

By: Representatives Woods, Baker (8th),
Hamilton (6th), Mayhall

To: Public Health and Human
Services

HOUSE BILL NO. 629

1 AN ACT TO AMEND SECTIONS 41-7-173, MISSISSIPPI CODE OF 1972,
2 TO REMOVE ALL HOSPITALS OTHER THAN SPECIALTY HOSPITALS FROM THE
3 APPLICATION OF THE HEALTH CARE CERTIFICATE OF NEED LAW; TO AMEND
4 SECTIONS 41-7-190, 41-7-191, 41-7-201, 41-7-202, 41-9-210 AND
5 41-63-4, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
6 PROVISION; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
9 amended as follows:

10 41-7-173. For the purposes of Section 41-7-171 et seq., the
11 following words shall have the meanings ascribed in this section,
12 unless the context otherwise requires:

13 (a) "Affected person" means (i) the applicant; (ii) a
14 person residing within the geographic area to be served by the
15 applicant's proposal; (iii) a person who regularly uses health
16 care facilities or HMO's located in the geographic area of the
17 proposal which provide similar service to that which is proposed;
18 (iv) health care facilities and HMO's which have, prior to receipt
19 of the application under review, formally indicated an intention
20 to provide service similar to that of the proposal being
21 considered at a future date; (v) third-party payers who reimburse
22 health care facilities located in the geographical area of the
23 proposal; or (vi) any agency that establishes rates for health
24 care services or HMO's located in the geographic area of the
25 proposal.

26 (b) "Certificate of need" means a written order of the
27 State Department of Health setting forth the affirmative finding
28 that a proposal in prescribed application form, sufficiently
29 satisfies the plans, standards and criteria prescribed for such

30 service or other project by Section 41-7-171 et seq., and by rules
31 and regulations promulgated thereunder by the State Department of
32 Health.

33 (c) (i) "Capital expenditure" when pertaining to
34 defined major medical equipment, shall mean an expenditure which,
35 under generally accepted accounting principles consistently
36 applied, is not properly chargeable as an expense of operation and
37 maintenance and which exceeds One Million Five Hundred Thousand
38 Dollars (\$1,500,000.00).

39 (ii) "Capital expenditure," when pertaining to
40 other than major medical equipment, shall mean any expenditure
41 which under generally accepted accounting principles consistently
42 applied is not properly chargeable as an expense of operation and
43 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

44 (iii) A "capital expenditure" shall include the
45 acquisition, whether by lease, sufferance, gift, devise, legacy,
46 settlement of a trust or other means, of any facility or part
47 thereof, or equipment for a facility, the expenditure for which
48 would have been considered a capital expenditure if acquired by
49 purchase. Transactions which are separated in time but are
50 planned to be undertaken within twelve (12) months of each other
51 and are components of an overall plan for meeting patient care
52 objectives shall, for purposes of this definition, be viewed in
53 their entirety without regard to their timing.

54 (iv) In those instances where a health care
55 facility or other provider of health services proposes to provide
56 a service in which the capital expenditure for major medical
57 equipment or other than major medical equipment or a combination
58 of the two (2) may have been split between separate parties, the
59 total capital expenditure required to provide the proposed service
60 shall be considered in determining the necessity of certificate of
61 need review and in determining the appropriate certificate of need
62 review fee to be paid. The capital expenditure associated with

63 facilities and equipment to provide services in Mississippi shall
64 be considered regardless of where the capital expenditure was
65 made, in state or out of state, and regardless of the domicile of
66 the party making the capital expenditure, in state or out of
67 state.

68 (d) "Change of ownership" includes, but is not limited
69 to, inter vivos gifts, purchases, transfers, lease arrangements,
70 cash and/or stock transactions or other comparable arrangements
71 whenever any person or entity acquires or controls a majority
72 interest of the facility or service. Changes of ownership from
73 partnerships, single proprietorships or corporations to another
74 form of ownership are specifically included. However, "change of
75 ownership" shall not include any inherited interest acquired as a
76 result of a testamentary instrument or under the laws of descent
77 and distribution of the State of Mississippi.

78 (e) "Commencement of construction" means that all of
79 the following have been completed with respect to a proposal or
80 project proposing construction, renovating, remodeling or
81 alteration:

82 (i) A legally binding written contract has been
83 consummated by the proponent and a lawfully licensed contractor to
84 construct and/or complete the intent of the proposal within a
85 specified period of time in accordance with final architectural
86 plans which have been approved by the licensing authority of the
87 State Department of Health;

88 (ii) Any and all permits and/or approvals deemed
89 lawfully necessary by all authorities with responsibility for such
90 have been secured; and

91 (iii) Actual bona fide undertaking of the subject
92 proposal has commenced, and a progress payment of at least one
93 percent (1%) of the total cost price of the contract has been paid
94 to the contractor by the proponent, and the requirements of this

95 paragraph (e) have been certified to in writing by the State
96 Department of Health.

97 Force account expenditures, such as deposits, securities,
98 bonds, et cetera, may, in the discretion of the State Department
99 of Health, be excluded from any or all of the provisions of
100 defined commencement of construction.

101 (f) "Consumer" means an individual who is not a
102 provider of health care as defined in paragraph (q) of this
103 section.

104 (g) "Develop," when used in connection with health
105 services, means to undertake those activities which, on their
106 completion, will result in the offering of a new institutional
107 health service or the incurring of a financial obligation as
108 defined under applicable state law in relation to the offering of
109 such services.

110 (h) "Health care facility" includes * * * psychiatric
111 hospitals, chemical dependency hospitals, skilled nursing
112 facilities, end stage renal disease (ESRD) facilities, including
113 freestanding hemodialysis units, intermediate care facilities,
114 ambulatory surgical facilities, intermediate care facilities for
115 the mentally retarded, home health agencies, psychiatric
116 residential treatment facilities, pediatric skilled nursing
117 facilities, long-term care hospitals, comprehensive medical
118 rehabilitation facilities, including facilities owned or operated
119 by the state or a political subdivision or instrumentality of the
120 state, but does not include Christian Science sanatoriums operated
121 or listed and certified by the First Church of Christ, Scientist,
122 Boston, Massachusetts, and does not include hospitals other than
123 those types of hospitals defined in this paragraph (h). This
124 definition shall not apply to facilities for the private practice,
125 either independently or by incorporated medical groups, of
126 physicians, dentists or health care professionals except where
127 those facilities are an integral part of an institutional health

128 service. The various health care facilities listed in this
129 paragraph shall be defined as follows:

130 * * *

131 (i) "Psychiatric hospital" means an institution
132 that is primarily engaged in providing to inpatients, by or under
133 the supervision of a physician, psychiatric services for the
134 diagnosis and treatment of mentally ill persons.

135 (ii) "Chemical dependency hospital" means an
136 institution that is primarily engaged in providing to inpatients,
137 by or under the supervision of a physician, medical and related
138 services for the diagnosis and treatment of chemical dependency
139 such as alcohol and drug abuse.

140 (iii) "Skilled nursing facility" means an
141 institution or a distinct part of an institution that is primarily
142 engaged in providing to inpatients skilled nursing care and
143 related services for patients who require medical or nursing care
144 or rehabilitation services for the rehabilitation of injured,
145 disabled or sick persons.

146 (iv) "End stage renal disease (ESRD) facilities"
147 means kidney disease treatment centers, which includes
148 freestanding hemodialysis units and limited care facilities. The
149 term "limited care facility" generally refers to an
150 off-hospital-premises facility, regardless of whether it is
151 provider or nonprovider operated, that is engaged primarily in
152 furnishing maintenance hemodialysis services to stabilized
153 patients.

154 (v) "Intermediate care facility" means an
155 institution that provides, on a regular basis, health related care
156 and services to individuals who do not require the degree of care
157 and treatment that a hospital or skilled nursing facility is
158 designed to provide, but who, because of their mental or physical
159 condition, require health related care and services (above the
160 level of room and board).

161 (vi) "Ambulatory surgical facility" means a
162 facility primarily organized or established for the purpose of
163 performing surgery for outpatients and is a separate identifiable
164 legal entity from any other health care facility. This term does
165 not include the offices of private physicians or dentists, whether
166 for individual or group practice, and does not include any
167 abortion facility as defined in Section 41-75-1(e).

168 (vii) "Intermediate care facility for the mentally
169 retarded" means an intermediate care facility that provides health
170 or rehabilitative services in a planned program of activities to
171 the mentally retarded, also including, but not limited to,
172 cerebral palsy and other conditions covered by the Federal
173 Developmentally Disabled Assistance and Bill of Rights Act, Public
174 Law 94-103.

175 (viii) "Home health agency" means a public or
176 privately owned agency or organization, or a subdivision of such
177 an agency or organization, properly authorized to conduct business
178 in Mississippi, that is primarily engaged in providing to
179 individuals at the written direction of a licensed physician, in
180 the individual's place of residence, skilled nursing services
181 provided by or under the supervision of a registered nurse
182 licensed to practice in Mississippi, and one or more of the
183 following services or items:

- 184 1. Physical, occupational or speech therapy;
- 185 2. Medical social services;
- 186 3. Part-time or intermittent services of a
187 home health aide;
- 188 4. Other services as approved by the
189 licensing agency for home health agencies;
- 190 5. Medical supplies, other than drugs and
191 biologicals, and the use of medical appliances; or

192 6. Medical services provided by an intern or
193 resident-in-training at a hospital under a teaching program of
194 the hospital.

195 Further, all skilled nursing services and those services
196 listed in items 1. through 4. of this subparagraph (viii) must be
197 provided directly by the licensed home health agency. For
198 purposes of this subparagraph, "directly" means either through an
199 agency employee or by an arrangement with another individual not
200 defined as a health care facility.

201 This subparagraph (viii) shall not apply to health care
202 facilities that had contracts for the above services with a home
203 health agency on January 1, 1990.

204 (ix) "Psychiatric residential treatment facility"
205 means any nonhospital establishment with permanent licensed
206 facilities that provides a twenty-four-hour program of care by
207 qualified therapists including, but not limited to, duly licensed
208 mental health professionals, psychiatrists, psychologists,
209 psychotherapists and licensed certified social workers, for
210 emotionally disturbed children and adolescents referred to the
211 facility by a court, local school district or by the Department of
212 Human Services, who are not in an acute phase of illness requiring
213 the services of a psychiatric hospital, and are in need of those
214 restorative treatment services. For purposes of this paragraph,
215 the term "emotionally disturbed" means a condition exhibiting one
216 or more of the following characteristics over a long period of
217 time and to a marked degree, that adversely affects educational
218 performance:

219 1. An inability to learn that cannot be
220 explained by intellectual, sensory or health factors;

221 2. An inability to build or maintain
222 satisfactory relationships with peers and teachers;

223 3. Inappropriate types of behavior or
224 feelings under normal circumstances;

225 4. A general pervasive mood of unhappiness or
226 depression; or

227 5. A tendency to develop physical symptoms or
228 fears associated with personal or school problems. An
229 establishment furnishing primarily domiciliary care is not within
230 this definition.

