64 (ix) Home health services;
65 (x) Swing-bed services;
66 (xi) Ambulatory surgical services;
67 (xii) Magnetic resonance imaging services;
68 (xiii) Extracorporeal shock wave lithotripsy
69 services;
70 (xiv) Long-term care hospital services;
71 (xv) Positron Emission Tomography (PET) services;
72 (e) The relocation of one or more health services from
73 one physical facility or site to another physical facility or
74 site, unless such relocation, which does not involve a capital
75 expenditure by or on behalf of a health care facility, (i) is to a
76 physical facility or site within five thousand two hundred eighty
77 (5,280) feet from the main entrance of the health care facility
78 where the health care service is located, or (ii) is the result of
79 an order of a court of appropriate jurisdiction or a result of
80 pending litigation in such court, or by order of the State
81 Department of Health, or by order of any other agency or legal
82 entity of the state, the federal government, or any political
83 subdivision of either, whose order is also approved by the State
84 Department of Health;
85 (f) The acquisition or otherwise control of any major
86 medical equipment for the provision of medical services; provided,
87 however, (i) the acquisition of any major medical equipment used
88 only for research purposes, and (ii) the acquisition of major
89 medical equipment to replace medical equipment for which a
90 facility is already providing medical services and for which the
91 State Department of Health has been notified before the date of
92 such acquisition shall be exempt from this paragraph; an
93 acquisition for less than fair market value must be reviewed, if
94 the acquisition at fair market value would be subject to review;
95 (g) Changes of ownership of existing health care
96 facilities in which a notice of intent is not filed with the State

Department of Health at least thirty (30) days prior to the date such change of ownership occurs, or a change in services or bed capacity as prescribed in paragraph (c) or (d) of this subsection as a result of the change of ownership; an acquisition for less than fair market value must be reviewed, if the acquisition at fair market value would be subject to review;

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

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

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

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

(l) The replacement or relocation of a health care facility designated as a critical access hospital shall be exempt from this Section 41-7-191(1) so long as the critical access hospital complies with all applicable federal law and regulations regarding such replacement or relocation;

129 (m) Reopening a health care facility that has ceased to
130 operate for a period of twelve (12) months or more, which
131 reopening requires a certificate of need for the establishment of
132 a new health care facility.

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

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

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

157 (c) The department may issue a certificate of need for
158 the addition to or expansion of any skilled nursing facility that
159 is part of an existing continuing care retirement community
160 located in Madison County, provided that the recipient of the
161 certificate of need agrees in writing that the skilled nursing

162 facility will not at any time participate in the Medicaid program
163 (Section 43-13-101 et seq.) or admit or keep any patients in the
164 skilled nursing facility who are participating in the Medicaid
165 program. This written agreement by the recipient of the
166 certificate of need shall be fully binding on any subsequent owner
167 of the skilled nursing facility, if the ownership of the facility
168 is transferred at any time after the issuance of the certificate
169 of need. Agreement that the skilled nursing facility will not
170 participate in the Medicaid program shall be a condition of the
171 issuance of a certificate of need to any person under this
172 paragraph (c), and if such skilled nursing facility at any time
173 after the issuance of the certificate of need, regardless of the
174 ownership of the facility, participates in the Medicaid program or
175 admits or keeps any patients in the facility who are participating
176 in the Medicaid program, the State Department of Health shall
177 revoke the certificate of need, if it is still outstanding, and
178 shall deny or revoke the license of the skilled nursing facility,
179 at the time that the department determines, after a hearing
180 complying with due process, that the facility has failed to comply
181 with any of the conditions upon which the certificate of need was
182 issued, as provided in this paragraph and in the written agreement
183 by the recipient of the certificate of need. The total number of
184 beds that may be authorized under the authority of this paragraph
185 (c) shall not exceed sixty (60) beds.

