

Senate Amendments to House Bill No. 1221

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

37 41-7-191. (1) No person shall engage in any of the
38 following activities without obtaining the required certificate of
39 need:

40 (a) The construction, development or other
41 establishment of a new health care facility, which establishment
42 shall include the reopening of a health care facility that has
43 ceased to operate for a period of sixty (60) months or more;

44 (b) The relocation of a health care facility or portion
45 thereof, or major medical equipment, unless such relocation of a
46 health care facility or portion thereof, or major medical
47 equipment, which does not involve a capital expenditure by or on
48 behalf of a health care facility, is within five thousand two
49 hundred eighty (5,280) feet from the main entrance of the health
50 care facility;

51 (c) Any change in the existing bed complement of any
52 health care facility through the addition or conversion of any
53 beds or the alteration, modernizing or refurbishing of any unit or
54 department in which the beds may be located; however, if a health
55 care facility has voluntarily delicensed some of its existing bed
56 complement, it may later relicense some or all of its delicensed
57 beds without the necessity of having to acquire a certificate of
58 need. The State Department of Health shall maintain a record of
59 the delicensing health care facility and its voluntarily
60 delicensed beds and continue counting those beds as part of the

61 state's total bed count for health care planning purposes. If a
62 health care facility that has voluntarily delicensed some of its
63 beds later desires to relicense some or all of its voluntarily
64 delicensed beds, it shall notify the State Department of Health of
65 its intent to increase the number of its licensed beds. The State
66 Department of Health shall survey the health care facility within
67 thirty (30) days of that notice and, if appropriate, issue the
68 health care facility a new license reflecting the new contingent
69 of beds. However, in no event may a health care facility that has
70 voluntarily delicensed some of its beds be reissued a license to
71 operate beds in excess of its bed count before the voluntary
72 delicensure of some of its beds without seeking certificate of
73 need approval;

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

- 78 (i) Open heart surgery services;
- 79 (ii) Cardiac catheterization services;
- 80 (iii) Comprehensive inpatient rehabilitation
81 services;
- 82 (iv) Licensed psychiatric services;
- 83 (v) Licensed chemical dependency services;
- 84 (vi) Radiation therapy services;
- 85 (vii) Diagnostic imaging services of an invasive
86 nature, i.e. invasive digital angiography;
- 87 (viii) Nursing home care as defined in
88 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 89 (ix) Home health services;
- 90 (x) Swing-bed services;
- 91 (xi) Ambulatory surgical services;
- 92 (xii) Magnetic resonance imaging services;
- 93 (xiii) [Deleted]
- 94 (xiv) Long-term care hospital services;
- 95 (xv) Positron Emission Tomography (PET) services;

96 (e) The relocation of one or more health services from
97 one physical facility or site to another physical facility or
98 site, unless such relocation, which does not involve a capital
99 expenditure by or on behalf of a health care facility, (i) is to a
100 physical facility or site within five thousand two hundred eighty
101 (5,280) feet from the main entrance of the health care facility
102 where the health care service is located, or (ii) is the result of
103 an order of a court of appropriate jurisdiction or a result of
104 pending litigation in such court, or by order of the State
105 Department of Health, or by order of any other agency or legal
106 entity of the state, the federal government, or any political
107 subdivision of either, whose order is also approved by the State
108 Department of Health;

109 (f) The acquisition or otherwise control of any major
110 medical equipment for the provision of medical services; provided,
111 however, (i) the acquisition of any major medical equipment used
112 only for research purposes, and (ii) the acquisition of major
113 medical equipment to replace medical equipment for which a
114 facility is already providing medical services and for which the
115 State Department of Health has been notified before the date of
116 such acquisition shall be exempt from this paragraph; an
117 acquisition for less than fair market value must be reviewed, if
118 the acquisition at fair market value would be subject to review;

119 (g) Changes of ownership of existing health care
120 facilities in which a notice of intent is not filed with the State
121 Department of Health at least thirty (30) days prior to the date
122 such change of ownership occurs, or a change in services or bed
123 capacity as prescribed in paragraph (c) or (d) of this subsection
124 as a result of the change of ownership; an acquisition for less
125 than fair market value must be reviewed, if the acquisition at
126 fair market value would be subject to review;

127 (h) The change of ownership of any health care facility
128 defined in subparagraphs (iv), (vi) and (viii) of Section
129 41-7-173(h), in which a notice of intent as described in paragraph
130 (g) has not been filed and if the Executive Director, Division of

131 Medicaid, Office of the Governor, has not certified in writing
132 that there will be no increase in allowable costs to Medicaid from
133 revaluation of the assets or from increased interest and
134 depreciation as a result of the proposed change of ownership;

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

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

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

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

153 (m) Reopening a health care facility that has ceased to
154 operate for a period of sixty (60) months or more, which reopening
155 requires a certificate of need for the establishment of a new
156 health care facility.

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

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

166 facility defined in subparagraphs (iv) and (vi) of Section
167 41-7-173(h) as part of a life care retirement facility, in any
168 county bordering on the Gulf of Mexico in which is located a
169 National Aeronautics and Space Administration facility, not to
170 exceed forty (40) beds. From and after July 1, 1999, there shall
171 be no prohibition or restrictions on participation in the Medicaid
172 program (Section 43-13-101 et seq.) for the beds in the health
173 care facility that were authorized under this paragraph (a).

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

181 (c) The department may issue a certificate of need for
182 the addition to or expansion of any skilled nursing facility that
183 is part of an existing continuing care retirement community
184 located in Madison County, provided that the recipient of the
185 certificate of need agrees in writing that the skilled nursing
186 facility will not at any time participate in the Medicaid program
187 (Section 43-13-101 et seq.) or admit or keep any patients in the
188 skilled nursing facility who are participating in the Medicaid
189 program. This written agreement by the recipient of the
190 certificate of need shall be fully binding on any subsequent owner
191 of the skilled nursing facility, if the ownership of the facility
192 is transferred at any time after the issuance of the certificate
193 of need. Agreement that the skilled nursing facility will not
194 participate in the Medicaid program shall be a condition of the
195 issuance of a certificate of need to any person under this
196 paragraph (c), and if such skilled nursing facility at any time
197 after the issuance of the certificate of need, regardless of the
198 ownership of the facility, participates in the Medicaid program or
199 admits or keeps any patients in the facility who are participating
200 in the Medicaid program, the State Department of Health shall

201 revoke the certificate of need, if it is still outstanding, and
202 shall deny or revoke the license of the skilled nursing facility,
203 at the time that the department determines, after a hearing
204 complying with due process, that the facility has failed to comply
205 with any of the conditions upon which the certificate of need was
206 issued, as provided in this paragraph and in the written agreement
207 by the recipient of the certificate of need. The total number of
208 beds that may be authorized under the authority of this paragraph
209 (c) shall not exceed sixty (60) beds.

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

218 (e) The State Department of Health may issue a
219 certificate of need for the construction of a nursing facility or
220 the conversion of beds to nursing facility beds at a personal care
221 facility for the elderly in Lowndes County that is owned and
222 operated by a Mississippi nonprofit corporation, 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 nursing
226 facility that were authorized under this paragraph (e).