231 (x) "Pediatric skilled nursing facility" means an
232 institution or a distinct part of an institution that is primarily
233 engaged in providing to inpatients skilled nursing care and
234 related services for persons under twenty-one (21) years of age
235 who require medical or nursing care or rehabilitation services for
236 the rehabilitation of injured, disabled or sick persons.

237 (xi) "Long-term care hospital" means a
238 freestanding, Medicare-certified hospital that has an average
239 length of inpatient stay greater than twenty-five (25) days, that
240 is primarily engaged in providing chronic or long-term medical
241 care to patients who do not require more than three (3) hours of
242 rehabilitation or comprehensive rehabilitation per day, and has a
243 transfer agreement with an acute care medical center and a
244 comprehensive medical rehabilitation facility. Long-term care
245 hospitals shall not use rehabilitation, comprehensive medical
246 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
247 nursing home, skilled nursing facility, or sub-acute care facility
248 in association with its name.

249 (xii) "Comprehensive medical rehabilitation
250 facility" means a hospital or hospital unit that is licensed
251 and/or certified as a comprehensive medical rehabilitation
252 facility that provides specialized programs that are accredited by
253 the Commission on Accreditation of Rehabilitation Facilities and
254 supervised by a physician board certified or board eligible in
255 Physiatry or other doctor of medicine or osteopathy with at least
256 two (2) years of training in the medical direction of a
257 comprehensive rehabilitation program that:

- 258 1. Includes evaluation and treatment of
259 individuals with physical disabilities;
- 260 2. Emphasizes education and training of
261 individuals with disabilities;
- 262 3. Incorporates at least the following core
263 disciplines:
- 264 (i) Physical Therapy;
- 265 (ii) Occupational Therapy;
- 266 (iii) Speech and Language Therapy;
- 267 (iv) Rehabilitation Nursing; and
- 268 4. Incorporates at least three (3) of the
269 following disciplines:
- 270 (i) Psychology;
- 271 (ii) Audiology;
- 272 (iii) Respiratory Therapy;
- 273 (iv) Therapeutic Recreation;
- 274 (v) Orthotics;
- 275 (vi) Prosthetics;
- 276 (vii) Special Education;
- 277 (viii) Vocational Rehabilitation;
- 278 (ix) Psychotherapy;
- 279 (x) Social Work;
- 280 (xi) Rehabilitation Engineering.

281 These specialized programs include, but are not limited to:
282 spinal cord injury programs, head injury programs and infant and
283 early childhood development programs.

284 (i) "Health maintenance organization" or "HMO" means a
285 public or private organization organized under the laws of this
286 state or the federal government which:

287 (i) Provides or otherwise makes available to
288 enrolled participants health care services, including
289 substantially the following basic health care services: usual

290 physician services, hospitalization, laboratory, x-ray, emergency
291 and preventive services, and out-of-area coverage;

292 (ii) Is compensated (except for copayments) for
293 the provision of the basic health care services listed in
294 subparagraph (i) of this paragraph to enrolled participants on a
295 predetermined basis; and

296 (iii) Provides physician services primarily:

297 1. Directly through physicians who are either
298 employees or partners of such organization; or

299 2. Through arrangements with individual
300 physicians or one or more groups of physicians (organized on a
301 group practice or individual practice basis).

302 (j) "Health service area" means a geographic area of
303 the state designated in the State Health Plan as the area to be
304 used in planning for specified health facilities and services and
305 to be used when considering certificate of need applications to
306 provide health facilities and services.

307 (k) "Health services" means clinically related (i.e.,
308 diagnostic, treatment or rehabilitative) services and includes
309 alcohol, drug abuse, mental health and home health care services.

310 (l) "Institutional health services" shall mean health
311 services provided in or through health care facilities and shall
312 include the entities in or through which such services are
313 provided.

314 (m) "Major medical equipment" means medical equipment
315 designed for providing medical or any health related service which
316 costs in excess of One Million Five Hundred Thousand Dollars
317 (\$1,500,000.00). However, this definition shall not be applicable
318 to clinical laboratories if they are determined by the State
319 Department of Health to be independent of any physician's office,
320 hospital or other health care facility or otherwise not so defined
321 by federal or state law, or rules and regulations promulgated
322 thereunder.

323 (n) "State Department of Health" shall mean the state
324 agency created under Section 41-3-15, which shall be considered to
325 be the State Health Planning and Development Agency, as defined in
326 paragraph (t) of this section.

327 (o) "Offer," when used in connection with health
328 services, means that it has been determined by the State
329 Department of Health that the health care facility is capable of
330 providing specified health services.

331 (p) "Person" means an individual, a trust or estate,
332 partnership, corporation (including associations, joint stock
333 companies and insurance companies), the state or a political
334 subdivision or instrumentality of the state.

335 (q) "Provider" shall mean any person who is a provider
336 or representative of a provider of health care services requiring
337 a certificate of need under Section 41-7-171 et seq., or who has
338 any financial or indirect interest in any provider of services.

339 (r) "Secretary" means the Secretary of Health and Human
340 Services, and any officer or employee of the Department of Health
341 and Human Services to whom the authority involved has been
342 delegated.

343 (s) "State Health Plan" means the sole and official
344 statewide health plan for Mississippi which identifies priority
345 state health needs and establishes standards and criteria for
346 health-related activities which require certificate of need review
347 in compliance with Section 41-7-191.

348 (t) "State Health Planning and Development Agency"
349 means the agency of state government designated to perform health
350 planning and resource development programs for the State of
351 Mississippi.

352 **SECTION 2.** Section 41-7-190, Mississippi Code of 1972, is
353 amended as follows:

354 41-7-190. No corporation, foreign or domestic, partnership,
355 individual(s) or association of those entities or of persons

356 whatsoever, or any combination thereof, shall own, possess or
357 exercise control over, in any manner, more than twenty percent
358 (20%) of the beds in health care facilities defined in Section
359 41-7-173(h)(iii) and (v) in the defined health service area of the
360 State of Mississippi.

361 Health care facilities owned, operated or under control of
362 the United States government, the state government or political
363 subdivision of either are excluded from the limitation of this
364 section.

365 **SECTION 3.** Section 41-7-191, Mississippi Code of 1972, is
366 amended as follows:

367 41-7-191. (1) No person shall engage in any of the
368 following activities without obtaining the required certificate of
369 need:

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

374 (b) The relocation of a health care facility or portion
375 thereof, or major medical equipment, unless such relocation of a
376 health care facility or portion thereof, or major medical
377 equipment, which does not involve a capital expenditure by or on
378 behalf of a health care facility, is within five thousand two
379 hundred eighty (5,280) feet from the main entrance of the health
380 care facility;

381 (c) Any change in the existing bed complement of any
382 health care facility through the addition or conversion of any
383 beds or the alteration, modernizing or refurbishing of any unit or
384 department in which the beds may be located; however, if a health
385 care facility has voluntarily delicensed some of its existing bed
386 complement, it may later relicense some or all of its delicensed
387 beds without the necessity of having to acquire a certificate of
388 need. The State Department of Health shall maintain a record of

389 the delicensing health care facility and its voluntarily
390 delicensed beds and continue counting those beds as part of the
391 state's total bed count for health care planning purposes. If a
392 health care facility that has voluntarily delicensed some of its
393 beds later desires to relicense some or all of its voluntarily
394 delicensed beds, it shall notify the State Department of Health of
395 its intent to increase the number of its licensed beds. The State
396 Department of Health shall survey the health care facility within
397 thirty (30) days of that notice and, if appropriate, issue the
398 health care facility a new license reflecting the new contingent
399 of beds. However, in no event may a health care facility that has
400 voluntarily delicensed some of its beds be reissued a license to
401 operate beds in excess of its bed count before the voluntary
402 delicensure of some of its beds without seeking certificate of
403 need approval;

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

- 408 (i) Open heart surgery services;
- 409 (ii) Cardiac catheterization services;
- 410 (iii) Comprehensive inpatient rehabilitation
411 services;
- 412 (iv) Licensed psychiatric services;
- 413 (v) Licensed chemical dependency services;
- 414 (vi) Radiation therapy services;
- 415 (vii) Diagnostic imaging services of an invasive
416 nature, i.e. invasive digital angiography;
- 417 (viii) Nursing home care as defined in
418 subparagraphs (iii), (v) and (vii) of Section 41-7-173(h);
- 419 (ix) Home health services;
- 420 (x) Swing-bed services;
- 421 (xi) Ambulatory surgical services;

422 (xii) Magnetic resonance imaging services;
423 (xiii) [Deleted]
424 (xiv) Long-term care hospital services;
425 (xv) Positron Emission Tomography (PET) services;
426 (e) The relocation of one or more health services from
427 one physical facility or site to another physical facility or
428 site, unless such relocation, which does not involve a capital
429 expenditure by or on behalf of a health care facility, (i) is to a
430 physical facility or site within five thousand two hundred eighty
431 (5,280) feet from the main entrance of the health care facility
432 where the health care service is located, or (ii) is the result of
433 an order of a court of appropriate jurisdiction or a result of
434 pending litigation in such court, or by order of the State
435 Department of Health, or by order of any other agency or legal
436 entity of the state, the federal government, or any political
437 subdivision of either, whose order is also approved by the State
438 Department of Health;
439 (f) The acquisition or otherwise control of any major
440 medical equipment for the provision of medical services; * * *
441 however, (i) the acquisition of any major medical equipment used
442 only for research purposes, and (ii) the acquisition of major
443 medical equipment to replace medical equipment for which a
444 facility is already providing medical services and for which the
445 State Department of Health has been notified before the date of
446 such acquisition shall be exempt from this paragraph; an
447 acquisition for less than fair market value must be reviewed, if
448 the acquisition at fair market value would be subject to review;
449 (g) Changes of ownership of existing health care
450 facilities in which a notice of intent is not filed with the State
451 Department of Health at least thirty (30) days prior to the date
452 such change of ownership occurs, or a change in services or bed
453 capacity as prescribed in paragraph (c) or (d) of this subsection
454 as a result of the change of ownership; an acquisition for less

455 than fair market value must be reviewed, if the acquisition at
456 fair market value would be subject to review;

457 (h) The change of ownership of any health care facility
458 defined in subparagraphs (iii), (v) and (vii) of Section
459 41-7-173(h), in which a notice of intent as described in paragraph
460 (g) has not been filed and if the Executive Director, Division of
461 Medicaid, Office of the Governor, has not certified in writing
462 that there will be no increase in allowable costs to Medicaid from
463 revaluation of the assets or from increased interest and
464 depreciation as a result of the proposed change of ownership;

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

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

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

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

483 (m) Reopening a health care facility that has ceased to
484 operate for a period of sixty (60) months or more, which reopening
485 requires a certificate of need for the establishment of a new
486 health care facility.