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

194 (e) The State Department of Health may issue a
195 certificate of need for the construction of a nursing facility or
196 the conversion of beds to nursing facility beds at a personal care
197 facility for the elderly in Lowndes County that is owned and
198 operated by a Mississippi nonprofit corporation, not to exceed
199 sixty (60) beds. From and after July 1, 1999, there shall be no
200 prohibition or restrictions on participation in the Medicaid
201 program (Section 43-13-101 et seq.) for the beds in the nursing
202 facility that were authorized under this paragraph (e).

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

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

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

(i) The department may issue a certificate of need for the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (i), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (i) shall not exceed sixty (60) beds. If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully

260 operational within eighteen (18) months after July 1, 1994, the
261 State Department of Health, after a hearing complying with due
262 process, shall revoke the certificate of need, if it is still
263 outstanding, and shall not issue a license for the skilled nursing
264 facility at any time after the expiration of the eighteen-month
265 period.

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

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

293 written agreement by the owner of the facility shall be a
294 condition of licensure of the facility, and the agreement shall be
295 fully binding on any subsequent owner of the facility if the
296 ownership of the facility is transferred at any time after July 1,
297 2001. After this written agreement is executed, the Division of
298 Medicaid and the State Department of Health shall not certify more
299 than thirty (30) of the beds in the facility for participation in
300 the Medicaid program. If the facility violates the terms of the
301 written agreement by admitting or keeping in the facility on a
302 regular or continuing basis more than thirty (30) patients who are
303 participating in the Medicaid program, the State Department of
304 Health shall revoke the license of the facility, at the time that
305 the department determines, after a hearing complying with due
306 process, that the facility has violated the written agreement.

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

317 (m) The State Department of Health may issue a
318 certificate of need to a county-owned hospital in the Second
319 Judicial District of Panola County for the conversion of not more
320 than seventy-two (72) hospital beds to nursing facility beds,
321 provided that the recipient of the certificate of need agrees in
322 writing that none of the beds at the nursing facility will be
323 certified for participation in the Medicaid program (Section
324 43-13-101 et seq.), and that no claim will be submitted for
325 Medicaid reimbursement in the nursing facility in any day or for

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

(6) months after final adjudication on the issuance of the certificate of need.

(n) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (n), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (n) shall not exceed sixty (60) beds. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need

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

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (o), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and

shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (o) shall not exceed sixty (60) beds. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 2001, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after the effective date of July 1, 2001, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(p) The department may issue a certificate of need for the construction of a municipally-owned nursing facility within the Town of Belmont in Tishomingo County, not to exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need

shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (p), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need

is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

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

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

the six (6) certificates of need authorized in this subparagraph,
the department also shall issue a certificate of need for new
nursing facility beds in Amite County and a certificate of need
for new nursing facility beds in Carroll County.

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

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

the second highest need to the county with the lowest need, until an application is received for nursing facility beds in an eligible county from the state at large.

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

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

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

2. The county-owned hospital's qualifications for the certificate of need, as shown in its application and as

589 determined by the department, are at least equal to the
590 qualifications of the other applicants for the certificate of
591 need.

592 (r) (i) Beginning on July 1, 1999, the State
593 Department of Health shall issue certificates of need during each
594 of the next two (2) fiscal years for the construction or expansion
595 of nursing facility beds or the conversion of other beds to
596 nursing facility beds in each of the four (4) Long-Term Care
597 Planning Districts designated in the fiscal year 1999 State Health
598 Plan, to provide care exclusively to patients with Alzheimer's
599 disease.

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

616 (iii) The State Department of Health, in
617 consultation with the Department of Mental Health and the Division
618 of Medicaid, shall develop and prescribe the staffing levels,
619 space requirements and other standards and requirements that must
620 be met with regard to the nursing facility beds authorized under

621 this paragraph (r) to provide care exclusively to patients with
622 Alzheimer's disease.