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

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

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

251 (i) The department may issue a certificate of need for
252 the new construction of a skilled nursing facility in Leake
253 County, provided that the recipient of the certificate of need
254 agrees in writing that the skilled nursing facility will not at
255 any time participate in the Medicaid program (Section 43-13-101 et
256 seq.) or admit or keep any patients in the skilled nursing
257 facility who are participating in the Medicaid program. This
258 written agreement by the recipient of the certificate of need
259 shall be fully binding on any subsequent owner of the skilled
260 nursing facility, if the ownership of the facility is transferred
261 at any time after the issuance of the certificate of need.
262 Agreement that the skilled nursing facility will not participate
263 in the Medicaid program shall be a condition of the issuance of a
264 certificate of need to any person under this paragraph (i), and if
265 such skilled nursing facility at any time after the issuance of
266 the certificate of need, regardless of the ownership of the
267 facility, participates in the Medicaid program or admits or keeps
268 any patients in the facility who are participating in the Medicaid
269 program, the State Department of Health shall revoke the

270 certificate of need, if it is still outstanding, and shall deny or
271 revoke the license of the skilled nursing facility, at the time
272 that the department determines, after a hearing complying with due
273 process, that the facility has failed to comply with any of the
274 conditions upon which the certificate of need was issued, as
275 provided in this paragraph and in the written agreement by the
276 recipient of the certificate of need. The provision of Section
277 43-7-193(1) regarding substantial compliance of the projection of
278 need as reported in the current State Health Plan is waived for
279 the purposes of this paragraph. The total number of nursing
280 facility beds that may be authorized by any certificate of need
281 issued under this paragraph (i) shall not exceed sixty (60) beds.
282 If the skilled nursing facility authorized by the certificate of
283 need issued under this paragraph is not constructed and fully
284 operational within eighteen (18) months after July 1, 1994, the
285 State Department of Health, after a hearing complying with due
286 process, shall revoke the certificate of need, if it is still
287 outstanding, and shall not issue a license for the skilled nursing
288 facility at any time after the expiration of the eighteen-month
289 period.

290 (j) The department may issue certificates of need to
291 allow any existing freestanding long-term care facility in
292 Tishomingo County and Hancock County that on July 1, 1995, is
293 licensed with fewer than sixty (60) beds. For the purposes of
294 this paragraph (j), the provision of Section 41-7-193(1) requiring
295 substantial compliance with the projection of need as reported in
296 the current State Health Plan is waived. From and after July 1,
297 1999, there shall be no prohibition or restrictions on
298 participation in the Medicaid program (Section 43-13-101 et seq.)
299 for the beds in the long-term care facilities that were authorized
300 under this paragraph (j).

301 (k) The department may issue a certificate of need for
302 the construction of a nursing facility at a continuing care
303 retirement community in Lowndes County. The total number of beds
304 that may be authorized under the authority of this paragraph (k)

305 shall not exceed sixty (60) beds. From and after July 1, 2001,
306 the prohibition on the facility participating in the Medicaid
307 program (Section 43-13-101 et seq.) that was a condition of
308 issuance of the certificate of need under this paragraph (k) shall
309 be revised as follows: The nursing facility may participate in
310 the Medicaid program from and after July 1, 2001, if the owner of
311 the facility on July 1, 2001, agrees in writing that no more than
312 thirty (30) of the beds at the facility will be certified for
313 participation in the Medicaid program, and that no claim will be
314 submitted for Medicaid reimbursement for more than thirty (30)
315 patients in the facility in any month or for any patient in the
316 facility who is in a bed that is not Medicaid-certified. This
317 written agreement by the owner of the facility shall be a
318 condition of licensure of the facility, and the agreement shall be
319 fully binding on any subsequent owner of the facility if the
320 ownership of the facility is transferred at any time after July 1,
321 2001. After this written agreement is executed, the Division of
322 Medicaid and the State Department of Health shall not certify more
323 than thirty (30) of the beds in the facility for participation in
324 the Medicaid program. If the facility violates the terms of the
325 written agreement by admitting or keeping in the facility on a
326 regular or continuing basis more than thirty (30) patients who are
327 participating in the Medicaid program, the State Department of
328 Health shall revoke the license of the facility, at the time that
329 the department determines, after a hearing complying with due
330 process, that the facility has violated the written agreement.

331 (1) Provided that funds are specifically appropriated
332 therefor by the Legislature, the department may issue a
333 certificate of need to a rehabilitation hospital in Hinds County
334 for the construction of a sixty-bed long-term care nursing
335 facility dedicated to the care and treatment of persons with
336 severe disabilities including persons with spinal cord and
337 closed-head injuries and ventilator-dependent patients. The
338 provision of Section 41-7-193(1) regarding substantial compliance

339 with projection of need as reported in the current State Health
340 Plan is hereby waived for the purpose of this paragraph.

341 (m) The State Department of Health may issue a
342 certificate of need to a county-owned hospital in the Second
343 Judicial District of Panola County for the conversion of not more
344 than seventy-two (72) hospital beds to nursing facility beds,
345 provided that the recipient of the certificate of need agrees in
346 writing that none of the beds at the nursing facility will be
347 certified for participation in the Medicaid program (Section
348 43-13-101 et seq.), and that no claim will be submitted for
349 Medicaid reimbursement in the nursing facility in any day or for
350 any patient in the nursing facility. This written agreement by
351 the recipient of the certificate of need shall be a condition of
352 the issuance of the certificate of need under this paragraph, and
353 the agreement shall be fully binding on any subsequent owner of
354 the nursing facility if the ownership of the nursing facility is
355 transferred at any time after the issuance of the certificate of
356 need. After this written agreement is executed, the Division of
357 Medicaid and the State Department of Health shall not certify any
358 of the beds in the nursing facility for participation in the
359 Medicaid program. If the nursing facility violates the terms of
360 the written agreement by admitting or keeping in the nursing
361 facility on a regular or continuing basis any patients who are
362 participating in the Medicaid program, the State Department of
363 Health shall revoke the license of the nursing facility, at the
364 time that the department determines, after a hearing complying
365 with due process, that the nursing facility has violated the
366 condition upon which the certificate of need was issued, as
367 provided in this paragraph and in the written agreement. If the
368 certificate of need authorized under this paragraph is not issued
369 within twelve (12) months after July 1, 2001, the department shall
370 deny the application for the certificate of need and shall not
371 issue the certificate of need at any time after the twelve-month
372 period, unless the issuance is contested. If the certificate of
373 need is issued and substantial construction of the nursing

374 facility beds has not commenced within eighteen (18) months after
375 July 1, 2001, the State Department of Health, after a hearing
376 complying with due process, shall revoke the certificate of need
377 if it is still outstanding, and the department shall not issue a
378 license for the nursing facility at any time after the
379 eighteen-month period. Provided, however, that if the issuance of
380 the certificate of need is contested, the department shall require
381 substantial construction of the nursing facility beds within six
382 (6) months after final adjudication on the issuance of the
383 certificate of need.