487 (2) The State Department of Health shall not grant approval
488 for or issue a certificate of need to any person proposing the new
489 construction of, addition to, or expansion of any health care
490 facility defined in subparagraphs (iii) (skilled nursing facility)
491 and (v) (intermediate care facility) of Section 41-7-173(h) or the
492 conversion of vacant hospital beds to provide skilled or
493 intermediate nursing home care, except as hereinafter authorized:

494 (a) The department may issue a certificate of need to
495 any person proposing the new construction of any health care
496 facility defined in subparagraphs (iii) and (v) of Section
497 41-7-173(h) as part of a life care retirement facility, in any
498 county bordering on the Gulf of Mexico in which is located a
499 National Aeronautics and Space Administration facility, not to
500 exceed forty (40) beds. From and after July 1, 1999, there shall
501 be no prohibition or restrictions on participation in the Medicaid
502 program (Section 43-13-101 et seq.) for the beds in the health
503 care facility that were authorized under this paragraph (a).

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

511 (c) The department may issue a certificate of need for
512 the addition to or expansion of any skilled nursing facility that
513 is part of an existing continuing care retirement community
514 located in Madison County, provided that the recipient of the
515 certificate of need agrees in writing that the skilled nursing
516 facility will not at any time participate in the Medicaid program
517 (Section 43-13-101 et seq.) or admit or keep any patients in the
518 skilled nursing facility who are participating in the Medicaid
519 program. This written agreement by the recipient of the

520 certificate of need shall be fully binding on any subsequent owner
521 of the skilled nursing facility, if the ownership of the facility
522 is transferred at any time after the issuance of the certificate
523 of need. Agreement that the skilled nursing facility will not
524 participate in the Medicaid program shall be a condition of the
525 issuance of a certificate of need to any person under this
526 paragraph (c), and if such skilled nursing facility at any time
527 after the issuance of the certificate of need, regardless of the
528 ownership of the facility, participates in the Medicaid program or
529 admits or keeps any patients in the facility who are participating
530 in the Medicaid program, the State Department of Health shall
531 revoke the certificate of need, if it is still outstanding, and
532 shall deny or revoke the license of the skilled nursing facility,
533 at the time that the department determines, after a hearing
534 complying with due process, that the facility has failed to comply
535 with any of the conditions upon which the certificate of need was
536 issued, as provided in this paragraph and in the written agreement
537 by the recipient of the certificate of need. The total number of
538 beds that may be authorized under the authority of this paragraph
539 (c) shall not exceed sixty (60) beds.

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

548 (e) The State Department of Health may issue a
549 certificate of need for the construction of a nursing facility or
550 the conversion of beds to nursing facility beds at a personal care
551 facility for the elderly in Lowndes County that is owned and
552 operated by a Mississippi nonprofit corporation, not to exceed

553 sixty (60) beds. From and after July 1, 1999, there shall be no
554 prohibition or restrictions on participation in the Medicaid
555 program (Section 43-13-101 et seq.) for the beds in the nursing
556 facility that were authorized under this paragraph (e).

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

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

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

581 (i) The department may issue a certificate of need for
582 the new construction of a skilled nursing facility in Leake
583 County, provided that the recipient of the certificate of need
584 agrees in writing that the skilled nursing facility will not at
585 any time participate in the Medicaid program (Section 43-13-101 et

586 seq.) or admit or keep any patients in the skilled nursing
587 facility who are participating in the Medicaid program. This
588 written agreement by the recipient of the certificate of need
589 shall be fully binding on any subsequent owner of the skilled
590 nursing facility, if the ownership of the facility is transferred
591 at any time after the issuance of the certificate of need.
592 Agreement that the skilled nursing facility will not participate
593 in the Medicaid program shall be a condition of the issuance of a
594 certificate of need to any person under this paragraph (i), and if
595 such skilled nursing facility at any time after the issuance of
596 the certificate of need, regardless of the ownership of the
597 facility, participates in the Medicaid program or admits or keeps
598 any patients in the facility who are participating in the Medicaid
599 program, the State Department of Health shall revoke the
600 certificate of need, if it is still outstanding, and shall deny or
601 revoke the license of the skilled nursing facility, at the time
602 that the department determines, after a hearing complying with due
603 process, that the facility has failed to comply with any of the
604 conditions upon which the certificate of need was issued, as
605 provided in this paragraph and in the written agreement by the
606 recipient of the certificate of need. The provision of Section
607 43-7-193(1) regarding substantial compliance of the projection of
608 need as reported in the current State Health Plan is waived for
609 the purposes of this paragraph. The total number of nursing
610 facility beds that may be authorized by any certificate of need
611 issued under this paragraph (i) shall not exceed sixty (60) beds.
612 If the skilled nursing facility authorized by the certificate of
613 need issued under this paragraph is not constructed and fully
614 operational within eighteen (18) months after July 1, 1994, the
615 State Department of Health, after a hearing complying with due
616 process, shall revoke the certificate of need, if it is still
617 outstanding, and shall not issue a license for the skilled nursing

618 facility at any time after the expiration of the eighteen-month
619 period.

620 (j) The department may issue certificates of need to
621 allow any existing freestanding long-term care facility in
622 Tishomingo County and Hancock County that on July 1, 1995, is
623 licensed with fewer than sixty (60) beds. For the purposes of
624 this paragraph (j), the provision of Section 41-7-193(1) requiring
625 substantial compliance with the projection of need as reported in
626 the current State Health Plan is waived. From and after July 1,
627 1999, there shall be no prohibition or restrictions on
628 participation in the Medicaid program (Section 43-13-101 et seq.)
629 for the beds in the long-term care facilities that were authorized
630 under this paragraph (j).

631 (k) The department may issue a certificate of need for
632 the construction of a nursing facility at a continuing care
633 retirement community in Lowndes County. The total number of beds
634 that may be authorized under the authority of this paragraph (k)
635 shall not exceed sixty (60) beds. From and after July 1, 2001,
636 the prohibition on the facility participating in the Medicaid
637 program (Section 43-13-101 et seq.) that was a condition of
638 issuance of the certificate of need under this paragraph (k) shall
639 be revised as follows: The nursing facility may participate in
640 the Medicaid program from and after July 1, 2001, if the owner of
641 the facility on July 1, 2001, agrees in writing that no more than
642 thirty (30) of the beds at the facility will be certified for
643 participation in the Medicaid program, and that no claim will be
644 submitted for Medicaid reimbursement for more than thirty (30)
645 patients in the facility in any month or for any patient in the
646 facility who is in a bed that is not Medicaid-certified. This
647 written agreement by the owner of the facility shall be a
648 condition of licensure of the facility, and the agreement shall be
649 fully binding on any subsequent owner of the facility if the
650 ownership of the facility is transferred at any time after July 1,

651 2001. After this written agreement is executed, the Division of
652 Medicaid and the State Department of Health shall not certify more
653 than thirty (30) of the beds in the facility for participation in
654 the Medicaid program. If the facility violates the terms of the
655 written agreement by admitting or keeping in the facility on a
656 regular or continuing basis more than thirty (30) patients who are
657 participating in the Medicaid program, the State Department of
658 Health shall revoke the license of the facility, at the time that
659 the department determines, after a hearing complying with due
660 process, that the facility has violated the written agreement.

661 (l) Provided that funds are specifically appropriated
662 therefor by the Legislature, the department may issue a
663 certificate of need to a rehabilitation hospital in Hinds County
664 for the construction of a sixty-bed long-term care nursing
665 facility dedicated to the care and treatment of persons with
666 severe disabilities including persons with spinal cord and
667 closed-head injuries and ventilator-dependent patients. The
668 provision of Section 41-7-193(1) regarding substantial compliance
669 with projection of need as reported in the current State Health
670 Plan is * * * waived for the purpose of this paragraph.

671 (m) The State Department of Health may issue a
672 certificate of need to a county-owned hospital in the Second
673 Judicial District of Panola County for the conversion of not more
674 than seventy-two (72) hospital beds to nursing facility beds,
675 provided that the recipient of the certificate of need agrees in
676 writing that none of the beds at the nursing facility will be
677 certified for participation in the Medicaid program (Section
678 43-13-101 et seq.), and that no claim will be submitted for
679 Medicaid reimbursement in the nursing facility in any day or for
680 any patient in the nursing facility. This written agreement by
681 the recipient of the certificate of need shall be a condition of
682 the issuance of the certificate of need under this paragraph, and
683 the agreement shall be fully binding on any subsequent owner of

684 the nursing facility if the ownership of the nursing facility is
685 transferred at any time after the issuance of the certificate of
686 need. After this written agreement is executed, the Division of
687 Medicaid and the State Department of Health shall not certify any
688 of the beds in the nursing facility for participation in the
689 Medicaid program. If the nursing facility violates the terms of
690 the written agreement by admitting or keeping in the nursing
691 facility on a regular or continuing basis any patients who are
692 participating in the Medicaid program, the State Department of
693 Health shall revoke the license of the nursing facility, at the
694 time that the department determines, after a hearing complying
695 with due process, that the nursing facility has violated the
696 condition upon which the certificate of need was issued, as
697 provided in this paragraph and in the written agreement. If the
698 certificate of need authorized under this paragraph is not issued
699 within twelve (12) months after July 1, 2001, the department shall
700 deny the application for the certificate of need and shall not
701 issue the certificate of need at any time after the twelve-month
702 period, unless the issuance is contested. If the certificate of
703 need is issued and substantial construction of the nursing
704 facility beds has not commenced within eighteen (18) months after
705 July 1, 2001, the State Department of Health, after a hearing
706 complying with due process, shall revoke the certificate of need
707 if it is still outstanding, and the department shall not issue a
708 license for the nursing facility at any time after the
709 eighteen-month period. * * * However, * * * if the issuance of
710 the certificate of need is contested, the department shall require
711 substantial construction of the nursing facility beds within six
712 (6) months after final adjudication on the issuance of the
713 certificate of need.

714 (n) The department may issue a certificate of need for
715 the new construction, addition or conversion of skilled nursing
716 facility beds in Madison County, provided that the recipient of

717 the certificate of need agrees in writing that the skilled nursing
718 facility will not at any time participate in the Medicaid program
719 (Section 43-13-101 et seq.) or admit or keep any patients in the
720 skilled nursing facility who are participating in the Medicaid
721 program. This written agreement by the recipient of the
722 certificate of need shall be fully binding on any subsequent owner
723 of the skilled nursing facility, if the ownership of the facility
724 is transferred at any time after the issuance of the certificate
725 of need. Agreement that the skilled nursing facility will not
726 participate in the Medicaid program shall be a condition of the
727 issuance of a certificate of need to any person under this
728 paragraph (n), and if such skilled nursing facility at any time
729 after the issuance of the certificate of need, regardless of the
730 ownership of the facility, participates in the Medicaid program or
731 admits or keeps any patients in the facility who are participating
732 in the Medicaid program, the State Department of Health shall
733 revoke the certificate of need, if it is still outstanding, and
734 shall deny or revoke the license of the skilled nursing facility,
735 at the time that the department determines, after a hearing
736 complying with due process, that the facility has failed to comply
737 with any of the conditions upon which the certificate of need was
738 issued, as provided in this paragraph and in the written agreement
739 by the recipient of the certificate of need. The total number of
740 nursing facility beds that may be authorized by any certificate of
741 need issued under this paragraph (n) shall not exceed sixty (60)
742 beds. If the certificate of need authorized under this paragraph
743 is not issued within twelve (12) months after July 1, 1998, the
744 department shall deny the application for the certificate of need
745 and shall not issue the certificate of need at any time after the
746 twelve-month period, unless the issuance is contested. If the
747 certificate of need is issued and substantial construction of the
748 nursing facility beds has not commenced within eighteen (18)
749 months after the effective date of July 1, 1998, the State

750 Department of Health, after a hearing complying with due process,
751 shall revoke the certificate of need if it is still outstanding,
752 and the department shall not issue a license for the nursing
753 facility at any time after the eighteen-month period. * * *
754 However, * * * if the issuance of the certificate of need is
755 contested, the department shall require substantial construction
756 of the nursing facility beds within six (6) months after final
757 adjudication on the issuance of the certificate of need.