623 (3) The State Department of Health may grant approval for
624 and issue certificates of need to any person proposing the new
625 construction of, addition to, conversion of beds of or expansion
626 of any health care facility defined in subparagraph (x)
627 (psychiatric residential treatment facility) of Section
628 41-7-173(h). The total number of beds which may be authorized by
629 such certificates of need shall not exceed three hundred
630 thirty-four (334) beds for the entire state.

631 (a) Of the total number of beds authorized under this
632 subsection, the department shall issue a certificate of need to a
633 privately-owned psychiatric residential treatment facility in
634 Simpson County for the conversion of sixteen (16) intermediate
635 care facility for the mentally retarded (ICF-MR) beds to
636 psychiatric residential treatment facility beds, provided that
637 facility agrees in writing that the facility shall give priority
638 for the use of those sixteen (16) beds to Mississippi residents
639 who are presently being treated in out-of-state facilities.

640 (b) Of the total number of beds authorized under this
641 subsection, the department may issue a certificate or certificates
642 of need for the construction or expansion of psychiatric
643 residential treatment facility beds or the conversion of other
644 beds to psychiatric residential treatment facility beds in Warren
645 County, not to exceed sixty (60) psychiatric residential treatment
646 facility beds, provided that the facility agrees in writing that
647 no more than thirty (30) of the beds at the psychiatric
648 residential treatment facility will be certified for participation
649 in the Medicaid program (Section 43-13-101 et seq.) for the use of
650 any patients other than those who are participating only in the
651 Medicaid program of another state, and that no claim will be
652 submitted to the Division of Medicaid for Medicaid reimbursement
653 for more than thirty (30) patients in the psychiatric residential

654 treatment facility in any day or for any patient in the
655 psychiatric residential treatment facility who is in a bed that is
656 not Medicaid-certified. This written agreement by the recipient
657 of the certificate of need shall be a condition of the issuance of
658 the certificate of need under this paragraph, and the agreement
659 shall be fully binding on any subsequent owner of the psychiatric
660 residential treatment facility if the ownership of the facility is
661 transferred at any time after the issuance of the certificate of
662 need. After this written agreement is executed, the Division of
663 Medicaid and the State Department of Health shall not certify more
664 than thirty (30) of the beds in the psychiatric residential
665 treatment facility for participation in the Medicaid program for
666 the use of any patients other than those who are participating
667 only in the Medicaid program of another state. If the psychiatric
668 residential treatment facility violates the terms of the written
669 agreement by admitting or keeping in the facility on a regular or
670 continuing basis more than thirty (30) patients who are
671 participating in the Mississippi Medicaid program, the State
672 Department of Health shall revoke the license of the facility, at
673 the time that the department determines, after a hearing complying
674 with due process, that the facility has violated the condition
675 upon which the certificate of need was issued, as provided in this
676 paragraph and in the written agreement.

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

681 (c) Of the total number of beds authorized under this
682 subsection, the department shall issue a certificate of need to a
683 hospital currently operating Medicaid-certified acute psychiatric
684 beds for adolescents in DeSoto County, for the establishment of a
685 forty-bed psychiatric residential treatment facility in DeSoto
686 County, provided that the hospital agrees in writing (i) that the

hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

(d) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other

beds to psychiatric treatment facility beds, not to exceed thirty (30) psychiatric residential treatment facility beds, in either Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw, Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

(f) The department shall issue a certificate of need to a one-hundred-thirty-four-bed specialty hospital located on twenty-nine and forty-four one-hundredths (29.44) commercial acres at 5900 Highway 39 North in Meridian (Lauderdale County), Mississippi, for the addition, construction or expansion of child/adolescent psychiatric residential treatment facility beds in Lauderdale County. As a condition of issuance of the certificate of need under this paragraph, the facility shall give priority in admissions to the child/adolescent psychiatric residential treatment facility beds authorized under this paragraph to patients who otherwise would require out-of-state placement. The Division of Medicaid, in conjunction with the Department of Human Services, shall furnish the facility a list of all out-of-state patients on a quarterly basis. Furthermore, notice shall also be provided to the parent, custodial parent or guardian of each out-of-state patient notifying them of the priority status granted by this paragraph. For purposes of this paragraph, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived. The total number of child/adolescent psychiatric residential treatment facility beds

that may be authorized under the authority of this paragraph shall be sixty (60) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the person receiving the certificate of need authorized under this paragraph or for the beds converted pursuant to the authority of that certificate of need.