384 (n) The department may issue a certificate of need for
385 the new construction, addition or conversion of skilled nursing
386 facility beds in Madison County, provided that the recipient of
387 the certificate of need agrees in writing that the skilled nursing
388 facility will not at any time participate in the Medicaid program
389 (Section 43-13-101 et seq.) or admit or keep any patients in the
390 skilled nursing facility who are participating in the Medicaid
391 program. This written agreement by the recipient of the
392 certificate of need shall be fully binding on any subsequent owner
393 of the skilled nursing facility, if the ownership of the facility
394 is transferred at any time after the issuance of the certificate
395 of need. Agreement that the skilled nursing facility will not
396 participate in the Medicaid program shall be a condition of the
397 issuance of a certificate of need to any person under this
398 paragraph (n), and if such skilled nursing facility at any time
399 after the issuance of the certificate of need, regardless of the
400 ownership of the facility, participates in the Medicaid program or
401 admits or keeps any patients in the facility who are participating
402 in the Medicaid program, the State Department of Health shall
403 revoke the certificate of need, if it is still outstanding, and
404 shall deny or revoke the license of the skilled nursing facility,
405 at the time that the department determines, after a hearing
406 complying with due process, that the facility has failed to comply
407 with any of the conditions upon which the certificate of need was
408 issued, as provided in this paragraph and in the written agreement

409 by the recipient of the certificate of need. The total number of
410 nursing facility beds that may be authorized by any certificate of
411 need issued under this paragraph (n) shall not exceed sixty (60)
412 beds. If the certificate of need authorized under this paragraph
413 is not issued within twelve (12) months after July 1, 1998, the
414 department shall deny the application for the certificate of need
415 and shall not issue the certificate of need at any time after the
416 twelve-month period, unless the issuance is contested. If the
417 certificate of need is issued and substantial construction of the
418 nursing facility beds has not commenced within eighteen (18)
419 months after the effective date of July 1, 1998, the State
420 Department of Health, after a hearing complying with due process,
421 shall revoke the certificate of need if it is still outstanding,
422 and the department shall not issue a license for the nursing
423 facility at any time after the eighteen-month period. Provided,
424 however, that if the issuance of the certificate of need is
425 contested, the department shall require substantial construction
426 of the nursing facility beds within six (6) months after final
427 adjudication on the issuance of the certificate of need.

428 (o) The department may issue a certificate of need for
429 the new construction, addition or conversion of skilled nursing
430 facility beds in Leake County, provided that the recipient of the
431 certificate of need agrees in writing that the skilled nursing
432 facility will not at any time participate in the Medicaid program
433 (Section 43-13-101 et seq.) or admit or keep any patients in the
434 skilled nursing facility who are participating in the Medicaid
435 program. This written agreement by the recipient of the
436 certificate of need shall be fully binding on any subsequent owner
437 of the skilled nursing facility, if the ownership of the facility
438 is transferred at any time after the issuance of the certificate
439 of need. Agreement that the skilled nursing facility will not
440 participate in the Medicaid program shall be a condition of the
441 issuance of a certificate of need to any person under this
442 paragraph (o), and if such skilled nursing facility at any time
443 after the issuance of the certificate of need, regardless of the

444 ownership of the facility, participates in the Medicaid program or
445 admits or keeps any patients in the facility who are participating
446 in the Medicaid program, the State Department of Health shall
447 revoke the certificate of need, if it is still outstanding, and
448 shall deny or revoke the license of the skilled nursing facility,
449 at the time that the department determines, after a hearing
450 complying with due process, that the facility has failed to comply
451 with any of the conditions upon which the certificate of need was
452 issued, as provided in this paragraph and in the written agreement
453 by the recipient of the certificate of need. The total number of
454 nursing facility beds that may be authorized by any certificate of
455 need issued under this paragraph (o) shall not exceed sixty (60)
456 beds. If the certificate of need authorized under this paragraph
457 is not issued within twelve (12) months after July 1, 2001, the
458 department shall deny the application for the certificate of need
459 and shall not issue the certificate of need at any time after the
460 twelve-month period, unless the issuance is contested. If the
461 certificate of need is issued and substantial construction of the
462 nursing facility beds has not commenced within eighteen (18)
463 months after the effective date of July 1, 2001, the State
464 Department of Health, after a hearing complying with due process,
465 shall revoke the certificate of need if it is still outstanding,
466 and the department shall not issue a license for the nursing
467 facility at any time after the eighteen-month period. Provided,
468 however, that if the issuance of the certificate of need is
469 contested, the department shall require substantial construction
470 of the nursing facility beds within six (6) months after final
471 adjudication on the issuance of the certificate of need.

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

479 facility who are participating in the Medicaid program. This
480 written agreement by the recipient of the certificate of need
481 shall be fully binding on any subsequent owner of the skilled
482 nursing facility, if the ownership of the facility is transferred
483 at any time after the issuance of the certificate of need.
484 Agreement that the skilled nursing facility will not participate
485 in the Medicaid program shall be a condition of the issuance of a
486 certificate of need to any person under this paragraph (p), and if
487 such skilled nursing facility at any time after the issuance of
488 the certificate of need, regardless of the ownership of the
489 facility, participates in the Medicaid program or admits or keeps
490 any patients in the facility who are participating in the Medicaid
491 program, the State Department of Health shall revoke the
492 certificate of need, if it is still outstanding, and shall deny or
493 revoke the license of the skilled nursing facility, at the time
494 that the department determines, after a hearing complying with due
495 process, that the facility has failed to comply with any of the
496 conditions upon which the certificate of need was issued, as
497 provided in this paragraph and in the written agreement by the
498 recipient of the certificate of need. The provision of Section
499 43-7-193(1) regarding substantial compliance of the projection of
500 need as reported in the current State Health Plan is waived for
501 the purposes of this paragraph. If the certificate of need
502 authorized under this paragraph is not issued within twelve (12)
503 months after July 1, 1998, the department shall deny the
504 application for the certificate of need and shall not issue the
505 certificate of need at any time after the twelve-month period,
506 unless the issuance is contested. If the certificate of need is
507 issued and substantial construction of the nursing facility beds
508 has not commenced within eighteen (18) months after July 1, 1998,
509 the State Department of Health, after a hearing complying with due
510 process, shall revoke the certificate of need if it is still
511 outstanding, and the department shall not issue a license for the
512 nursing facility at any time after the eighteen-month period.
513 Provided, however, that if the issuance of the certificate of need

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

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

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

549 nursing facility beds in Amite County and a certificate of need
550 for new nursing facility beds in Carroll County.

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

565 (iv) Subject to the provisions of subparagraph
566 (v), the certificate of need issued under subparagraph (ii) for
567 nursing facility beds in the two (2) counties from the state at
568 large during each fiscal year shall first be available for nursing
569 facility beds in the two (2) counties that have the highest need
570 in the state for those beds, as shown in the fiscal year 1999
571 State Health Plan, when considering the need on a statewide basis
572 and without regard to the Long-Term Care Planning Districts in
573 which the counties are located. If there are no applications for
574 a certificate of need for nursing facility beds in either of the
575 two (2) counties having the highest need for those beds on a
576 statewide basis by the date specified by the department, then the
577 certificate of need shall be available for nursing facility beds
578 in other counties from the state at large in descending order of
579 the need for those beds on a statewide basis, from the county with
580 the second highest need to the county with the lowest need, until
581 an application is received for nursing facility beds in an
582 eligible county from the state at large.

583 (v) If a certificate of need is authorized to be
584 issued under this paragraph (q) for nursing facility beds in a
585 county on the basis of the need in the Long-Term Care Planning
586 District during any fiscal year of the four-year period, a
587 certificate of need shall not also be available under this
588 paragraph (q) for additional nursing facility beds in that county
589 on the basis of the need in the state at large, and that county
590 shall be excluded in determining which counties have the highest
591 need for nursing facility beds in the state at large for that
592 fiscal year. After a certificate of need has been issued under
593 this paragraph (q) for nursing facility beds in a county during
594 any fiscal year of the four-year period, a certificate of need
595 shall not be available again under this paragraph (q) for
596 additional nursing facility beds in that county during the
597 four-year period, and that county shall be excluded in determining
598 which counties have the highest need for nursing facility beds in
599 succeeding fiscal years.