758 (o) The department may issue a certificate of need for
759 the new construction, addition or conversion of skilled nursing
760 facility beds in Leake County, provided that the recipient of the
761 certificate of need agrees in writing that the skilled nursing
762 facility will not at any time participate in the Medicaid program
763 (Section 43-13-101 et seq.) or admit or keep any patients in the
764 skilled nursing facility who are participating in the Medicaid
765 program. This written agreement by the recipient of the
766 certificate of need shall be fully binding on any subsequent owner
767 of the skilled nursing facility, if the ownership of the facility
768 is transferred at any time after the issuance of the certificate
769 of need. Agreement that the skilled nursing facility will not
770 participate in the Medicaid program shall be a condition of the
771 issuance of a certificate of need to any person under this
772 paragraph (o), and if such skilled nursing facility at any time
773 after the issuance of the certificate of need, regardless of the
774 ownership of the facility, participates in the Medicaid program or
775 admits or keeps any patients in the facility who are participating
776 in the Medicaid program, the State Department of Health shall
777 revoke the certificate of need, if it is still outstanding, and
778 shall deny or revoke the license of the skilled nursing facility,
779 at the time that the department determines, after a hearing
780 complying with due process, that the facility has failed to comply
781 with any of the conditions upon which the certificate of need was
782 issued, as provided in this paragraph and in the written agreement

783 by the recipient of the certificate of need. The total number of
784 nursing facility beds that may be authorized by any certificate of
785 need issued under this paragraph (o) shall not exceed sixty (60)
786 beds. If the certificate of need authorized under this paragraph
787 is not issued within twelve (12) months after July 1, 2001, the
788 department shall deny the application for the certificate of need
789 and shall not issue the certificate of need at any time after the
790 twelve-month period, unless the issuance is contested. If the
791 certificate of need is issued and substantial construction of the
792 nursing facility beds has not commenced within eighteen (18)
793 months after the effective date of July 1, 2001, the State
794 Department of Health, after a hearing complying with due process,
795 shall revoke the certificate of need if it is still outstanding,
796 and the department shall not issue a license for the nursing
797 facility at any time after the eighteen-month period. * * *
798 However, * * * if the issuance of the certificate of need is
799 contested, the department shall require substantial construction
800 of the nursing facility beds within six (6) months after final
801 adjudication on the issuance of the certificate of need.

802 (p) The department may issue a certificate of need for
803 the construction of a municipally owned nursing facility within
804 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
805 beds, provided that the recipient of the certificate of need
806 agrees in writing that the skilled nursing facility will not at
807 any time participate in the Medicaid program (Section 43-13-101 et
808 seq.) or admit or keep any patients in the skilled nursing
809 facility who are participating in the Medicaid program. This
810 written agreement by the recipient of the certificate of need
811 shall be fully binding on any subsequent owner of the skilled
812 nursing facility, if the ownership of the facility is transferred
813 at any time after the issuance of the certificate of need.
814 Agreement that the skilled nursing facility will not participate
815 in the Medicaid program shall be a condition of the issuance of a

816 certificate of need to any person under this paragraph (p), and if
817 such skilled nursing facility at any time after the issuance of
818 the certificate of need, regardless of the ownership of the
819 facility, participates in the Medicaid program or admits or keeps
820 any patients in the facility who are participating in the Medicaid
821 program, the State Department of Health shall revoke the
822 certificate of need, if it is still outstanding, and shall deny or
823 revoke the license of the skilled nursing facility, at the time
824 that the department determines, after a hearing complying with due
825 process, that the facility has failed to comply with any of the
826 conditions upon which the certificate of need was issued, as
827 provided in this paragraph and in the written agreement by the
828 recipient of the certificate of need. The provision of Section
829 43-7-193(1) regarding substantial compliance of the projection of
830 need as reported in the current State Health Plan is waived for
831 the purposes of this paragraph. If the certificate of need
832 authorized under this paragraph is not issued within twelve (12)
833 months after July 1, 1998, the department shall deny the
834 application for the certificate of need and shall not issue the
835 certificate of need at any time after the twelve-month period,
836 unless the issuance is contested. If the certificate of need is
837 issued and substantial construction of the nursing facility beds
838 has not commenced within eighteen (18) months after July 1, 1998,
839 the State Department of Health, after a hearing complying with due
840 process, shall revoke the certificate of need if it is still
841 outstanding, and the department shall not issue a license for the
842 nursing facility at any time after the eighteen-month period.

843 * * * However, * * * if the issuance of the certificate of need
844 is contested, the department shall require substantial
845 construction of the nursing facility beds within six (6) months
846 after final adjudication on the issuance of the certificate of
847 need.

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

858 (ii) Subject to the provisions of subparagraph
859 (v), during each of the next four (4) fiscal years, the department
860 shall issue six (6) certificates of need for new nursing facility
861 beds, as follows: During fiscal years 2000, 2001 and 2002, one
862 (1) certificate of need shall be issued for new nursing facility
863 beds in the county in each of the four (4) Long-Term Care Planning
864 Districts designated in the fiscal year 1999 State Health Plan
865 that has the highest need in the district for those beds; and two
866 (2) certificates of need shall be issued for new nursing facility
867 beds in the two (2) counties from the state at large that have the
868 highest need in the state for those beds, when considering the
869 need on a statewide basis and without regard to the Long-Term Care
870 Planning Districts in which the counties are located. During
871 fiscal year 2003, one (1) certificate of need shall be issued for
872 new nursing facility beds in any county having a need for fifty
873 (50) or more additional nursing facility beds, as shown in the
874 fiscal year 1999 State Health Plan, that has not received a
875 certificate of need under this paragraph (q) during the three (3)
876 previous fiscal years. During fiscal year 2000, in addition to
877 the six (6) certificates of need authorized in this subparagraph,
878 the department also shall issue a certificate of need for new
879 nursing facility beds in Amite County and a certificate of need
880 for new nursing facility beds in Carroll County.

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

895 (iv) Subject to the provisions of subparagraph
896 (v), the certificate of need issued under subparagraph (ii) for
897 nursing facility beds in the two (2) counties from the state at
898 large during each fiscal year shall first be available for nursing
899 facility beds in the two (2) counties that have the highest need
900 in the state for those beds, as shown in the fiscal year 1999
901 State Health Plan, when considering the need on a statewide basis
902 and without regard to the Long-Term Care Planning Districts in
903 which the counties are located. If there are no applications for
904 a certificate of need for nursing facility beds in either of the
905 two (2) counties having the highest need for those beds on a
906 statewide basis by the date specified by the department, then the
907 certificate of need shall be available for nursing facility beds
908 in other counties from the state at large in descending order of
909 the need for those beds on a statewide basis, from the county with
910 the second highest need to the county with the lowest need, until
911 an application is received for nursing facility beds in an
912 eligible county from the state at large.

913 (v) If a certificate of need is authorized to be
914 issued under this paragraph (q) for nursing facility beds in a
915 county on the basis of the need in the Long-Term Care Planning
916 District during any fiscal year of the four-year period, a
917 certificate of need shall not also be available under this
918 paragraph (q) for additional nursing facility beds in that county
919 on the basis of the need in the state at large, and that county
920 shall be excluded in determining which counties have the highest
921 need for nursing facility beds in the state at large for that
922 fiscal year. After a certificate of need has been issued under
923 this paragraph (q) for nursing facility beds in a county during
924 any fiscal year of the four-year period, a certificate of need
925 shall not be available again under this paragraph (q) for
926 additional nursing facility beds in that county during the
927 four-year period, and that county shall be excluded in determining
928 which counties have the highest need for nursing facility beds in
929 succeeding fiscal years.

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

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

941 2. The county-owned hospital's qualifications
942 for the certificate of need, as shown in its application and as
943 determined by the department, are at least equal to the
944 qualifications of the other applicants for the certificate of
945 need.

946 (r) (i) Beginning on July 1, 1999, the State
947 Department of Health shall issue certificates of need during each
948 of the next two (2) fiscal years for the construction or expansion
949 of nursing facility beds or the conversion of other beds to
950 nursing facility beds in each of the four (4) Long-Term Care
951 Planning Districts designated in the fiscal year 1999 State Health
952 Plan, to provide care exclusively to patients with Alzheimer's
953 disease.

954 (ii) Not more than twenty (20) beds may be
955 authorized by any certificate of need issued under this paragraph
956 (r), and not more than a total of sixty (60) beds may be
957 authorized in any Long-Term Care Planning District by all
958 certificates of need issued under this paragraph (r). However,
959 the total number of beds that may be authorized by all
960 certificates of need issued under this paragraph (r) during any
961 fiscal year shall not exceed one hundred twenty (120) beds, and
962 the total number of beds that may be authorized in any Long-Term
963 Care Planning District during any fiscal year shall not exceed
964 forty (40) beds. Of the certificates of need that are issued for
965 each Long-Term Care Planning District during the next two (2)
966 fiscal years, at least one (1) shall be issued for beds in the
967 northern part of the district, at least one (1) shall be issued
968 for beds in the central part of the district, and at least one (1)
969 shall be issued for beds in the southern part of the district.

970 (iii) The State Department of Health, in
971 consultation with the Department of Mental Health and the Division
972 of Medicaid, shall develop and prescribe the staffing levels,
973 space requirements and other standards and requirements that must
974 be met with regard to the nursing facility beds authorized under
975 this paragraph (r) to provide care exclusively to patients with
976 Alzheimer's disease.

977 (s) The State Department of Health may issue a
978 certificate of need to a nonprofit skilled nursing facility using

979 the Green House model of skilled nursing care and located in Yazoo
980 City, Yazoo County, Mississippi, for the construction, expansion
981 or conversion of not more than nineteen (19) nursing facility
982 beds. For purposes of this paragraph (s), the provisions of
983 Section 41-7-193(1) requiring substantial compliance with the
984 projection of need as reported in the current State Health Plan
985 and the provisions of Section 41-7-197 requiring a formal
986 certificate of need hearing process are waived. There shall be no
987 prohibition or restrictions on participation in the Medicaid
988 program for the person receiving the certificate of need
989 authorized under this paragraph (s).

