

By: Senator(s) Kirby

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2850

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

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

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

20 41-7-191. (1) No person shall engage in any of the
 21 following activities without obtaining the required certificate of
 22 need:

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

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

32 (c) Any change in the existing bed complement of any
 33 health care facility through the addition or conversion of any
 34 beds or the alteration, modernizing or refurbishing of any unit or

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

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

- 59 (i) Open heart surgery services;
- 60 (ii) Cardiac catheterization services;
- 61 (iii) Comprehensive inpatient rehabilitation
62 services;
- 63 (iv) Licensed psychiatric services;
- 64 (v) Licensed chemical dependency services;
- 65 (vi) Radiation therapy services;
- 66 (vii) Diagnostic imaging services of an invasive
67 nature, i.e. invasive digital angiography;

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

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

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

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

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

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

130 (2) The State Department of Health shall not grant approval
131 for or issue a certificate of need to any person proposing the new
132 construction of, addition to, or expansion of any health care
133 facility defined in subparagraphs (iv) (skilled nursing facility)

134 and (vi) (intermediate care facility) of Section 41-7-173(h) or
135 the conversion of vacant hospital beds to provide skilled or
136 intermediate nursing home care, except as hereinafter authorized:

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

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

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

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

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

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

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

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

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

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

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

263 (j) The department may issue certificates of need to
264 allow any existing freestanding long-term care facility in
265 Tishomingo County and Hancock County that on July 1, 1995, is

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

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

299 regular or continuing basis more than thirty (30) patients who are
300 participating in the Medicaid program, the State Department of
301 Health shall revoke the license of the facility, at the time that
302 the department determines, after a hearing complying with due
303 process, that the facility has violated the written agreement.

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

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

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

357 (n) The department may issue a certificate of need for
358 the new construction, addition or conversion of skilled nursing
359 facility beds in Madison County, provided that the recipient of
360 the certificate of need agrees in writing that the skilled nursing
361 facility will not at any time participate in the Medicaid program
362 (Section 43-13-101 et seq.) or admit or keep any patients in the
363 skilled nursing facility who are participating in the Medicaid
364 program. This written agreement by the recipient of the

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

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

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

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

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

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

491 (q) (i) Beginning on July 1, 1999, the State
492 Department of Health shall issue certificates of need during each
493 of the next four (4) fiscal years for the construction or
494 expansion of nursing facility beds or the conversion of other beds
495 to nursing facility beds in each county in the state having a need
496 for fifty (50) or more additional nursing facility beds, as shown

497 in the fiscal year 1999 State Health Plan, in the manner provided
498 in this paragraph (q). The total number of nursing facility beds
499 that may be authorized by any certificate of need authorized under
500 this paragraph (q) shall not exceed sixty (60) beds.

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

524 (iii) Subject to the provisions of subparagraph
525 (v), the certificate of need issued under subparagraph (ii) for
526 nursing facility beds in each Long-Term Care Planning District
527 during each fiscal year shall first be available for nursing
528 facility beds in the county in the district having the highest
529 need for those beds, as shown in the fiscal year 1999 State Health

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

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

556 (v) If a certificate of need is authorized to be
557 issued under this paragraph (q) for nursing facility beds in a
558 county on the basis of the need in the Long-Term Care Planning
559 District during any fiscal year of the four-year period, a
560 certificate of need shall not also be available under this
561 paragraph (q) for additional nursing facility beds in that county
562 on the basis of the need in the state at large, and that county

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

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

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

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

589 (r) (i) Beginning on July 1, 1999, the State
590 Department of Health shall issue certificates of need during each
591 of the next two (2) fiscal years for the construction or expansion
592 of nursing facility beds or the conversion of other beds to
593 nursing facility beds in each of the four (4) Long-Term Care
594 Planning Districts designated in the fiscal year 1999 State Health

595 Plan, to provide care exclusively to patients with Alzheimer's
596 disease.

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

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

620 (s) The State Department of Health shall issue
621 certificates of need to the owner of a nursing facility in Hancock
622 County that was not operational on December 31, 2005, because of
623 damage sustained from Hurricane Katrina to authorize the
624 following: (i) the construction of a new nursing facility in
625 Harrison County; (ii) the relocation of forty-nine (49) nursing
626 facility beds from the Hancock County facility to the new Harrison
627 County facility; (iii) the establishment of twenty (20)

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

661 Health shall revoke the license of the facility that is in
662 violation of the agreement, at the time that the department
663 determines, after a hearing complying with due process, that the
664 facility has violated the agreement.