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

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

611 2. The county-owned hospital's qualifications
612 for the certificate of need, as shown in its application and as
613 determined by the department, are at least equal to the
614 qualifications of the other applicants for the certificate of
615 need.

616 (r) (i) Beginning on July 1, 1999, the State
617 Department of Health shall issue certificates of need during each

618 of the next two (2) fiscal years for the construction or expansion
619 of nursing facility beds or the conversion of other beds to
620 nursing facility beds in each of the four (4) Long-Term Care
621 Planning Districts designated in the fiscal year 1999 State Health
622 Plan, to provide care exclusively to patients with Alzheimer's
623 disease.

624 (ii) Not more than twenty (20) beds may be
625 authorized by any certificate of need issued under this paragraph
626 (r), and not more than a total of sixty (60) beds may be
627 authorized in any Long-Term Care Planning District by all
628 certificates of need issued under this paragraph (r). However,
629 the total number of beds that may be authorized by all
630 certificates of need issued under this paragraph (r) during any
631 fiscal year shall not exceed one hundred twenty (120) beds, and
632 the total number of beds that may be authorized in any Long-Term
633 Care Planning District during any fiscal year shall not exceed
634 forty (40) beds. Of the certificates of need that are issued for
635 each Long-Term Care Planning District during the next two (2)
636 fiscal years, at least one (1) shall be issued for beds in the
637 northern part of the district, at least one (1) shall be issued
638 for beds in the central part of the district, and at least one (1)
639 shall be issued for beds in the southern part of the district.

640 (iii) The State Department of Health, in
641 consultation with the Department of Mental Health and the Division
642 of Medicaid, shall develop and prescribe the staffing levels,
643 space requirements and other standards and requirements that must
644 be met with regard to the nursing facility beds authorized under
645 this paragraph (r) to provide care exclusively to patients with
646 Alzheimer's disease.

647 (s) The State Department of Health may issue a
648 certificate of need to a nonprofit skilled nursing facility using
649 the Green House model of skilled nursing care and located in Yazoo
650 City, Yazoo County, Mississippi, for the construction, expansion
651 or conversion of not more than nineteen (19) nursing facility
652 beds. For purposes of this paragraph (s), the provisions of

653 Section 41-7-193(1) requiring substantial compliance with the
654 projection of need as reported in the current State Health Plan
655 and the provisions of Section 41-7-197 requiring a formal
656 certificate of need hearing process are waived. There shall be no
657 prohibition or restrictions on participation in the Medicaid
658 program for the person receiving the certificate of need
659 authorized under this paragraph (s).

660 (t) The State Department of Health shall issue
661 certificates of need to the owner of a nursing facility in
662 operation at the time of Hurricane Katrina in Hancock County that
663 was not operational on December 31, 2005, because of damage
664 sustained from Hurricane Katrina to authorize the following: (i)
665 the construction of a new nursing facility in Harrison County;
666 (ii) the relocation of forty-nine (49) nursing facility beds from
667 the Hancock County facility to the new Harrison County facility;
668 (iii) the establishment of not more than twenty (20) non-Medicaid
669 nursing facility beds at the Hancock County facility; and (iv) the
670 establishment of not more than twenty (20) non-Medicaid beds at
671 the new Harrison County facility. The certificates of need that
672 authorize the non-Medicaid nursing facility beds under
673 subparagraphs (iii) and (iv) of this paragraph (t) shall be
674 subject to the following conditions: The owner of the Hancock
675 County facility and the new Harrison County facility must agree in
676 writing that no more than fifty (50) of the beds at the Hancock
677 County facility and no more than forty-nine (49) of the beds at
678 the Harrison County facility will be certified for participation
679 in the Medicaid program, and that no claim will be submitted for
680 Medicaid reimbursement for more than fifty (50) patients in the
681 Hancock County facility in any month, or for more than forty-nine
682 (49) patients in the Harrison County facility in any month, or for
683 any patient in either facility who is in a bed that is not
684 Medicaid-certified. This written agreement by the owner of the
685 nursing facilities shall be a condition of the issuance of the
686 certificates of need under this paragraph (t), and the agreement
687 shall be fully binding on any later owner or owners of either

688 facility if the ownership of either facility is transferred at any
689 time after the certificates of need are issued. After this
690 written agreement is executed, the Division of Medicaid and the
691 State Department of Health shall not certify more than fifty (50)
692 of the beds at the Hancock County facility or more than forty-nine
693 (49) of the beds at the Harrison County facility for participation
694 in the Medicaid program. If the Hancock County facility violates
695 the terms of the written agreement by admitting or keeping in the
696 facility on a regular or continuing basis more than fifty (50)
697 patients who are participating in the Medicaid program, or if the
698 Harrison County facility violates the terms of the written
699 agreement by admitting or keeping in the facility on a regular or
700 continuing basis more than forty-nine (49) patients who are
701 participating in the Medicaid program, the State Department of
702 Health shall revoke the license of the facility that is in
703 violation of the agreement, at the time that the department
704 determines, after a hearing complying with due process, that the
705 facility has violated the agreement.

706 (3) The State Department of Health may grant approval for
707 and issue certificates of need to any person proposing the new
708 construction of, addition to, conversion of beds of or expansion
709 of any health care facility defined in subparagraph (x)
710 (psychiatric residential treatment facility) of Section
711 41-7-173(h). The total number of beds which may be authorized by
712 such certificates of need shall not exceed three hundred
713 thirty-four (334) beds for the entire state.

714 (a) Of the total number of beds authorized under this
715 subsection, the department shall issue a certificate of need to a
716 privately-owned psychiatric residential treatment facility in
717 Simpson County for the conversion of sixteen (16) intermediate
718 care facility for the mentally retarded (ICF-MR) beds to
719 psychiatric residential treatment facility beds, provided that
720 facility agrees in writing that the facility shall give priority
721 for the use of those sixteen (16) beds to Mississippi residents
722 who are presently being treated in out-of-state facilities.

723 (b) Of the total number of beds authorized under this
724 subsection, the department may issue a certificate or certificates
725 of need for the construction or expansion of psychiatric
726 residential treatment facility beds or the conversion of other
727 beds to psychiatric residential treatment facility beds in Warren
728 County, not to exceed sixty (60) psychiatric residential treatment
729 facility beds, provided that the facility agrees in writing that
730 no more than thirty (30) of the beds at the psychiatric
731 residential treatment facility will be certified for participation
732 in the Medicaid program (Section 43-13-101 et seq.) for the use of
733 any patients other than those who are participating only in the
734 Medicaid program of another state, and that no claim will be
735 submitted to the Division of Medicaid for Medicaid reimbursement
736 for more than thirty (30) patients in the psychiatric residential
737 treatment facility in any day or for any patient in the
738 psychiatric residential treatment facility who is in a bed that is
739 not Medicaid-certified. This written agreement by the recipient
740 of the certificate of need shall be a condition of the issuance of
741 the certificate of need under this paragraph, and the agreement
742 shall be fully binding on any subsequent owner of the psychiatric
743 residential treatment facility if the ownership of the facility is
744 transferred at any time after the issuance of the certificate of
745 need. After this written agreement is executed, the Division of
746 Medicaid and the State Department of Health shall not certify more
747 than thirty (30) of the beds in the psychiatric residential
748 treatment facility for participation in the Medicaid program for
749 the use of any patients other than those who are participating
750 only in the Medicaid program of another state. If the psychiatric
751 residential treatment facility violates the terms of the written
752 agreement by admitting or keeping in the facility on a regular or
753 continuing basis more than thirty (30) patients who are
754 participating in the Mississippi Medicaid program, the State
755 Department of Health shall revoke the license of the facility, at
756 the time that the department determines, after a hearing complying
757 with due process, that the facility has violated the condition