990 (t) The State Department of Health shall issue
991 certificates of need to the owner of a nursing facility in
992 operation at the time of Hurricane Katrina in Hancock County that
993 was not operational on December 31, 2005, because of damage
994 sustained from Hurricane Katrina to authorize the following: (i)
995 the construction of a new nursing facility in Harrison County;
996 (ii) the relocation of forty-nine (49) nursing facility beds from
997 the Hancock County facility to the new Harrison County facility;
998 (iii) the establishment of not more than twenty (20) non-Medicaid
999 nursing facility beds at the Hancock County facility; and (iv) the
1000 establishment of not more than twenty (20) non-Medicaid beds at
1001 the new Harrison County facility. The certificates of need that
1002 authorize the non-Medicaid nursing facility beds under
1003 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1004 subject to the following conditions: The owner of the Hancock
1005 County facility and the new Harrison County facility must agree in
1006 writing that no more than fifty (50) of the beds at the Hancock
1007 County facility and no more than forty-nine (49) of the beds at
1008 the Harrison County facility will be certified for participation
1009 in the Medicaid program, and that no claim will be submitted for
1010 Medicaid reimbursement for more than fifty (50) patients in the
1011 Hancock County facility in any month, or for more than forty-nine

1012 (49) patients in the Harrison County facility in any month, or for
1013 any patient in either facility who is in a bed that is not
1014 Medicaid-certified. This written agreement by the owner of the
1015 nursing facilities shall be a condition of the issuance of the
1016 certificates of need under this paragraph (t), and the agreement
1017 shall be fully binding on any later owner or owners of either
1018 facility if the ownership of either facility is transferred at any
1019 time after the certificates of need are issued. After this
1020 written agreement is executed, the Division of Medicaid and the
1021 State Department of Health shall not certify more than fifty (50)
1022 of the beds at the Hancock County facility or more than forty-nine
1023 (49) of the beds at the Harrison County facility for participation
1024 in the Medicaid program. If the Hancock County facility violates
1025 the terms of the written agreement by admitting or keeping in the
1026 facility on a regular or continuing basis more than fifty (50)
1027 patients who are participating in the Medicaid program, or if the
1028 Harrison County facility violates the terms of the written
1029 agreement by admitting or keeping in the facility on a regular or
1030 continuing basis more than forty-nine (49) patients who are
1031 participating in the Medicaid program, the State Department of
1032 Health shall revoke the license of the facility that is in
1033 violation of the agreement, at the time that the department
1034 determines, after a hearing complying with due process, that the
1035 facility has violated the agreement.

1036 (3) The State Department of Health may grant approval for
1037 and issue certificates of need to any person proposing the new
1038 construction of, addition to, conversion of beds of or expansion
1039 of any health care facility defined in subparagraph (ix)
1040 (psychiatric residential treatment facility) of Section
1041 41-7-173(h). The total number of beds which may be authorized by
1042 such certificates of need shall not exceed three hundred
1043 thirty-four (334) beds for the entire state.

1044 (a) Of the total number of beds authorized under this
1045 subsection, the department shall issue a certificate of need to a
1046 privately-owned psychiatric residential treatment facility in
1047 Simpson County for the conversion of sixteen (16) intermediate
1048 care facility for the mentally retarded (ICF-MR) beds to
1049 psychiatric residential treatment facility beds, provided that
1050 facility agrees in writing that the facility shall give priority
1051 for the use of those sixteen (16) beds to Mississippi residents
1052 who are presently being treated in out-of-state facilities.

1053 (b) Of the total number of beds authorized under this
1054 subsection, the department may issue a certificate or certificates
1055 of need for the construction or expansion of psychiatric
1056 residential treatment facility beds or the conversion of other
1057 beds to psychiatric residential treatment facility beds in Warren
1058 County, not to exceed sixty (60) psychiatric residential treatment
1059 facility beds, provided that the facility agrees in writing that
1060 no more than thirty (30) of the beds at the psychiatric
1061 residential treatment facility will be certified for participation
1062 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1063 any patients other than those who are participating only in the
1064 Medicaid program of another state, and that no claim will be
1065 submitted to the Division of Medicaid for Medicaid reimbursement
1066 for more than thirty (30) patients in the psychiatric residential
1067 treatment facility in any day or for any patient in the
1068 psychiatric residential treatment facility who is in a bed that is
1069 not Medicaid-certified. This written agreement by the recipient
1070 of the certificate of need shall be a condition of the issuance of
1071 the certificate of need under this paragraph, and the agreement
1072 shall be fully binding on any subsequent owner of the psychiatric
1073 residential treatment facility if the ownership of the facility is
1074 transferred at any time after the issuance of the certificate of
1075 need. After this written agreement is executed, the Division of
1076 Medicaid and the State Department of Health shall not certify more

1077 than thirty (30) of the beds in the psychiatric residential
1078 treatment facility for participation in the Medicaid program for
1079 the use of any patients other than those who are participating
1080 only in the Medicaid program of another state. If the psychiatric
1081 residential treatment facility violates the terms of the written
1082 agreement by admitting or keeping in the facility on a regular or
1083 continuing basis more than thirty (30) patients who are
1084 participating in the Mississippi Medicaid program, the State
1085 Department of Health shall revoke the license of the facility, at
1086 the time that the department determines, after a hearing complying
1087 with due process, that the facility has violated the condition
1088 upon which the certificate of need was issued, as provided in this
1089 paragraph and in the written agreement.

1090 The State Department of Health, on or before July 1, 2002,
1091 shall transfer the certificate of need authorized under the
1092 authority of this paragraph (b), or reissue the certificate of
1093 need if it has expired, to River Region Health System.

1094 (c) Of the total number of beds authorized under this
1095 subsection, the department shall issue a certificate of need to a
1096 hospital currently operating Medicaid-certified acute psychiatric
1097 beds for adolescents in DeSoto County, for the establishment of a
1098 forty-bed psychiatric residential treatment facility in DeSoto
1099 County, provided that the hospital agrees in writing (i) that the
1100 hospital shall give priority for the use of those forty (40) beds
1101 to Mississippi residents who are presently being treated in
1102 out-of-state facilities, and (ii) that no more than fifteen (15)
1103 of the beds at the psychiatric residential treatment facility will
1104 be certified for participation in the Medicaid program (Section
1105 43-13-101 et seq.), and that no claim will be submitted for
1106 Medicaid reimbursement for more than fifteen (15) patients in the
1107 psychiatric residential treatment facility in any day or for any
1108 patient in the psychiatric residential treatment facility who is
1109 in a bed that is not Medicaid-certified. This written agreement

1110 by the recipient of the certificate of need shall be a condition
1111 of the issuance of the certificate of need under this paragraph,
1112 and the agreement shall be fully binding on any subsequent owner
1113 of the psychiatric residential treatment facility if the ownership
1114 of the facility is transferred at any time after the issuance of
1115 the certificate of need. After this written agreement is
1116 executed, the Division of Medicaid and the State Department of
1117 Health shall not certify more than fifteen (15) of the beds in the
1118 psychiatric residential treatment facility for participation in
1119 the Medicaid program. If the psychiatric residential treatment
1120 facility violates the terms of the written agreement by admitting
1121 or keeping in the facility on a regular or continuing basis more
1122 than fifteen (15) patients who are participating in the Medicaid
1123 program, the State Department of Health shall revoke the license
1124 of the facility, at the time that the department determines, after
1125 a hearing complying with due process, that the facility has
1126 violated the condition upon which the certificate of need was
1127 issued, as provided in this paragraph and in the written
1128 agreement.

1129 (d) Of the total number of beds authorized under this
1130 subsection, the department may issue a certificate or certificates
1131 of need for the construction or expansion of psychiatric
1132 residential treatment facility beds or the conversion of other
1133 beds to psychiatric treatment facility beds, not to exceed thirty
1134 (30) psychiatric residential treatment facility beds, in either
1135 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1136 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1137 (e) Of the total number of beds authorized under this
1138 subsection (3) the department shall issue a certificate of need to
1139 a privately-owned, nonprofit psychiatric residential treatment
1140 facility in Hinds County for an eight-bed expansion of the
1141 facility, provided that the facility agrees in writing that the
1142 facility shall give priority for the use of those eight (8) beds

1143 to Mississippi residents who are presently being treated in
1144 out-of-state facilities.

1145 (f) The department shall issue a certificate of need to
1146 a one-hundred-thirty-four-bed specialty hospital located on
1147 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1148 at 5900 Highway 39 North in Meridian (Lauderdale County),
1149 Mississippi, for the addition, construction or expansion of
1150 child/adolescent psychiatric residential treatment facility beds
1151 in Lauderdale County. As a condition of issuance of the
1152 certificate of need under this paragraph, the facility shall give
1153 priority in admissions to the child/adolescent psychiatric
1154 residential treatment facility beds authorized under this
1155 paragraph to patients who otherwise would require out-of-state
1156 placement. The Division of Medicaid, in conjunction with the
1157 Department of Human Services, shall furnish the facility a list of
1158 all out-of-state patients on a quarterly basis. Furthermore,
1159 notice shall also be provided to the parent, custodial parent or
1160 guardian of each out-of-state patient notifying them of the
1161 priority status granted by this paragraph. For purposes of this
1162 paragraph, the provisions of Section 41-7-193(1) requiring
1163 substantial compliance with the projection of need as reported in
1164 the current State Health Plan are waived. The total number of
1165 child/adolescent psychiatric residential treatment facility beds
1166 that may be authorized under the authority of this paragraph shall
1167 be sixty (60) beds. There shall be no prohibition or restrictions
1168 on participation in the Medicaid program (Section 43-13-101 et
1169 seq.) for the person receiving the certificate of need authorized
1170 under this paragraph or for the beds converted pursuant to the
1171 authority of that certificate of need.

1172 (4) (a) From and after July 1, 1993, the department shall
1173 not issue a certificate of need to any person for the new
1174 construction of any * * * psychiatric hospital or chemical
1175 dependency hospital that will contain any child/adolescent

1176 psychiatric or child/adolescent chemical dependency beds, or for
1177 the conversion of any other health care facility to a * * *
1178 psychiatric hospital or chemical dependency hospital that will
1179 contain any child/adolescent psychiatric or child/adolescent
1180 chemical dependency beds, or for the addition of any
1181 child/adolescent psychiatric or child/adolescent chemical
1182 dependency beds in any hospital, psychiatric hospital or chemical
1183 dependency hospital, or for the conversion of any beds of another
1184 category in any hospital, psychiatric hospital or chemical
1185 dependency hospital to child/adolescent psychiatric or
1186 child/adolescent chemical dependency beds, except as hereinafter
1187 authorized:

1188 (i) The department may issue certificates of need
1189 to any person for any purpose described in this subsection,
1190 provided that the hospital, psychiatric hospital or chemical
1191 dependency hospital does not participate in the Medicaid program
1192 (Section 43-13-101 et seq.) at the time of the application for the
1193 certificate of need and the owner of the hospital, psychiatric
1194 hospital or chemical dependency hospital agrees in writing that
1195 the hospital, psychiatric hospital or chemical dependency hospital
1196 will not at any time participate in the Medicaid program or admit
1197 or keep any patients who are participating in the Medicaid program
1198 in the hospital, psychiatric hospital or chemical dependency
1199 hospital. This written agreement by the recipient of the
1200 certificate of need shall be fully binding on any subsequent owner
1201 of the hospital, psychiatric hospital or chemical dependency
1202 hospital, if the ownership of the facility is transferred at any
1203 time after the issuance of the certificate of need. Agreement
1204 that the hospital, psychiatric hospital or chemical dependency
1205 hospital will not participate in the Medicaid program shall be a
1206 condition of the issuance of a certificate of need to any person
1207 under this subparagraph * * * (i), and if such hospital,
1208 psychiatric hospital or chemical dependency hospital at any time

1209 after the issuance of the certificate of need, regardless of the
1210 ownership of the facility, participates in the Medicaid program or
1211 admits or keeps any patients in the hospital, psychiatric hospital
1212 or chemical dependency hospital who are participating in the
1213 Medicaid program, the State Department of Health shall revoke the
1214 certificate of need, if it is still outstanding, and shall deny or
1215 revoke the license of the hospital, psychiatric hospital or
1216 chemical dependency hospital, at the time that the department
1217 determines, after a hearing complying with due process, that the
1218 hospital, psychiatric hospital or chemical dependency hospital has
1219 failed to comply with any of the conditions upon which the
1220 certificate of need was issued, as provided in this subparagraph
1221 (i) and in the written agreement by the recipient of the
1222 certificate of need.