(4) (a) From and after July 1, 1993, the department shall not issue a certificate of need to any person for the new construction of any hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the conversion of any other health care facility to a hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the addition of any child/adolescent psychiatric or child/adolescent chemical dependency beds in any hospital, psychiatric hospital or chemical dependency hospital, or for the conversion of any beds of another category in any hospital, psychiatric hospital or chemical dependency hospital to child/adolescent psychiatric or child/adolescent chemical dependency beds, except as hereinafter authorized:

(i) The department may issue certificates of need to any person for any purpose described in this subsection, provided that the hospital, psychiatric hospital or chemical dependency hospital does not participate in the Medicaid program (Section 43-13-101 et seq.) at the time of the application for the certificate of need and the owner of the hospital, psychiatric hospital or chemical dependency hospital agrees in writing that the hospital, psychiatric hospital or chemical dependency hospital will not at any time participate in the Medicaid program or admit or keep any patients who are participating in the Medicaid program in the hospital, psychiatric hospital or chemical dependency

786 hospital. This written agreement by the recipient of the
787 certificate of need shall be fully binding on any subsequent owner
788 of the hospital, psychiatric hospital or chemical dependency
789 hospital, if the ownership of the facility is transferred at any
790 time after the issuance of the certificate of need. Agreement
791 that the hospital, psychiatric hospital or chemical dependency
792 hospital will not participate in the Medicaid program shall be a
793 condition of the issuance of a certificate of need to any person
794 under this subparagraph (a)(i), and if such hospital, psychiatric
795 hospital or chemical dependency hospital at any time after the
796 issuance of the certificate of need, regardless of the ownership
797 of the facility, participates in the Medicaid program or admits or
798 keeps any patients in the hospital, psychiatric hospital or
799 chemical dependency hospital who are participating in the Medicaid
800 program, the State Department of Health shall revoke the
801 certificate of need, if it is still outstanding, and shall deny or
802 revoke the license of the hospital, psychiatric hospital or
803 chemical dependency hospital, at the time that the department
804 determines, after a hearing complying with due process, that the
805 hospital, psychiatric hospital or chemical dependency hospital has
806 failed to comply with any of the conditions upon which the
807 certificate of need was issued, as provided in this subparagraph
808 and in the written agreement by the recipient of the certificate
809 of need.

810 (ii) The department may issue a certificate of
811 need for the conversion of existing beds in a county hospital in
812 Choctaw County from acute care beds to child/adolescent chemical
813 dependency beds. For purposes of this subparagraph, the
814 provisions of Section 41-7-193(1) requiring substantial compliance
815 with the projection of need as reported in the current State
816 Health Plan is waived. The total number of beds that may be
817 authorized under authority of this subparagraph shall not exceed
818 twenty (20) beds. There shall be no prohibition or restrictions

on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph (a)(ii) or for the beds converted pursuant to the authority of that certificate of need.

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

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

(iv) The department shall issue a certificate of need to the Region 7 Mental Health/Retardation Commission for the construction or expansion of child/adolescent psychiatric beds or the conversion of other beds to child/adolescent psychiatric beds

in any of the counties served by the commission. For purposes of this subparagraph, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of beds that may be authorized under the authority of this subparagraph shall not exceed twenty (20) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the person receiving the certificate of need authorized under this subparagraph (a)(iv) or for the beds converted pursuant to the authority of that certificate of need.

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (a)(v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership of the hospital, has any of such adult psychiatric beds certified for participation in the Medicaid program or admits or keeps any Medicaid patients in such adult psychiatric beds, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the

885 hospital at the time that the department determines, after a
886 hearing complying with due process, that the hospital has failed
887 to comply with any of the conditions upon which the certificate of
888 need was issued, as provided in this subparagraph and in the
889 written agreement by the recipient of the certificate of need.