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

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

682 (b) 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 residential treatment facility beds in Warren
687 County, not to exceed sixty (60) psychiatric residential treatment
688 facility beds, provided that the facility agrees in writing that
689 no more than thirty (30) of the beds at the psychiatric
690 residential treatment facility will be certified for participation
691 in the Medicaid program (Section 43-13-101 et seq.) for the use of
692 any patients other than those who are participating only in the
693 Medicaid program of another state, and that no claim will be

694 submitted to the Division of Medicaid for Medicaid reimbursement
695 for more than thirty (30) patients in the psychiatric residential
696 treatment facility in any day or for any patient in the
697 psychiatric residential treatment facility who is in a bed that is
698 not Medicaid-certified. This written agreement by the recipient
699 of the certificate of need shall be a condition of the issuance of
700 the certificate of need under this paragraph, and the agreement
701 shall be fully binding on any subsequent owner of the psychiatric
702 residential treatment facility if the ownership of the facility is
703 transferred at any time after the issuance of the certificate of
704 need. After this written agreement is executed, the Division of
705 Medicaid and the State Department of Health shall not certify more
706 than thirty (30) of the beds in the psychiatric residential
707 treatment facility for participation in the Medicaid program for
708 the use of any patients other than those who are participating
709 only in the Medicaid program of another state. If the psychiatric
710 residential treatment facility violates the terms of the written
711 agreement by admitting or keeping in the facility on a regular or
712 continuing basis more than thirty (30) patients who are
713 participating in the Mississippi Medicaid program, the State
714 Department of Health shall revoke the license of the facility, at
715 the time that the department determines, after a hearing complying
716 with due process, that the facility has violated the condition
717 upon which the certificate of need was issued, as provided in this
718 paragraph and in the written agreement.

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

723 (c) Of the total number of beds authorized under this
724 subsection, the department shall issue a certificate of need to a
725 hospital currently operating Medicaid-certified acute psychiatric
726 beds for adolescents in DeSoto County, for the establishment of a

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

758 (d) Of the total number of beds authorized under this
759 subsection, the department may issue a certificate or certificates

760 of need for the construction or expansion of psychiatric
761 residential treatment facility beds or the conversion of other
762 beds to psychiatric treatment facility beds, not to exceed thirty
763 (30) psychiatric residential treatment facility beds, in either
764 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
765 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

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

793 the current State Health Plan are waived. The total number of
794 child/adolescent psychiatric residential treatment facility beds
795 that may be authorized under the authority of this paragraph shall
796 be sixty (60) beds. There shall be no prohibition or restrictions
797 on participation in the Medicaid program (Section 43-13-101 et
798 seq.) for the person receiving the certificate of need authorized
799 under this paragraph or for the beds converted pursuant to the
800 authority of that certificate of need.

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

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

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

852 (ii) The department may issue a certificate of
853 need for the conversion of existing beds in a county hospital in
854 Choctaw County from acute care beds to child/adolescent chemical
855 dependency beds. For purposes of this subparagraph, the
856 provisions of Section 41-7-193(1) requiring substantial compliance
857 with the projection of need as reported in the current State
858 Health Plan is waived. The total number of beds that may be

859 authorized under authority of this subparagraph shall not exceed
860 twenty (20) beds. There shall be no prohibition or restrictions
861 on participation in the Medicaid program (Section 43-13-101 et
862 seq.) for the hospital receiving the certificate of need
863 authorized under this subparagraph (a)(ii) or for the beds
864 converted pursuant to the authority of that certificate of need.

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

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

890 (iv) The department shall issue a certificate of
891 need to the Region 7 Mental Health/Retardation Commission for the

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

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

925 Department of Health shall revoke the certificate of need, if it
926 is still outstanding, and shall deny or revoke the license of the
927 hospital at the time that the department determines, after a
928 hearing complying with due process, that the hospital has failed
929 to comply with any of the conditions upon which the certificate of
930 need was issued, as provided in this subparagraph and in the
931 written agreement by the recipient of the certificate of need.

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

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

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

956 (6) The State Department of Health shall issue a certificate
957 of need to a Mississippi corporation qualified to manage a

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

988 (7) The State Department of Health may issue a certificate
989 of need to any hospital in the state to utilize a portion of its
990 beds for the "swing-bed" concept. Any such hospital must be in