1223 (ii) The department may issue a certificate of
1224 need for the conversion of existing beds in a county hospital in
1225 Choctaw County from acute care beds to child/adolescent chemical
1226 dependency beds. For purposes of this subparagraph (ii), 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 is waived. The total number of beds that may be
1230 authorized under authority of this subparagraph shall not exceed
1231 twenty (20) beds. There shall be no prohibition or restrictions
1232 on participation in the Medicaid program (Section 43-13-101 et
1233 seq.) for the hospital receiving the certificate of need
1234 authorized under this subparagraph * * * or for the beds converted
1235 pursuant to the authority of that certificate of need.

1236 (iii) The department may issue a certificate or
1237 certificates of need for the construction or expansion of
1238 child/adolescent psychiatric beds or the conversion of other beds
1239 to child/adolescent psychiatric beds in Warren County. For
1240 purposes of this subparagraph (iii), the provisions of Section
1241 41-7-193(1) requiring substantial compliance with the projection

1242 of need as reported in the current State Health Plan are waived.
1243 The total number of beds that may be authorized under the
1244 authority of this subparagraph shall not exceed twenty (20) beds.
1245 There shall be no prohibition or restrictions on participation in
1246 the Medicaid program (Section 43-13-101 et seq.) for the person
1247 receiving the certificate of need authorized under this
1248 subparagraph * * * or for the beds converted pursuant to the
1249 authority of that certificate of need.

1250 If by January 1, 2002, there has been no significant
1251 commencement of construction of the beds authorized under this
1252 subparagraph * * * (iii), or no significant action taken to
1253 convert existing beds to the beds authorized under this
1254 subparagraph, then the certificate of need that was previously
1255 issued under this subparagraph shall expire. If the previously
1256 issued certificate of need expires, the department may accept
1257 applications for issuance of another certificate of need for the
1258 beds authorized under this subparagraph, and may issue a
1259 certificate of need to authorize the construction, expansion or
1260 conversion of the beds authorized under this subparagraph.

1261 (iv) The department shall issue a certificate of
1262 need to the Region 7 Mental Health/Retardation Commission for the
1263 construction or expansion of child/adolescent psychiatric beds or
1264 the conversion of other beds to child/adolescent psychiatric beds
1265 in any of the counties served by the commission. For purposes of
1266 this subparagraph (iv), the provisions of Section 41-7-193(1)
1267 requiring substantial compliance with the projection of need as
1268 reported in the current State Health Plan is waived. The total
1269 number of beds that may be authorized under the authority of this
1270 subparagraph shall not exceed twenty (20) beds. There shall be no
1271 prohibition or restrictions on participation in the Medicaid
1272 program (Section 43-13-101 et seq.) for the person receiving the
1273 certificate of need authorized under this subparagraph * * * or

1274 for the beds converted pursuant to the authority of that
1275 certificate of need.

1276 (v) The department may issue a certificate of need
1277 to any county hospital located in Leflore County for the
1278 construction or expansion of adult psychiatric beds or the
1279 conversion of other beds to adult psychiatric beds, not to exceed
1280 twenty (20) beds, provided that the recipient of the certificate
1281 of need agrees in writing that the adult psychiatric beds will not
1282 at any time be certified for participation in the Medicaid program
1283 and that the hospital will not admit or keep any patients who are
1284 participating in the Medicaid program in any of such adult
1285 psychiatric beds. This written agreement by the recipient of the
1286 certificate of need shall be fully binding on any subsequent owner
1287 of the hospital if the ownership of the hospital is transferred at
1288 any time after the issuance of the certificate of need. Agreement
1289 that the adult psychiatric beds will not be certified for
1290 participation in the Medicaid program shall be a condition of the
1291 issuance of a certificate of need to any person under this
1292 subparagraph * * * (v), and if such hospital at any time after the
1293 issuance of the certificate of need, regardless of the ownership
1294 of the hospital, has any of such adult psychiatric beds certified
1295 for participation in the Medicaid program or admits or keeps any
1296 Medicaid patients in such adult psychiatric beds, the State
1297 Department of Health shall revoke the certificate of need, if it
1298 is still outstanding, and shall deny or revoke the license of the
1299 hospital at the time that the department determines, after a
1300 hearing complying with due process, that the hospital has failed
1301 to comply with any of the conditions upon which the certificate of
1302 need was issued, as provided in this subparagraph and in the
1303 written agreement by the recipient of the certificate of need.

1304 (vi) The department may issue a certificate or
1305 certificates of need for the expansion of child psychiatric beds
1306 or the conversion of other beds to child psychiatric beds at the

1307 University of Mississippi Medical Center. For purposes of this
1308 subparagraph * * * (vi), the provision of Section 41-7-193(1)
1309 requiring substantial compliance with the projection of need as
1310 reported in the current State Health Plan is waived. The total
1311 number of beds that may be authorized under the authority of this
1312 subparagraph * * * shall not exceed fifteen (15) beds. There
1313 shall be no prohibition or restrictions on participation in the
1314 Medicaid program (Section 43-13-101 et seq.) for the hospital
1315 receiving the certificate of need authorized under this
1316 subparagraph * * * or for the beds converted pursuant to the
1317 authority of that certificate of need.

1318 (b) From and after July 1, 1990, no hospital,
1319 psychiatric hospital or chemical dependency hospital shall be
1320 authorized to add any child/adolescent psychiatric or
1321 child/adolescent chemical dependency beds or convert any beds of
1322 another category to child/adolescent psychiatric or
1323 child/adolescent chemical dependency beds without a certificate of
1324 need under the authority of subsection (1)(c) of this section.

1325 (5) The department may issue a certificate of need to a
1326 county hospital in Winston County for the conversion of fifteen
1327 (15) acute care beds to geriatric psychiatric care beds.

1328 (6) The State Department of Health shall issue a certificate
1329 of need to a Mississippi corporation qualified to manage a
1330 long-term care hospital as defined in Section 41-7-173(h) (xi) in
1331 Harrison County, not to exceed eighty (80) beds, including any
1332 necessary renovation or construction required for licensure and
1333 certification, provided that the recipient of the certificate of
1334 need agrees in writing that the long-term care hospital will not
1335 at any time participate in the Medicaid program (Section 43-13-101
1336 et seq.) or admit or keep any patients in the long-term care
1337 hospital who are participating in the Medicaid program. This
1338 written agreement by the recipient of the certificate of need
1339 shall be fully binding on any subsequent owner of the long-term

1340 care hospital, if the ownership of the facility is transferred at
1341 any time after the issuance of the certificate of need. Agreement
1342 that the long-term care hospital will not participate in the
1343 Medicaid program shall be a condition of the issuance of a
1344 certificate of need to any person under this subsection (6), and
1345 if such long-term care hospital at any time after the issuance of
1346 the certificate of need, regardless of the ownership of the
1347 facility, participates in the Medicaid program or admits or keeps
1348 any patients in the facility who are participating in the Medicaid
1349 program, the State Department of Health shall revoke the
1350 certificate of need, if it is still outstanding, and shall deny or
1351 revoke the license of the long-term care hospital, at the time
1352 that the department determines, after a hearing complying with due
1353 process, that the facility has failed to comply with any of the
1354 conditions upon which the certificate of need was issued, as
1355 provided in this subsection and in the written agreement by the
1356 recipient of the certificate of need. For purposes of this
1357 subsection, the provision of Section 41-7-193(1) requiring
1358 substantial compliance with the projection of need as reported in
1359 the current State Health Plan is * * * waived.

1360 (7) The State Department of Health may issue a certificate
1361 of need to any hospital in the state to utilize a portion of its
1362 beds for the "swing-bed" concept. Any such hospital must be in
1363 conformance with the federal regulations regarding such swing-bed
1364 concept at the time it submits its application for a certificate
1365 of need to the State Department of Health, except that such
1366 hospital may have more licensed beds or a higher average daily
1367 census (ADC) than the maximum number specified in federal
1368 regulations for participation in the swing-bed program. Any
1369 hospital meeting all federal requirements for participation in the
1370 swing-bed program which receives such certificate of need shall
1371 render services provided under the swing-bed concept to any
1372 patient eligible for Medicare (Title XVIII of the Social Security

1373 Act) who is certified by a physician to be in need of such
1374 services, and no such hospital shall permit any patient who is
1375 eligible for both Medicaid and Medicare or eligible only for
1376 Medicaid to stay in the swing beds of the hospital for more than
1377 thirty (30) days per admission unless the hospital receives prior
1378 approval for such patient from the Division of Medicaid, Office of
1379 the Governor. Any hospital having more licensed beds or a higher
1380 average daily census (ADC) than the maximum number specified in
1381 federal regulations for participation in the swing-bed program
1382 which receives such certificate of need shall develop a procedure
1383 to insure that before a patient is allowed to stay in the swing
1384 beds of the hospital, there are no vacant nursing home beds
1385 available for that patient located within a fifty-mile radius of
1386 the hospital. When any such hospital has a patient staying in the
1387 swing beds of the hospital and the hospital receives notice from a
1388 nursing home located within such radius that there is a vacant bed
1389 available for that patient, the hospital shall transfer the
1390 patient to the nursing home within a reasonable time after receipt
1391 of the notice. Any hospital which is subject to the requirements
1392 of the two (2) preceding sentences of this subsection may be
1393 suspended from participation in the swing-bed program for a
1394 reasonable period of time by the State Department of Health if the
1395 department, after a hearing complying with due process, determines
1396 that the hospital has failed to comply with any of those
1397 requirements.