890 (vi) The department may issue a certificate or
891 certificates of need for the expansion of child psychiatric beds
892 or the conversion of other beds to child psychiatric beds at the
893 University of Mississippi Medical Center. For purposes of this
894 subparagraph (a)(vi), the provision of Section 41-7-193(1)
895 requiring substantial compliance with the projection of need as
896 reported in the current State Health Plan is waived. The total
897 number of beds that may be authorized under the authority of this
898 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
899 shall be no prohibition or restrictions on participation in the
900 Medicaid program (Section 43-13-101 et seq.) for the hospital
901 receiving the certificate of need authorized under this
902 subparagraph (a)(vi) or for the beds converted pursuant to the
903 authority of that certificate of need.

904 (b) From and after July 1, 1990, no hospital,
905 psychiatric hospital or chemical dependency hospital shall be
906 authorized to add any child/adolescent psychiatric or
907 child/adolescent chemical dependency beds or convert any beds of
908 another category to child/adolescent psychiatric or
909 child/adolescent chemical dependency beds without a certificate of
910 need under the authority of subsection (1)(c) of this section.

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

914 (6) The State Department of Health shall issue a certificate
915 of need to a Mississippi corporation qualified to manage a
916 long-term care hospital as defined in Section 41-7-173(h)(xii) in
917 Harrison County, not to exceed eighty (80) beds, including any

necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (6), and if such long-term care hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the long-term care hospital, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subsection and in the written agreement by the recipient of the certificate of need. For purposes of this subsection, the provision of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is hereby waived.

(7) The State Department of Health may issue a certificate of need to any hospital in the state to utilize a portion of its beds for the "swing-bed" concept. Any such hospital must be in conformance with the federal regulations regarding such swing-bed concept at the time it submits its application for a certificate

951 of need to the State Department of Health, except that such
952 hospital may have more licensed beds or a higher average daily
953 census (ADC) than the maximum number specified in federal
954 regulations for participation in the swing-bed program. Any
955 hospital meeting all federal requirements for participation in the
956 swing-bed program which receives such certificate of need shall
957 render services provided under the swing-bed concept to any
958 patient eligible for Medicare (Title XVIII of the Social Security
959 Act) who is certified by a physician to be in need of such
960 services, and no such hospital shall permit any patient who is
961 eligible for both Medicaid and Medicare or eligible only for
962 Medicaid to stay in the swing beds of the hospital for more than
963 thirty (30) days per admission unless the hospital receives prior
964 approval for such patient from the Division of Medicaid, Office of
965 the Governor. Any hospital having more licensed beds or a higher
966 average daily census (ADC) than the maximum number specified in
967 federal regulations for participation in the swing-bed program
968 which receives such certificate of need shall develop a procedure
969 to insure that before a patient is allowed to stay in the swing
970 beds of the hospital, there are no vacant nursing home beds
971 available for that patient located within a fifty-mile radius of
972 the hospital. When any such hospital has a patient staying in the
973 swing beds of the hospital and the hospital receives notice from a
974 nursing home located within such radius that there is a vacant bed
975 available for that patient, the hospital shall transfer the
976 patient to the nursing home within a reasonable time after receipt
977 of the notice. Any hospital which is subject to the requirements
978 of the two (2) preceding sentences of this subsection may be
979 suspended from participation in the swing-bed program for a
980 reasonable period of time by the State Department of Health if the
981 department, after a hearing complying with due process, determines
982 that the hospital has failed to comply with any of those
983 requirements.

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

988 (9) The Department of Health shall not grant approval for or
989 issue a certificate of need to any person proposing the
990 establishment of, or expansion of the currently approved territory
991 of, or the contracting to establish a home office, subunit or
992 branch office within the space operated as a health care facility
993 as defined in Section 41-7-173(h)(i) through (viii) by a health
994 care facility as defined in subparagraph (ix) of Section
995 41-7-173(h).