991 conformance with the federal regulations regarding such swing-bed
992 concept at the time it submits its application for a certificate
993 of need to the State Department of Health, except that such
994 hospital may have more licensed beds or a higher average daily
995 census (ADC) than the maximum number specified in federal
996 regulations for participation in the swing-bed program. Any
997 hospital meeting all federal requirements for participation in the
998 swing-bed program which receives such certificate of need shall
999 render services provided under the swing-bed concept to any
1000 patient eligible for Medicare (Title XVIII of the Social Security
1001 Act) who is certified by a physician to be in need of such
1002 services, and no such hospital shall permit any patient who is
1003 eligible for both Medicaid and Medicare or eligible only for
1004 Medicaid to stay in the swing beds of the hospital for more than
1005 thirty (30) days per admission unless the hospital receives prior
1006 approval for such patient from the Division of Medicaid, Office of
1007 the Governor. Any hospital having more licensed beds or a higher
1008 average daily census (ADC) than the maximum number specified in
1009 federal regulations for participation in the swing-bed program
1010 which receives such certificate of need shall develop a procedure
1011 to insure that before a patient is allowed to stay in the swing
1012 beds of the hospital, there are no vacant nursing home beds
1013 available for that patient located within a fifty-mile radius of
1014 the hospital. When any such hospital has a patient staying in the
1015 swing beds of the hospital and the hospital receives notice from a
1016 nursing home located within such radius that there is a vacant bed
1017 available for that patient, the hospital shall transfer the
1018 patient to the nursing home within a reasonable time after receipt
1019 of the notice. Any hospital which is subject to the requirements
1020 of the two (2) preceding sentences of this subsection may be
1021 suspended from participation in the swing-bed program for a
1022 reasonable period of time by the State Department of Health if the
1023 department, after a hearing complying with due process, determines

1024 that the hospital has failed to comply with any of those
1025 requirements.

1026 (8) The Department of Health shall not grant approval for or
1027 issue a certificate of need to any person proposing the new
1028 construction of, addition to or expansion of a health care
1029 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1030 (9) The Department of Health shall not grant approval for or
1031 issue a certificate of need to any person proposing the
1032 establishment of, or expansion of the currently approved territory
1033 of, or the contracting to establish a home office, subunit or
1034 branch office within the space operated as a health care facility
1035 as defined in Section 41-7-173(h)(i) through (viii) by a health
1036 care facility as defined in subparagraph (ix) of Section
1037 41-7-173(h).

1038 (10) Health care facilities owned and/or operated by the
1039 state or its agencies are exempt from the restraints in this
1040 section against issuance of a certificate of need if such addition
1041 or expansion consists of repairing or renovation necessary to
1042 comply with the state licensure law. This exception shall not
1043 apply to the new construction of any building by such state
1044 facility. This exception shall not apply to any health care
1045 facilities owned and/or operated by counties, municipalities,
1046 districts, unincorporated areas, other defined persons, or any
1047 combination thereof.

1048 (11) The new construction, renovation or expansion of or
1049 addition to any health care facility defined in subparagraph (ii)
1050 (psychiatric hospital), subparagraph (iv) (skilled nursing
1051 facility), subparagraph (vi) (intermediate care facility),
1052 subparagraph (viii) (intermediate care facility for the mentally
1053 retarded) and subparagraph (x) (psychiatric residential treatment
1054 facility) of Section 41-7-173(h) which is owned by the State of
1055 Mississippi and under the direction and control of the State
1056 Department of Mental Health, and the addition of new beds or the

1057 conversion of beds from one category to another in any such
1058 defined health care facility which is owned by the State of
1059 Mississippi and under the direction and control of the State
1060 Department of Mental Health, shall not require the issuance of a
1061 certificate of need under Section 41-7-171 et seq.,
1062 notwithstanding any provision in Section 41-7-171 et seq. to the
1063 contrary.

1064 (12) The new construction, renovation or expansion of or
1065 addition to any veterans homes or domiciliaries for eligible
1066 veterans of the State of Mississippi as authorized under Section
1067 35-1-19 shall not require the issuance of a certificate of need,
1068 notwithstanding any provision in Section 41-7-171 et seq. to the
1069 contrary.

1070 (13) The new construction of a nursing facility or nursing
1071 facility beds or the conversion of other beds to nursing facility
1072 beds shall not require the issuance of a certificate of need,
1073 notwithstanding any provision in Section 41-7-171 et seq. to the
1074 contrary, if the conditions of this subsection are met.

1075 (a) Before any construction or conversion may be
1076 undertaken without a certificate of need, the owner of the nursing
1077 facility, in the case of an existing facility, or the applicant to
1078 construct a nursing facility, in the case of new construction,
1079 first must file a written notice of intent and sign a written
1080 agreement with the State Department of Health that the entire
1081 nursing facility will not at any time participate in or have any
1082 beds certified for participation in the Medicaid program (Section
1083 43-13-101 et seq.), will not admit or keep any patients in the
1084 nursing facility who are participating in the Medicaid program,
1085 and will not submit any claim for Medicaid reimbursement for any
1086 patient in the facility. This written agreement by the owner or
1087 applicant shall be a condition of exercising the authority under
1088 this subsection without a certificate of need, and the agreement
1089 shall be fully binding on any subsequent owner of the nursing

1090 facility if the ownership of the facility is transferred at any
1091 time after the agreement is signed. After the written agreement
1092 is signed, the Division of Medicaid and the State Department of
1093 Health shall not certify any beds in the nursing facility for
1094 participation in the Medicaid program. If the nursing facility
1095 violates the terms of the written agreement by participating in
1096 the Medicaid program, having any beds certified for participation
1097 in the Medicaid program, admitting or keeping any patient in the
1098 facility who is participating in the Medicaid program, or
1099 submitting any claim for Medicaid reimbursement for any patient in
1100 the facility, the State Department of Health shall revoke the
1101 license of the nursing facility at the time that the department
1102 determines, after a hearing complying with due process, that the
1103 facility has violated the terms of the written agreement.