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

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

764 (c) Of the total number of beds authorized under this
765 subsection, the department shall issue a certificate of need to a
766 hospital currently operating Medicaid-certified acute psychiatric
767 beds for adolescents in DeSoto County, for the establishment of a
768 forty-bed psychiatric residential treatment facility in DeSoto
769 County, provided that the hospital agrees in writing (i) that the
770 hospital shall give priority for the use of those forty (40) beds
771 to Mississippi residents who are presently being treated in
772 out-of-state facilities, and (ii) that no more than fifteen (15)
773 of the beds at the psychiatric residential treatment facility will
774 be certified for participation in the Medicaid program (Section
775 43-13-101 et seq.), and that no claim will be submitted for
776 Medicaid reimbursement for more than fifteen (15) patients in the
777 psychiatric residential treatment facility in any day or for any
778 patient in the psychiatric residential treatment facility who is
779 in a bed that is not Medicaid-certified. This written agreement
780 by the recipient of the certificate of need shall be a condition
781 of the issuance of the certificate of need under this paragraph,
782 and the agreement shall be fully binding on any subsequent owner
783 of the psychiatric residential treatment facility if the ownership
784 of the facility is transferred at any time after the issuance of
785 the certificate of need. After this written agreement is
786 executed, the Division of Medicaid and the State Department of
787 Health shall not certify more than fifteen (15) of the beds in the
788 psychiatric residential treatment facility for participation in
789 the Medicaid program. If the psychiatric residential treatment
790 facility violates the terms of the written agreement by admitting
791 or keeping in the facility on a regular or continuing basis more
792 than fifteen (15) patients who are participating in the Medicaid

793 program, the State Department of Health shall revoke the license
794 of the facility, at the time that the department determines, after
795 a hearing complying with due process, that the facility has
796 violated the condition upon which the certificate of need was
797 issued, as provided in this paragraph and in the written
798 agreement.

799 (d) Of the total number of beds authorized under this
800 subsection, the department may issue a certificate or certificates
801 of need for the construction or expansion of psychiatric
802 residential treatment facility beds or the conversion of other
803 beds to psychiatric treatment facility beds, not to exceed thirty
804 (30) psychiatric residential treatment facility beds, in either
805 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
806 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

815 (f) The department shall issue a certificate of need to
816 a one-hundred-thirty-four-bed specialty hospital located on
817 twenty-nine and forty-four one-hundredths (29.44) commercial acres
818 at 5900 Highway 39 North in Meridian (Lauderdale County),
819 Mississippi, for the addition, construction or expansion of
820 child/adolescent psychiatric residential treatment facility beds
821 in Lauderdale County. As a condition of issuance of the
822 certificate of need under this paragraph, the facility shall give
823 priority in admissions to the child/adolescent psychiatric
824 residential treatment facility beds authorized under this
825 paragraph to patients who otherwise would require out-of-state
826 placement. The Division of Medicaid, in conjunction with the
827 Department of Human Services, shall furnish the facility a list of

828 all out-of-state patients on a quarterly basis. Furthermore,
829 notice shall also be provided to the parent, custodial parent or
830 guardian of each out-of-state patient notifying them of the
831 priority status granted by this paragraph. For purposes of this
832 paragraph, the provisions of Section 41-7-193(1) requiring
833 substantial compliance with the projection of need as reported in
834 the current State Health Plan are waived. The total number of
835 child/adolescent psychiatric residential treatment facility beds
836 that may be authorized under the authority of this paragraph shall
837 be sixty (60) beds. There shall be no prohibition or restrictions
838 on participation in the Medicaid program (Section 43-13-101 et
839 seq.) for the person receiving the certificate of need authorized
840 under this paragraph or for the beds converted pursuant to the
841 authority of that certificate of need.

842 (4) (a) From and after July 1, 1993, the department shall
843 not issue a certificate of need to any person for the new
844 construction of any hospital, psychiatric hospital or chemical
845 dependency hospital that will contain any child/adolescent
846 psychiatric or child/adolescent chemical dependency beds, or for
847 the conversion of any other health care facility to a hospital,
848 psychiatric hospital or chemical dependency hospital that will
849 contain any child/adolescent psychiatric or child/adolescent
850 chemical dependency beds, or for the addition of any
851 child/adolescent psychiatric or child/adolescent chemical
852 dependency beds in any hospital, psychiatric hospital or chemical
853 dependency hospital, or for the conversion of any beds of another
854 category in any hospital, psychiatric hospital or chemical
855 dependency hospital to child/adolescent psychiatric or
856 child/adolescent chemical dependency beds, except as hereinafter
857 authorized:

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

863 certificate of need and the owner of the hospital, psychiatric
864 hospital or chemical dependency hospital agrees in writing that
865 the hospital, psychiatric hospital or chemical dependency hospital
866 will not at any time participate in the Medicaid program or admit
867 or keep any patients who are participating in the Medicaid program
868 in the hospital, psychiatric hospital or chemical dependency
869 hospital. This written agreement by the recipient of the
870 certificate of need shall be fully binding on any subsequent owner
871 of the hospital, psychiatric hospital or chemical dependency
872 hospital, if the ownership of the facility is transferred at any
873 time after the issuance of the certificate of need. Agreement
874 that the hospital, psychiatric hospital or chemical dependency
875 hospital will not participate in the Medicaid program shall be a
876 condition of the issuance of a certificate of need to any person
877 under this subparagraph (a)(i), and if such hospital, psychiatric
878 hospital or chemical dependency hospital at any time after the
879 issuance of the certificate of need, regardless of the ownership
880 of the facility, participates in the Medicaid program or admits or
881 keeps any patients in the hospital, psychiatric hospital or
882 chemical dependency hospital who are participating in the Medicaid
883 program, the State Department of Health shall revoke the
884 certificate of need, if it is still outstanding, and shall deny or
885 revoke the license of the hospital, psychiatric hospital or
886 chemical dependency hospital, at the time that the department
887 determines, after a hearing complying with due process, that the
888 hospital, psychiatric hospital or chemical dependency hospital has
889 failed to comply with any of the conditions upon which the
890 certificate of need was issued, as provided in this subparagraph
891 and in the written agreement by the recipient of the certificate
892 of need.

893 (ii) The department may issue a certificate of
894 need for the conversion of existing beds in a county hospital in
895 Choctaw County from acute care beds to child/adolescent chemical
896 dependency beds. For purposes of this subparagraph, the
897 provisions of Section 41-7-193(1) requiring substantial compliance

898 with the projection of need as reported in the current State
899 Health Plan is waived. The total number of beds that may be
900 authorized under authority of this subparagraph shall not exceed
901 twenty (20) beds. There shall be no prohibition or restrictions
902 on participation in the Medicaid program (Section 43-13-101 et
903 seq.) for the hospital receiving the certificate of need
904 authorized under this subparagraph (a)(ii) or for the beds
905 converted pursuant to the authority of that certificate of need.