996 (10) Health care facilities owned and/or operated by the
997 state or its agencies are exempt from the restraints in this
998 section against issuance of a certificate of need if such addition
999 or expansion consists of repairing or renovation necessary to
1000 comply with the state licensure law. This exception shall not
1001 apply to the new construction of any building by such state
1002 facility. This exception shall not apply to any health care
1003 facilities owned and/or operated by counties, municipalities,
1004 districts, unincorporated areas, other defined persons, or any
1005 combination thereof.

1006 (11) The new construction, renovation or expansion of or
1007 addition to any health care facility defined in subparagraph (ii)
1008 (psychiatric hospital), subparagraph (iv) (skilled nursing
1009 facility), subparagraph (vi) (intermediate care facility),
1010 subparagraph (viii) (intermediate care facility for the mentally
1011 retarded) and subparagraph (x) (psychiatric residential treatment
1012 facility) of Section 41-7-173(h) which is owned by the State of
1013 Mississippi and under the direction and control of the State
1014 Department of Mental Health, and the addition of new beds or the
1015 conversion of beds from one category to another in any such
1016 defined health care facility which is owned by the State of

1017 Mississippi and under the direction and control of the State
1018 Department of Mental Health, shall not require the issuance of a
1019 certificate of need under Section 41-7-171 et seq.,
1020 notwithstanding any provision in Section 41-7-171 et seq. to the
1021 contrary.

1022 (12) The new construction, renovation or expansion of or
1023 addition to any veterans homes or domiciliaries for eligible
1024 veterans of the State of Mississippi as authorized under Section
1025 35-1-19 shall not require the issuance of a certificate of need,
1026 notwithstanding any provision in Section 41-7-171 et seq. to the
1027 contrary.

1028 (13) The new construction of a nursing facility or nursing
1029 facility beds or the conversion of other beds to nursing facility
1030 beds shall not require the issuance of a certificate of need,
1031 notwithstanding any provision in Section 41-7-171 et seq. to the
1032 contrary, if the conditions of this subsection are met.

1033 (a) Before any construction or conversion may be
1034 undertaken without a certificate of need, the owner of the nursing
1035 facility, in the case of an existing facility, or the applicant to
1036 construct a nursing facility, in the case of new construction,
1037 first must file a written notice of intent and sign a written
1038 agreement with the State Department of Health that the entire
1039 nursing facility will not at any time participate in or have any
1040 beds certified for participation in the Medicaid program (Section
1041 43-13-101 et seq.), will not admit or keep any patients in the
1042 nursing facility who are participating in the Medicaid program,
1043 and will not submit any claim for Medicaid reimbursement for any
1044 patient in the facility. This written agreement by the owner or
1045 applicant shall be a condition of exercising the authority under
1046 this subsection without a certificate of need, and the agreement
1047 shall be fully binding on any subsequent owner of the nursing
1048 facility if the ownership of the facility is transferred at any
1049 time after the agreement is signed. After the written agreement

1050 is signed, the Division of Medicaid and the State Department of
1051 Health shall not certify any beds in the nursing facility for
1052 participation in the Medicaid program. If the nursing facility
1053 violates the terms of the written agreement by participating in
1054 the Medicaid program, having any beds certified for participation
1055 in the Medicaid program, admitting or keeping any patient in the
1056 facility who is participating in the Medicaid program, or
1057 submitting any claim for Medicaid reimbursement for any patient in
1058 the facility, the State Department of Health shall revoke the
1059 license of the nursing facility at the time that the department
1060 determines, after a hearing complying with due process, that the
1061 facility has violated the terms of the written agreement.

1062 (b) For the purposes of this subsection, participation
1063 in the Medicaid program by a nursing facility includes Medicaid
1064 reimbursement of coinsurance and deductibles for recipients who
1065 are qualified Medicare beneficiaries and/or those who are dually
1066 eligible. Any nursing facility exercising the authority under
1067 this subsection may not bill or submit a claim to the Division of
1068 Medicaid for services to qualified Medicare beneficiaries and/or
1069 those who are dually eligible.