1398 (8) The Department of Health shall not grant approval for or
1399 issue a certificate of need to any person proposing the new
1400 construction of, addition to or expansion of a health care
1401 facility as defined in subparagraph (vii) of Section 41-7-173(h),
1402 except as hereinafter provided: The department may issue a
1403 certificate of need to a nonprofit corporation located in Madison
1404 County, Mississippi, for the construction, expansion or conversion
1405 of not more than twenty (20) beds in a community living program

1406 for developmentally disabled adults in a facility as defined in
1407 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1408 subsection (8), the provisions of Section 41-7-193(1) requiring
1409 substantial compliance with the projection of need as reported in
1410 the current State Health Plan and the provisions of Section
1411 41-7-197 requiring a formal certificate of need hearing process
1412 are waived. There shall be no prohibition or restrictions on
1413 participation in the Medicaid program for the person receiving the
1414 certificate of need authorized under this subsection (8).

1415 (9) The Department of Health shall not grant approval for or
1416 issue a certificate of need to any person proposing the
1417 establishment of, or expansion of the currently approved territory
1418 of, or the contracting to establish a home office, subunit or
1419 branch office within the space operated as a health care facility
1420 as defined in Section 41-7-173(h)(i) through (vii) by a health
1421 care facility as defined in subparagraph (viii) of Section
1422 41-7-173(h).

1423 (10) Health care facilities owned and/or operated by the
1424 state or its agencies are exempt from the restraints in this
1425 section against issuance of a certificate of need if such addition
1426 or expansion consists of repairing or renovation necessary to
1427 comply with the state licensure law. This exception shall not
1428 apply to the new construction of any building by such state
1429 facility. This exception shall not apply to any health care
1430 facilities owned and/or operated by counties, municipalities,
1431 districts, unincorporated areas, other defined persons, or any
1432 combination thereof.

1433 (11) The new construction, renovation or expansion of or
1434 addition to any health care facility defined in subparagraph (i)
1435 (psychiatric hospital), subparagraph (iii) (skilled nursing
1436 facility), subparagraph (v) (intermediate care facility),
1437 subparagraph (vii) (intermediate care facility for the mentally
1438 retarded) and subparagraph (ix) (psychiatric residential treatment

1439 facility) of Section 41-7-173(h) which is owned by the State of
1440 Mississippi and under the direction and control of the State
1441 Department of Mental Health, and the addition of new beds or the
1442 conversion of beds from one category to another in any such
1443 defined health care facility which is owned by the State of
1444 Mississippi and under the direction and control of the State
1445 Department of Mental Health, shall not require the issuance of a
1446 certificate of need under Section 41-7-171 et seq.,
1447 notwithstanding any provision in Section 41-7-171 et seq. to the
1448 contrary.

1449 (12) The new construction, renovation or expansion of or
1450 addition to any veterans homes or domiciliaries for eligible
1451 veterans of the State of Mississippi as authorized under Section
1452 35-1-19 shall not require the issuance of a certificate of need,
1453 notwithstanding any provision in Section 41-7-171 et seq. to the
1454 contrary.

1455 (13) The new construction of a nursing facility or nursing
1456 facility beds or the conversion of other beds to nursing facility
1457 beds shall not require the issuance of a certificate of need,
1458 notwithstanding any provision in Section 41-7-171 et seq. to the
1459 contrary, if the conditions of this subsection are met.

1460 (a) Before any construction or conversion may be
1461 undertaken without a certificate of need, the owner of the nursing
1462 facility, in the case of an existing facility, or the applicant to
1463 construct a nursing facility, in the case of new construction,
1464 first must file a written notice of intent and sign a written
1465 agreement with the State Department of Health that the entire
1466 nursing facility will not at any time participate in or have any
1467 beds certified for participation in the Medicaid program (Section
1468 43-13-101 et seq.), will not admit or keep any patients in the
1469 nursing facility who are participating in the Medicaid program,
1470 and will not submit any claim for Medicaid reimbursement for any
1471 patient in the facility. This written agreement by the owner or

1472 applicant shall be a condition of exercising the authority under
1473 this subsection without a certificate of need, and the agreement
1474 shall be fully binding on any subsequent owner of the nursing
1475 facility if the ownership of the facility is transferred at any
1476 time after the agreement is signed. After the written agreement
1477 is signed, the Division of Medicaid and the State Department of
1478 Health shall not certify any beds in the nursing facility for
1479 participation in the Medicaid program. If the nursing facility
1480 violates the terms of the written agreement by participating in
1481 the Medicaid program, having any beds certified for participation
1482 in the Medicaid program, admitting or keeping any patient in the
1483 facility who is participating in the Medicaid program, or
1484 submitting any claim for Medicaid reimbursement for any patient in
1485 the facility, the State Department of Health shall revoke the
1486 license of the nursing facility at the time that the department
1487 determines, after a hearing complying with due process, that the
1488 facility has violated the terms of the written agreement.

1489 (b) For the purposes of this subsection, participation
1490 in the Medicaid program by a nursing facility includes Medicaid
1491 reimbursement of coinsurance and deductibles for recipients who
1492 are qualified Medicare beneficiaries and/or those who are dually
1493 eligible. Any nursing facility exercising the authority under
1494 this subsection may not bill or submit a claim to the Division of
1495 Medicaid for services to qualified Medicare beneficiaries and/or
1496 those who are dually eligible.

1497 (c) The new construction of a nursing facility or
1498 nursing facility beds or the conversion of other beds to nursing
1499 facility beds described in this section must be either a part of a
1500 completely new continuing care retirement community, as described
1501 in the latest edition of the Mississippi State Health Plan, or an
1502 addition to existing personal care and independent living
1503 components, and so that the completed project will be a continuing
1504 care retirement community, containing (i) independent living

1505 accommodations, (ii) personal care beds, and (iii) the nursing
1506 home facility beds. The three (3) components must be located on a
1507 single site and be operated as one (1) inseparable facility. The
1508 nursing facility component must contain a minimum of thirty (30)
1509 beds. Any nursing facility beds authorized by this section will
1510 not be counted against the bed need set forth in the State Health
1511 Plan, as identified in Section 41-7-171 et seq.

1512 This subsection (13) shall stand repealed from and after July
1513 1, 2005.

1514 (14) The State Department of Health shall issue a
1515 certificate of need to any hospital which is currently licensed
1516 for two hundred fifty (250) or more acute care beds and is located
1517 in any general hospital service area not having a comprehensive
1518 cancer center, for the establishment and equipping of such a
1519 center which provides facilities and services for outpatient
1520 radiation oncology therapy, outpatient medical oncology therapy,
1521 and appropriate support services including the provision of
1522 radiation therapy services. The provision of Section 41-7-193(1)
1523 regarding substantial compliance with the projection of need as
1524 reported in the current State Health Plan is waived for the
1525 purpose of this subsection.

1526 (15) The State Department of Health may authorize the
1527 transfer of hospital beds, not to exceed sixty (60) beds, from the
1528 North Panola Community Hospital to the South Panola Community
1529 Hospital. The authorization for the transfer of those beds shall
1530 be exempt from the certificate of need review process.

1531 (16) The State Department of Health shall issue any
1532 certificates of need necessary for Mississippi State University
1533 and a public or private health care provider to jointly acquire
1534 and operate a linear accelerator and a magnetic resonance imaging
1535 unit. Those certificates of need shall cover all capital
1536 expenditures related to the project between Mississippi State
1537 University and the health care provider, including, but not

1538 limited to, the acquisition of the linear accelerator, the
1539 magnetic resonance imaging unit and other radiological modalities;
1540 the offering of linear accelerator and magnetic resonance imaging
1541 services; and the cost of construction of facilities in which to
1542 locate these services. The linear accelerator and the magnetic
1543 resonance imaging unit shall be (a) located in the City of
1544 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1545 Mississippi State University and the public or private health care
1546 provider selected by Mississippi State University through a
1547 request for proposals (RFP) process in which Mississippi State
1548 University selects, and the Board of Trustees of State
1549 Institutions of Higher Learning approves, the health care provider
1550 that makes the best overall proposal; (c) available to Mississippi
1551 State University for research purposes two-thirds (2/3) of the
1552 time that the linear accelerator and magnetic resonance imaging
1553 unit are operational; and (d) available to the public or private
1554 health care provider selected by Mississippi State University and
1555 approved by the Board of Trustees of State Institutions of Higher
1556 Learning one-third (1/3) of the time for clinical, diagnostic and
1557 treatment purposes. For purposes of this subsection, the
1558 provisions of Section 41-7-193(1) requiring substantial compliance
1559 with the projection of need as reported in the current State
1560 Health Plan are waived.

1561 (17) Nothing in this section or in any other provision of
1562 Section 41-7-171 et seq. shall prevent any nursing facility from
1563 designating an appropriate number of existing beds in the facility
1564 as beds for providing care exclusively to patients with
1565 Alzheimer's disease.

1566 **SECTION 4.** Section 41-7-201, Mississippi Code of 1972, is
1567 amended as follows:

1568 41-7-201. (1) The provisions of this subsection (1) shall
1569 apply to any party appealing any final order of the State

1570 Department of Health pertaining to a certificate of need for a
1571 home health agency, as defined in Section 41-7-173(h)(viii):

1572 (a) In addition to other remedies now available at law
1573 or in equity, any party aggrieved by any such final order of the
1574 State Department of Health shall have the right of appeal to the
1575 Chancery Court of the First Judicial District of Hinds County,
1576 Mississippi, which appeal must be filed within thirty (30) days
1577 after the date of the final order. * * * However, * * * any
1578 appeal of an order disapproving an application for such a
1579 certificate of need may be made to the chancery court of the
1580 county where the proposed construction, expansion or alteration
1581 was to be located or the new service or purpose of the capital
1582 expenditure was to be located. Such appeal must be filed in
1583 accordance with the thirty (30) days for filing as heretofore
1584 provided. Any appeal shall state briefly the nature of the
1585 proceedings before the State Department of Health and shall
1586 specify the order complained of. Any person whose rights may be
1587 materially affected by the action of the State Department of
1588 Health may appear and become a party or the court may, upon
1589 motion, order that any such person, organization or entity be
1590 joined as a necessary party.

1591 (b) Upon the filing of such an appeal, the clerk of the
1592 chancery court shall serve notice thereof upon the State
1593 Department of Health, whereupon the State Department of Health
1594 shall, within fifty (50) days or within such additional time as
1595 the court may by order for cause allow from the service of such
1596 notice, certify to the chancery court the record in the case,
1597 which records shall include a transcript of all testimony,
1598 together with all exhibits or copies thereof, all pleadings,
1599 proceedings, orders, findings and opinions entered in the
1600 case; * * * however, * * * the parties and the State Department of
1601 Health may stipulate that a specified portion only of the record
1602 shall be certified to the court as the record on appeal.

1603 (c) No new or additional evidence shall be introduced
1604 in the chancery court but the case shall be determined upon the
1605 record certified to the court.