906 (iii) The department may issue a certificate or
907 certificates of need for the construction or expansion of
908 child/adolescent psychiatric beds or the conversion of other beds
909 to child/adolescent psychiatric beds in Warren County. For
910 purposes of this subparagraph, the provisions of Section
911 41-7-193(1) requiring substantial compliance with the projection
912 of need as reported in the current State Health Plan are waived.
913 The total number of beds that may be authorized under the
914 authority of this subparagraph shall not exceed twenty (20) beds.
915 There shall be no prohibition or restrictions on participation in
916 the Medicaid program (Section 43-13-101 et seq.) for the person
917 receiving the certificate of need authorized under this
918 subparagraph (a)(iii) or for the beds converted pursuant to the
919 authority of that certificate of need.

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

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

933 construction or expansion of child/adolescent psychiatric beds or
934 the conversion of other beds to child/adolescent psychiatric beds
935 in any of the counties served by the commission. For purposes of
936 this subparagraph, the provisions of Section 41-7-193(1) requiring
937 substantial compliance with the projection of need as reported in
938 the current State Health Plan is waived. The total number of beds
939 that may be authorized under the authority of this subparagraph
940 shall not exceed twenty (20) beds. There shall be no prohibition
941 or restrictions on participation in the Medicaid program (Section
942 43-13-101 et seq.) for the person receiving the certificate of
943 need authorized under this subparagraph (a)(iv) or for the beds
944 converted pursuant to the authority of that certificate of need.

945 (v) The department may issue a certificate of need
946 to any county hospital located in Leflore County for the
947 construction or expansion of adult psychiatric beds or the
948 conversion of other beds to adult psychiatric beds, not to exceed
949 twenty (20) beds, provided that the recipient of the certificate
950 of need agrees in writing that the adult psychiatric beds will not
951 at any time be certified for participation in the Medicaid program
952 and that the hospital will not admit or keep any patients who are
953 participating in the Medicaid program in any of such adult
954 psychiatric beds. This written agreement by the recipient of the
955 certificate of need shall be fully binding on any subsequent owner
956 of the hospital if the ownership of the hospital is transferred at
957 any time after the issuance of the certificate of need. Agreement
958 that the adult psychiatric beds will not be certified for
959 participation in the Medicaid program shall be a condition of the
960 issuance of a certificate of need to any person under this
961 subparagraph (a)(v), and if such hospital at any time after the
962 issuance of the certificate of need, regardless of the ownership
963 of the hospital, has any of such adult psychiatric beds certified
964 for participation in the Medicaid program or admits or keeps any
965 Medicaid patients in such adult psychiatric beds, the State
966 Department of Health shall revoke the certificate of need, if it
967 is still outstanding, and shall deny or revoke the license of the

968 hospital at the time that the department determines, after a
969 hearing complying with due process, that the hospital has failed
970 to comply with any of the conditions upon which the certificate of
971 need was issued, as provided in this subparagraph and in the
972 written agreement by the recipient of the certificate of need.

973 (vi) The department may issue a certificate or
974 certificates of need for the expansion of child psychiatric beds
975 or the conversion of other beds to child psychiatric beds at the
976 University of Mississippi Medical Center. For purposes of this
977 subparagraph (a)(vi), the provision of Section 41-7-193(1)
978 requiring substantial compliance with the projection of need as
979 reported in the current State Health Plan is waived. The total
980 number of beds that may be authorized under the authority of this
981 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
982 shall be no prohibition or restrictions on participation in the
983 Medicaid program (Section 43-13-101 et seq.) for the hospital
984 receiving the certificate of need authorized under this
985 subparagraph (a)(vi) or for the beds converted pursuant to the
986 authority of that certificate of need.

987 (b) From and after July 1, 1990, no hospital,
988 psychiatric hospital or chemical dependency hospital shall be
989 authorized to add any child/adolescent psychiatric or
990 child/adolescent chemical dependency beds or convert any beds of
991 another category to child/adolescent psychiatric or
992 child/adolescent chemical dependency beds without a certificate of
993 need under the authority of subsection (1)(c) of this section.

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

997 (6) The State Department of Health shall issue a certificate
998 of need to a Mississippi corporation qualified to manage a
999 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1000 Harrison County, not to exceed eighty (80) beds, including any
1001 necessary renovation or construction required for licensure and
1002 certification, provided that the recipient of the certificate of

1003 need agrees in writing that the long-term care hospital will not
1004 at any time participate in the Medicaid program (Section 43-13-101
1005 et seq.) or admit or keep any patients in the long-term care
1006 hospital who are participating in the Medicaid program. This
1007 written agreement by the recipient of the certificate of need
1008 shall be fully binding on any subsequent owner of the long-term
1009 care hospital, if the ownership of the facility is transferred at
1010 any time after the issuance of the certificate of need. Agreement
1011 that the long-term care hospital will not participate in the
1012 Medicaid program shall be a condition of the issuance of a
1013 certificate of need to any person under this subsection (6), and
1014 if such long-term care hospital at any time after the issuance of
1015 the certificate of need, regardless of the ownership of the
1016 facility, participates in the Medicaid program or admits or keeps
1017 any patients in the facility who are participating in the Medicaid
1018 program, the State Department of Health shall revoke the
1019 certificate of need, if it is still outstanding, and shall deny or
1020 revoke the license of the long-term care hospital, at the time
1021 that the department determines, after a hearing complying with due
1022 process, that the facility has failed to comply with any of the
1023 conditions upon which the certificate of need was issued, as
1024 provided in this subsection and in the written agreement by the
1025 recipient of the certificate of need. For purposes of this
1026 subsection, the provision of Section 41-7-193(1) requiring
1027 substantial compliance with the projection of need as reported in
1028 the current State Health Plan is hereby waived.

1029 (7) The State Department of Health may issue a certificate
1030 of need to any hospital in the state to utilize a portion of its
1031 beds for the "swing-bed" concept. Any such hospital must be in
1032 conformance with the federal regulations regarding such swing-bed
1033 concept at the time it submits its application for a certificate
1034 of need to the State Department of Health, except that such
1035 hospital may have more licensed beds or a higher average daily
1036 census (ADC) than the maximum number specified in federal
1037 regulations for participation in the swing-bed program. Any

1038 hospital meeting all federal requirements for participation in the
1039 swing-bed program which receives such certificate of need shall
1040 render services provided under the swing-bed concept to any
1041 patient eligible for Medicare (Title XVIII of the Social Security
1042 Act) who is certified by a physician to be in need of such
1043 services, and no such hospital shall permit any patient who is
1044 eligible for both Medicaid and Medicare or eligible only for
1045 Medicaid to stay in the swing beds of the hospital for more than
1046 thirty (30) days per admission unless the hospital receives prior
1047 approval for such patient from the Division of Medicaid, Office of
1048 the Governor. Any hospital having more licensed beds or a higher
1049 average daily census (ADC) than the maximum number specified in
1050 federal regulations for participation in the swing-bed program
1051 which receives such certificate of need shall develop a procedure
1052 to insure that before a patient is allowed to stay in the swing
1053 beds of the hospital, there are no vacant nursing home beds
1054 available for that patient located within a fifty-mile radius of
1055 the hospital. When any such hospital has a patient staying in the
1056 swing beds of the hospital and the hospital receives notice from a
1057 nursing home located within such radius that there is a vacant bed
1058 available for that patient, the hospital shall transfer the
1059 patient to the nursing home within a reasonable time after receipt
1060 of the notice. Any hospital which is subject to the requirements
1061 of the two (2) preceding sentences of this subsection may be
1062 suspended from participation in the swing-bed program for a
1063 reasonable period of time by the State Department of Health if the
1064 department, after a hearing complying with due process, determines
1065 that the hospital has failed to comply with any of those
1066 requirements.