1104 (b) For the purposes of this subsection, participation
1105 in the Medicaid program by a nursing facility includes Medicaid
1106 reimbursement of coinsurance and deductibles for recipients who
1107 are qualified Medicare beneficiaries and/or those who are dually
1108 eligible. Any nursing facility exercising the authority under
1109 this subsection may not bill or submit a claim to the Division of
1110 Medicaid for services to qualified Medicare beneficiaries and/or
1111 those who are dually eligible.

1112 (c) The new construction of a nursing facility or
1113 nursing facility beds or the conversion of other beds to nursing
1114 facility beds described in this section must be either a part of a
1115 completely new continuing care retirement community, as described
1116 in the latest edition of the Mississippi State Health Plan, or an
1117 addition to existing personal care and independent living
1118 components, and so that the completed project will be a continuing
1119 care retirement community, containing (i) independent living
1120 accommodations, (ii) personal care beds, and (iii) the nursing
1121 home facility beds. The three (3) components must be located on a
1122 single site and be operated as one (1) inseparable facility. The

1123 nursing facility component must contain a minimum of thirty (30)
1124 beds. Any nursing facility beds authorized by this section will
1125 not be counted against the bed need set forth in the State Health
1126 Plan, as identified in Section 41-7-171 et seq.

1127 This subsection (13) shall stand repealed from and after July
1128 1, 2005.

1129 (14) The State Department of Health shall issue a
1130 certificate of need to any hospital which is currently licensed
1131 for two hundred fifty (250) or more acute care beds and is located
1132 in any general hospital service area not having a comprehensive
1133 cancer center, for the establishment and equipping of such a
1134 center which provides facilities and services for outpatient
1135 radiation oncology therapy, outpatient medical oncology therapy,
1136 and appropriate support services including the provision of
1137 radiation therapy services. The provision of Section 41-7-193(1)
1138 regarding substantial compliance with the projection of need as
1139 reported in the current State Health Plan is waived for the
1140 purpose of this subsection.

1141 (15) The State Department of Health may authorize the
1142 transfer of hospital beds, not to exceed sixty (60) beds, from the
1143 North Panola Community Hospital to the South Panola Community
1144 Hospital. The authorization for the transfer of those beds shall
1145 be exempt from the certificate of need review process.

1146 (16) The State Department of Health shall issue any
1147 certificates of need necessary for Mississippi State University
1148 and a public or private health care provider to jointly acquire
1149 and operate a linear accelerator and a magnetic resonance imaging
1150 unit. Those certificates of need shall cover all capital
1151 expenditures related to the project between Mississippi State
1152 University and the health care provider, including, but not
1153 limited to, the acquisition of the linear accelerator, the
1154 magnetic resonance imaging unit and other radiological modalities;
1155 the offering of linear accelerator and magnetic resonance imaging

1156 services; and the cost of construction of facilities in which to
1157 locate these services. The linear accelerator and the magnetic
1158 resonance imaging unit shall be (a) located in the City of
1159 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1160 Mississippi State University and the public or private health care
1161 provider selected by Mississippi State University through a
1162 request for proposals (RFP) process in which Mississippi State
1163 University selects, and the Board of Trustees of State
1164 Institutions of Higher Learning approves, the health care provider
1165 that makes the best overall proposal; (c) available to Mississippi
1166 State University for research purposes two-thirds (2/3) of the
1167 time that the linear accelerator and magnetic resonance imaging
1168 unit are operational; and (d) available to the public or private
1169 health care provider selected by Mississippi State University and
1170 approved by the Board of Trustees of State Institutions of Higher
1171 Learning one-third (1/3) of the time for clinical, diagnostic and
1172 treatment purposes. For purposes of this subsection, the
1173 provisions of Section 41-7-193(1) requiring substantial compliance
1174 with the projection of need as reported in the current State
1175 Health Plan are waived.

1176 (17) Nothing in this section or in any other provision of
1177 Section 41-7-171 et seq. shall prevent any nursing facility from
1178 designating an appropriate number of existing beds in the facility
1179 as beds for providing care exclusively to patients with
1180 Alzheimer's disease.

1181 **SECTION 2.** This act shall take effect and be in force from
1182 and after July 1, 2006.