1606 (d) The court may dispose of the appeal in termtime or
1607 vacation and may sustain or dismiss the appeal, modify or vacate
1608 the order complained of in whole or in part as the case may be;
1609 but in case the order is wholly or partly vacated, the court may
1610 also, in its discretion, remand the matter to the State Department
1611 of Health for such further proceedings, not inconsistent with the
1612 court's order, as, in the opinion of the court, justice may
1613 require. The order shall not be vacated or set aside, either in
1614 whole or in part, except for errors of law, unless the court finds
1615 that the order of the State Department of Health is not supported
1616 by substantial evidence, is contrary to the manifest weight of the
1617 evidence, is in excess of the statutory authority or jurisdiction
1618 of the State Department of Health, or violates any vested
1619 constitutional rights of any party involved in the appeal. * * *
1620 However, an order of the chancery court reversing the denial of a
1621 certificate of need by the State Department of Health shall not
1622 entitle the applicant to effectuate the certificate of need until
1623 either:

1624 (i) Such order of the chancery court has become
1625 final and has not been appealed to the Supreme Court; or

1626 (ii) The Supreme Court has entered a final order
1627 affirming the chancery court.

1628 (e) Appeals in accordance with law may be had to the
1629 Supreme Court of the State of Mississippi from any final judgment
1630 of the chancery court.

1631 (2) The provisions of this subsection (2) shall apply to any
1632 party appealing any final order of the State Department of Health
1633 pertaining to a certificate of need for any health care facility
1634 as defined in Section 41-7-173(h), with the exception of any home
1635 health agency as defined in Section 41-7-173(h)(viii):

1636 (a) There shall be a "stay of proceedings" of any final
1637 order issued by the State Department of Health pertaining to the
1638 issuance of a certificate of need for the establishment,
1639 construction, expansion or replacement of a health care facility
1640 for a period of thirty (30) days from the date of the order, if an
1641 existing provider located in the same service area where the
1642 health care facility is or will be located has requested a hearing
1643 during the course of review in opposition to the issuance of the
1644 certificate of need. The stay of proceedings shall expire at the
1645 termination of thirty (30) days; however, no construction,
1646 renovation or other capital expenditure that is the subject of the
1647 order shall be undertaken, no license to operate any facility that
1648 is the subject of the order shall be issued by the licensing
1649 agency, and no certification to participate in the Title XVIII or
1650 Title XIX programs of the Social Security Act shall be granted,
1651 until all statutory appeals have been exhausted or the time for
1652 such appeals has expired. Notwithstanding the foregoing, the
1653 filing of an appeal from a final order of the State Department of
1654 Health or the chancery court for the issuance of a certificate of
1655 need shall not prevent the purchase of medical equipment or
1656 development or offering of institutional health services granted
1657 in a certificate of need issued by the State Department of Health.

1658 (b) In addition to other remedies now available at law
1659 or in equity, any party aggrieved by any such final order of the
1660 State Department of Health shall have the right of appeal to the
1661 Chancery Court of the First Judicial District of Hinds County,
1662 Mississippi, which appeal must be filed within twenty (20) days
1663 after the date of the final order. * * * However, * * * any
1664 appeal of an order disapproving an application for such a
1665 certificate of need may be made to the chancery court of the
1666 county where the proposed construction, expansion or alteration
1667 was to be located or the new service or purpose of the capital
1668 expenditure was to be located. Such appeal must be filed in

1669 accordance with the twenty (20) days for filing as heretofore
1670 provided. Any appeal shall state briefly the nature of the
1671 proceedings before the State Department of Health and shall
1672 specify the order complained of.

1673 (c) Upon the filing of such an appeal, the clerk of the
1674 chancery court shall serve notice thereof upon the State
1675 Department of Health, whereupon the State Department of Health
1676 shall, within thirty (30) days of the date of the filing of the
1677 appeal, certify to the chancery court the record in the case,
1678 which records shall include a transcript of all testimony,
1679 together with all exhibits or copies thereof, all pleadings,
1680 proceedings, orders, findings and opinions entered in the
1681 case; * * * however, * * * the parties and the State Department of
1682 Health may stipulate that a specified portion only of the record
1683 shall be certified to the court as the record on appeal. The
1684 chancery court shall give preference to any such appeal from a
1685 final order by the State Department of Health in a certificate of
1686 need proceeding, and shall render a final order regarding such
1687 appeal no later than one hundred twenty (120) days from the date
1688 of the final order by the State Department of Health. If the
1689 chancery court has not rendered a final order within this 120-day
1690 period, then the final order of the State Department of Health
1691 shall be deemed to have been affirmed by the chancery court, and
1692 any party to the appeal shall have the right to appeal from the
1693 chancery court to the Supreme Court on the record certified by the
1694 State Department of Health as otherwise provided in paragraph (g)
1695 of this subsection. If the chancery court has not rendered a
1696 final order within the 120-day period and an appeal is made to the
1697 Supreme Court as provided in this section, the Supreme Court shall
1698 remand the case to the chancery court to make an award of costs,
1699 fees, reasonable expenses and attorney's fees incurred in favor of
1700 appellee payable by the appellant(s) if the Supreme Court affirms
1701 the order of the State Department of Health.

1702 (d) Any appeal of a final order by the State Department
1703 of Health in a certificate of need proceeding shall require the
1704 giving of a bond by the appellant(s) sufficient to secure the
1705 appellee against the loss of costs, fees, expenses and attorney's
1706 fees incurred in defense of the appeal, approved by the chancery
1707 court within five (5) days of the date of filing the appeal.

1708 (e) No new or additional evidence shall be introduced
1709 in the chancery court but the case shall be determined upon the
1710 record certified to the court.

1711 (f) The court may dispose of the appeal in termtime or
1712 vacation and may sustain or dismiss the appeal, modify or vacate
1713 the order complained of in whole or in part and may make an award
1714 of costs, fees, expenses and attorney's fees, as the case may be;
1715 but in case the order is wholly or partly vacated, the court may
1716 also, in its discretion, remand the matter to the State Department
1717 of Health for such further proceedings, not inconsistent with the
1718 court's order, as, in the opinion of the court, justice may
1719 require. The court, as part of the final order, shall make an
1720 award of costs, fees, reasonable expenses and attorney's fees
1721 incurred in favor of appellee payable by the appellant(s) should
1722 the court affirm the order of the State Department of Health. The
1723 order shall not be vacated or set aside, either in whole or in
1724 part, except for errors of law, unless the court finds that the
1725 order of the State Department of Health is not supported by
1726 substantial evidence, is contrary to the manifest weight of the
1727 evidence, is in excess of the statutory authority or jurisdiction
1728 of the State Department of Health, or violates any vested
1729 constitutional rights of any party involved in the appeal. * * *
1730 However, an order of the chancery court reversing the denial of a
1731 certificate of need by the State Department of Health shall not
1732 entitle the applicant to effectuate the certificate of need until
1733 either:

1734 (i) Such order of the chancery court has become
1735 final and has not been appealed to the Supreme Court; or

1736 (ii) The Supreme Court has entered a final order
1737 affirming the chancery court.

1738 (g) Appeals in accordance with law may be had to the
1739 Supreme Court of the State of Mississippi from any final judgment
1740 of the chancery court.

1741 (h) Within thirty (30) days from the date of a final
1742 order by the Supreme Court or a final order of the chancery court
1743 not appealed to the Supreme Court that modifies or wholly or
1744 partly vacates the final order of the State Department of Health
1745 granting a certificate of need, the State Department of Health
1746 shall issue another order in conformity with the final order of
1747 the Supreme Court, or the final order of the chancery court not
1748 appealed to the Supreme Court.

1749 **SECTION 5.** Section 41-7-202, Mississippi Code of 1972, is
1750 amended as follows:

1751 41-7-202. There shall be a "stay of proceedings" of any
1752 written decision of the State Department of Health pertaining to a
1753 certificate of need for a home health agency, as defined in
1754 Section 41-7-173(h)(viii), for a period of thirty (30) days from
1755 the date of that decision. The stay of proceedings shall expire
1756 at the termination of thirty (30) days; however, no license to
1757 operate any such home health agency that is the subject of the
1758 decision shall be issued by the licensing agency, and no
1759 certification for such home health agency to participate in the
1760 Title XVIII or Title XIX programs of the Social Security Act shall
1761 be granted until all statutory appeals have been exhausted or the
1762 time for such appeals has expired. The stay of proceedings
1763 provided for in this section shall not apply to any party
1764 appealing any final order of the State Department of Health
1765 pertaining to a certificate of need for any health care facility

1766 as defined in Section 41-7-173(h), with the exception of any home
1767 health agency as defined in Section 41-7-173(h)(viii).

1768 **SECTION 6.** Section 41-9-210, Mississippi Code of 1972, is
1769 amended as follows:

1770 41-9-210. If a hospital seeks a new license from the
1771 department in order to be designated as a critical access
1772 hospital, the department shall maintain a record of the acute care
1773 beds of that hospital that have been delicensed as a result of
1774 that designation and continue counting those beds as part of the
1775 state's total acute care bed count for health care planning
1776 purposes. If a critical access hospital later desires to
1777 relicense some or all of its delicensed acute care beds, it shall
1778 notify the department of its intent to increase the number of its
1779 licensed acute care beds. The department shall survey the
1780 hospital within thirty (30) days of that notice and, if
1781 appropriate, issue the hospital a new license reflecting the new
1782 contingent of beds. * * *

1783 This section shall apply to all hospitals that are designated
1784 as critical access hospitals on July 1, 2003, and all hospitals
1785 that may become designated as critical access hospitals after July
1786 1, 2003.

1787 **SECTION 7.** Section 41-63-4, Mississippi Code of 1972, is
1788 amended as follows:

1789 41-63-4. (1) In order to improve the quality and efficiency
1790 of medical care, the State Department of Health shall design and
1791 establish a registry program of the condition and treatment of
1792 persons seeking medical care that will provide the following:

1793 (a) Information in a central data bank system of
1794 accurate, precise and current information regarding the diagnostic
1795 services and therapeutic services for medical diagnosis, treatment
1796 and care of injured, disabled or sick persons, or rehabilitation
1797 services for the rehabilitation of injured, disabled or sick
1798 persons provided in an acute care hospital * * *;

1799 (b) Collection of that data;
1800 (c) Dissemination of that data; and
1801 (d) Analysis of that data for the purposes of the
1802 evaluation and improvement of the quality and efficiency of
1803 medical care provided in a health care facility.

1804 (2) The State Board of Health shall adopt rules, regulations
1805 and procedures to govern the operation of the registry program and
1806 to carry out the intent of this section.

1807 (3) The State Department of Health shall specify the types
1808 of information to be provided to the registry.

1809 (4) Information collected and analyzed by the State
1810 Department of Health under this section shall be placed in a
1811 central health data registry system maintained by the Mississippi
1812 Hospital Association, acting under the direction of the State
1813 Department of Health.

1814 (5) The information, data and records shall not divulge the
1815 identity of any patient.

1816 (6) Notwithstanding any conflicting statute, court rule or
1817 other law, the data maintained in the registry shall be
1818 confidential and shall not be subject to discovery or introduction
1819 into evidence in any civil action. However, information and data
1820 otherwise discoverable or admissible from original sources are not
1821 to be construed as immune from discovery or use in any civil
1822 action merely because they were provided to the registry.

1823 **SECTION 8.** This act shall take effect and be in force from
1824 and after July 1, 2007.