1067 (8) The Department of Health shall not grant approval for or
1068 issue a certificate of need to any person proposing the new
1069 construction of, addition to or expansion of a health care
1070 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1071 except as hereinafter provided: The department may issue a
1072 certificate of need to a nonprofit corporation located in Madison

1073 County, Mississippi, for the construction, expansion or conversion
1074 of not more than twenty (20) beds in a community living program
1075 for developmentally disabled adults in a facility as defined in
1076 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1077 subsection (8), the provisions of Section 41-7-193(1) requiring
1078 substantial compliance with the projection of need as reported in
1079 the current State Health Plan and the provisions of Section
1080 41-7-197 requiring a formal certificate of need hearing process
1081 are waived. There shall be no prohibition or restrictions on
1082 participation in the Medicaid program for the person receiving the
1083 certificate of need authorized under this subsection (8).

1084 (9) The Department of Health shall not grant approval for or
1085 issue a certificate of need to any person proposing the
1086 establishment of, or expansion of the currently approved territory
1087 of, or the contracting to establish a home office, subunit or
1088 branch office within the space operated as a health care facility
1089 as defined in Section 41-7-173(h)(i) through (viii) by a health
1090 care facility as defined in subparagraph (ix) of Section
1091 41-7-173(h).

1092 (10) Health care facilities owned and/or operated by the
1093 state or its agencies are exempt from the restraints in this
1094 section against issuance of a certificate of need if such addition
1095 or expansion consists of repairing or renovation necessary to
1096 comply with the state licensure law. This exception shall not
1097 apply to the new construction of any building by such state
1098 facility. This exception shall not apply to any health care
1099 facilities owned and/or operated by counties, municipalities,
1100 districts, unincorporated areas, other defined persons, or any
1101 combination thereof.

1102 (11) The new construction, renovation or expansion of or
1103 addition to any health care facility defined in subparagraph (ii)
1104 (psychiatric hospital), subparagraph (iv) (skilled nursing
1105 facility), subparagraph (vi) (intermediate care facility),
1106 subparagraph (viii) (intermediate care facility for the mentally
1107 retarded) and subparagraph (x) (psychiatric residential treatment

1108 facility) of Section 41-7-173(h) which is owned by the State of
1109 Mississippi and under the direction and control of the State
1110 Department of Mental Health, and the addition of new beds or the
1111 conversion of beds from one category to another in any such
1112 defined health care facility which is owned by the State of
1113 Mississippi and under the direction and control of the State
1114 Department of Mental Health, shall not require the issuance of a
1115 certificate of need under Section 41-7-171 et seq.,
1116 notwithstanding any provision in Section 41-7-171 et seq. to the
1117 contrary.

1118 (12) The new construction, renovation or expansion of or
1119 addition to any veterans homes or domiciliaries for eligible
1120 veterans of the State of Mississippi as authorized under Section
1121 35-1-19 shall not require the issuance of a certificate of need,
1122 notwithstanding any provision in Section 41-7-171 et seq. to the
1123 contrary.

1124 (13) The new construction of a nursing facility or nursing
1125 facility beds or the conversion of other beds to nursing facility
1126 beds shall not require the issuance of a certificate of need,
1127 notwithstanding any provision in Section 41-7-171 et seq. to the
1128 contrary, if the conditions of this subsection are met.

1129 (a) Before any construction or conversion may be
1130 undertaken without a certificate of need, the owner of the nursing
1131 facility, in the case of an existing facility, or the applicant to
1132 construct a nursing facility, in the case of new construction,
1133 first must file a written notice of intent and sign a written
1134 agreement with the State Department of Health that the entire
1135 nursing facility will not at any time participate in or have any
1136 beds certified for participation in the Medicaid program (Section
1137 43-13-101 et seq.), will not admit or keep any patients in the
1138 nursing facility who are participating in the Medicaid program,
1139 and will not submit any claim for Medicaid reimbursement for any
1140 patient in the facility. This written agreement by the owner or
1141 applicant shall be a condition of exercising the authority under
1142 this subsection without a certificate of need, and the agreement

1143 shall be fully binding on any subsequent owner of the nursing
1144 facility if the ownership of the facility is transferred at any
1145 time after the agreement is signed. After the written agreement
1146 is signed, the Division of Medicaid and the State Department of
1147 Health shall not certify any beds in the nursing facility for
1148 participation in the Medicaid program. If the nursing facility
1149 violates the terms of the written agreement by participating in
1150 the Medicaid program, having any beds certified for participation
1151 in the Medicaid program, admitting or keeping any patient in the
1152 facility who is participating in the Medicaid program, or
1153 submitting any claim for Medicaid reimbursement for any patient in
1154 the facility, the State Department of Health shall revoke the
1155 license of the nursing facility at the time that the department
1156 determines, after a hearing complying with due process, that the
1157 facility has violated the terms of the written agreement.

1158 (b) For the purposes of this subsection, participation
1159 in the Medicaid program by a nursing facility includes Medicaid
1160 reimbursement of coinsurance and deductibles for recipients who
1161 are qualified Medicare beneficiaries and/or those who are dually
1162 eligible. Any nursing facility exercising the authority under
1163 this subsection may not bill or submit a claim to the Division of
1164 Medicaid for services to qualified Medicare beneficiaries and/or
1165 those who are dually eligible.

1166 (c) The new construction of a nursing facility or
1167 nursing facility beds or the conversion of other beds to nursing
1168 facility beds described in this section must be either a part of a
1169 completely new continuing care retirement community, as described
1170 in the latest edition of the Mississippi State Health Plan, or an
1171 addition to existing personal care and independent living
1172 components, and so that the completed project will be a continuing
1173 care retirement community, containing (i) independent living
1174 accommodations, (ii) personal care beds, and (iii) the nursing
1175 home facility beds. The three (3) components must be located on a
1176 single site and be operated as one (1) inseparable facility. The
1177 nursing facility component must contain a minimum of thirty (30)

1178 beds. Any nursing facility beds authorized by this section will
1179 not be counted against the bed need set forth in the State Health
1180 Plan, as identified in Section 41-7-171 et seq.

1181 This subsection (13) shall stand repealed from and after July
1182 1, 2005.

1183 (14) The State Department of Health shall issue a
1184 certificate of need to any hospital which is currently licensed
1185 for two hundred fifty (250) or more acute care beds and is located
1186 in any general hospital service area not having a comprehensive
1187 cancer center, for the establishment and equipping of such a
1188 center which provides facilities and services for outpatient
1189 radiation oncology therapy, outpatient medical oncology therapy,
1190 and appropriate support services including the provision of
1191 radiation therapy services. The provision of Section 41-7-193(1)
1192 regarding substantial compliance with the projection of need as
1193 reported in the current State Health Plan is waived for the
1194 purpose of this subsection.