1070 (c) The new construction of a nursing facility or
1071 nursing facility beds or the conversion of other beds to nursing
1072 facility beds described in this section must be either a part of a
1073 completely new continuing care retirement community, as described
1074 in the latest edition of the Mississippi State Health Plan, or an
1075 addition to existing personal care and independent living
1076 components, and so that the completed project will be a continuing
1077 care retirement community, containing (i) independent living
1078 accommodations, (ii) personal care beds, and (iii) the nursing
1079 home facility beds. The three (3) components must be located on a
1080 single site and be operated as one (1) inseparable facility. The
1081 nursing facility component must contain a minimum of thirty (30)
1082 beds. Any nursing facility beds authorized by this section will

1083 not be counted against the bed need set forth in the State Health
1084 Plan, as identified in Section 41-7-171 et seq.

1085 This subsection (13) shall stand repealed from and after July
1086 1, 2005.

1087 (14) The State Department of Health shall issue a
1088 certificate of need to any hospital which is currently licensed
1089 for two hundred fifty (250) or more acute care beds and is located
1090 in any general hospital service area not having a comprehensive
1091 cancer center, for the establishment and equipping of such a
1092 center which provides facilities and services for outpatient
1093 radiation oncology therapy, outpatient medical oncology therapy,
1094 and appropriate support services including the provision of
1095 radiation therapy services. The provision of Section 41-7-193(1)
1096 regarding substantial compliance with the projection of need as
1097 reported in the current State Health Plan is waived for the
1098 purpose of this subsection.

1099 (15) The State Department of Health may authorize the
1100 transfer of hospital beds, not to exceed sixty (60) beds, from the
1101 North Panola Community Hospital to the South Panola Community
1102 Hospital. The authorization for the transfer of those beds shall
1103 be exempt from the certificate of need review process.

1104 (16) The State Department of Health shall issue any
1105 certificates of need necessary for Mississippi State University
1106 and a public or private health care provider to jointly acquire
1107 and operate a linear accelerator and a magnetic resonance imaging
1108 unit. Those certificates of need shall cover all capital
1109 expenditures related to the project between Mississippi State
1110 University and the health care provider, including, but not
1111 limited to, the acquisition of the linear accelerator, the
1112 magnetic resonance imaging unit and other radiological modalities;
1113 the offering of linear accelerator and magnetic resonance imaging
1114 services; and the cost of construction of facilities in which to
1115 locate these services. The linear accelerator and the magnetic

1116 resonance imaging unit shall be (a) located in the City of
1117 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1118 Mississippi State University and the public or private health care
1119 provider selected by Mississippi State University through a
1120 request for proposals (RFP) process in which Mississippi State
1121 University selects, and the Board of Trustees of State
1122 Institutions of Higher Learning approves, the health care provider
1123 that makes the best overall proposal; (c) available to Mississippi
1124 State University for research purposes two-thirds (2/3) of the
1125 time that the linear accelerator and magnetic resonance imaging
1126 unit are operational; and (d) available to the public or private
1127 health care provider selected by Mississippi State University and
1128 approved by the Board of Trustees of State Institutions of Higher
1129 Learning one-third (1/3) of the time for clinical, diagnostic and
1130 treatment purposes. For purposes of this subsection, the
1131 provisions of Section 41-7-193(1) requiring substantial compliance
1132 with the projection of need as reported in the current State
1133 Health Plan are waived.

1134 (17) Nothing in this section or in any other provision of
1135 Section 41-7-171 et seq. shall prevent any nursing facility from
1136 designating an appropriate number of existing beds in the facility
1137 as beds for providing care exclusively to patients with
1138 Alzheimer's disease.

1139 **SECTION 2.** This act shall take effect and be in force from
1140 and after its passage.