1195 (15) The State Department of Health may authorize the
1196 transfer of hospital beds, not to exceed sixty (60) beds, from the
1197 North Panola Community Hospital to the South Panola Community
1198 Hospital. The authorization for the transfer of those beds shall
1199 be exempt from the certificate of need review process.

1200 (16) The State Department of Health shall issue any
1201 certificates of need necessary for Mississippi State University
1202 and a public or private health care provider to jointly acquire
1203 and operate a linear accelerator and a magnetic resonance imaging
1204 unit. Those certificates of need shall cover all capital
1205 expenditures related to the project between Mississippi State
1206 University and the health care provider, including, but not
1207 limited to, the acquisition of the linear accelerator, the
1208 magnetic resonance imaging unit and other radiological modalities;
1209 the offering of linear accelerator and magnetic resonance imaging
1210 services; and the cost of construction of facilities in which to
1211 locate these services. The linear accelerator and the magnetic
1212 resonance imaging unit shall be (a) located in the City of

1213 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1214 Mississippi State University and the public or private health care
1215 provider selected by Mississippi State University through a
1216 request for proposals (RFP) process in which Mississippi State
1217 University selects, and the Board of Trustees of State
1218 Institutions of Higher Learning approves, the health care provider
1219 that makes the best overall proposal; (c) available to Mississippi
1220 State University for research purposes two-thirds (2/3) of the
1221 time that the linear accelerator and magnetic resonance imaging
1222 unit are operational; and (d) available to the public or private
1223 health care provider selected by Mississippi State University and
1224 approved by the Board of Trustees of State Institutions of Higher
1225 Learning one-third (1/3) of the time for clinical, diagnostic and
1226 treatment purposes. For purposes of this subsection, the
1227 provisions of Section 41-7-193(1) requiring substantial compliance
1228 with the projection of need as reported in the current State
1229 Health Plan are waived.

1230 (17) Nothing in this section or in any other provision of
1231 Section 41-7-171 et seq. shall prevent any nursing facility from
1232 designating an appropriate number of existing beds in the facility
1233 as beds for providing care exclusively to patients with
1234 Alzheimer's disease.

1235 **SECTION 2.** The State Board of Health shall, not later than
1236 October 15, 2006, develop and make a report to the Chairmen of the
1237 Public Health and Welfare Committees of the Senate and House of
1238 Representatives, the Lieutenant Governor, the Speaker of the House
1239 of Representatives and the Governor, including any recommended
1240 legislation, on the following policies and procedures relating to
1241 the State Health Plan and the Health Care Facility Certificate of
1242 Need Law:

1243 (a) Review the procedures under which health care
1244 facility certificates of need are requested and issued or denied.
1245 Make reasonable recommendations (i) to reduce the time periods
1246 required for certificate of need review and appeal therefrom
1247 without compromising the fairness of the decision; (ii) to exempt

1248 additional nonsubstantive transactions by health care facilities
1249 from the certificate of need requirement; and (iii) to authorize
1250 additional transactions by health care facilities which may
1251 receive an expedited review.

1252 (b) Verify the fairness of how the annual State Health
1253 Plan considers changing population projections and how residents
1254 choose health care services.

1255 (c) Verify the fairness of how the annual State Health
1256 Plan considers that residents travel to neighboring states to
1257 receive health care services.

1258 (d) Verify the fairness of the different planning
1259 districts applicable to each type of health care certificate of
1260 need activity by a facility. For example, General Hospital
1261 Service Areas compared to Long-Term Care Planning Districts,
1262 compared to Ambulatory Surgical Planning Areas, compared to Home
1263 Health Agency Planning Areas, compared to Perinatal Planning
1264 Areas, compared to Adolescent and Adult Psychiatric Facility
1265 Planning Areas, etc.

1266 (e) Verify the fairness and appropriateness of the
1267 formulas used to determine the need for health care services under
1268 the certificate of need law.

1269 (f) Review the existence of licensed beds listed in the
1270 Directory of Licensed Health Care Facilities which are unused and
1271 available for transfer to another facility or location under the
1272 certificate of need process, and the effect of these unused beds
1273 on the State Health Plan.

1274 **SECTION 3.** This act shall take effect and be in force from
1275 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 NURSING FACILITY BEDS TO A NONPROFIT SKILLED NURSING FACILITY
4 CONSTRUCTING A "GREEN HOUSE MODEL" CAMPUS TO BE LOCATED IN YAZOO
5 CITY, MISSISSIPPI; TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE
6 CERTIFICATE OF NEED FOR ICFMR BEDS IN A COMMUNITY LIVING PROGRAM
7 FOR DEVELOPMENTALLY DISABLED ADULTS TO BE LOCATED IN MADISON
8 COUNTY, MISSISSIPPI; TO PROVIDE THAT THE REOPENING OF A HEALTH

9 CARE FACILITY WHICH HAS CEASED TO OPERATE FOR 60 MONTHS REQUIRES A
10 CERTIFICATE OF NEED; TO REVISE THE DEFINITION OF NEW HEALTH
11 SERVICES REQUIRING A CERTIFICATE OF NEED; TO REVISE THE DEFINITION
12 OF RELOCATION OF HEALTH SERVICES REQUIRING A CERTIFICATE OF NEED
13 AND TO PROVIDE THAT THE REPLACEMENT OR RELOCATION OF A CRITICAL
14 ACCESS HOSPITAL IS EXEMPT FROM CERTIFICATE OF NEED REVIEW; TO
15 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE
16 CERTIFICATES OF NEED TO THE OWNER OF A NURSING FACILITY IN
17 OPERATION AT THE TIME OF HURRICANE KATRINA IN HANCOCK COUNTY THAT
18 WAS NOT OPERATIONAL ON DECEMBER 31, 2005, BECAUSE OF DAMAGE
19 SUSTAINED FROM HURRICANE KATRINA TO AUTHORIZE THE CONSTRUCTION OF
20 A NEW NURSING FACILITY IN HARRISON COUNTY, THE RELOCATION OF
21 FORTY-NINE NURSING FACILITY BEDS FROM THE HANCOCK COUNTY FACILITY
22 TO THE NEW HARRISON COUNTY FACILITY, THE ESTABLISHMENT OF NOT MORE
23 THAN TWENTY NON-MEDICAID NURSING FACILITY BEDS AT THE HANCOCK
24 COUNTY FACILITY, AND THE ESTABLISHMENT OF NOT MORE THAN TWENTY
25 NON-MEDICAID BEDS AT THE NEW HARRISON COUNTY FACILITY; TO PROVIDE
26 THAT THE CERTIFICATES OF NEED FOR THE NON-MEDICAID NURSING
27 FACILITY BEDS SHALL BE SUBJECT TO THE CONDITION THAT THOSE BEDS
28 SHALL ALWAYS BE NON-MEDICAID BEDS OR THE DEPARTMENT WILL REVOKE
29 THE LICENSE OF THE FACILITY THAT VIOLATES THAT CONDITION; TO
30 DIRECT THE STATE BOARD OF HEALTH TO DEVELOP AND MAKE CERTAIN
31 REPORTS AND RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE STATE
32 HEALTH PLAN AND THE CERTIFICATE OF NEED PROCESS; AND FOR RELATED
33 PURPOSES.

SS26\HB1221A.1J

John O. Gilbert
Secretary of the Senate