

By: Representative Holland

To: Public Health and Human  
Services; Appropriations

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1102

1 AN ACT RELATING TO THE HEALTH CARE CERTIFICATE OF NEED LAW;  
2 TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972, TO PROVIDE  
3 DEFINITIONS FOR CLINICAL AND NONCLINICAL EXPENDITURES UNDER THE  
4 HEALTH CARE CERTIFICATE OF NEED LAW; TO REVISE THE MINIMUM CAPITAL  
5 EXPENDITURES REQUIRING A CERTIFICATE OF NEED AND TO PROVIDE FOR AN  
6 ANNUAL COST INDEX ADJUSTMENT FOR THOSE MINIMUM CAPITAL  
7 EXPENDITURES; TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
8 TO INCLUDE COMPUTERIZED TOMOGRAPHY (CT)-PET SERVICES IN THOSE NEW  
9 HEALTH SERVICES REQUIRING CERTIFICATE OF NEED REVIEW; TO CLARIFY  
10 THAT THE CONVERSION OF MOBILE SERVICES TO FIXED SITE SERVICES  
11 REQUIRES A CERTIFICATE OF NEED; TO DIRECT THE STATE DEPARTMENT OF  
12 HEALTH TO ISSUE CERTIFICATES OF NEED FOR LONG-TERM CARE BEDS IN  
13 EACH OF THE FOUR LONG-TERM CARE PLANNING DISTRICTS TO PROVIDE CARE  
14 EXCLUSIVELY TO PATIENTS WITH ALZHEIMER'S DISEASE; TO DIRECT THE  
15 DEPARTMENT TO ISSUE A CERTIFICATE OF NEED TO A NONPROFIT NURSING  
16 FACILITY IN HINDS COUNTY FOR THE CONSTRUCTION OF A NURSING  
17 FACILITY BASED ON THE GREEN HOUSE MODEL IN RANKIN COUNTY AND THE  
18 RELOCATION OF ITS NURSING FACILITY BEDS TO THE NEW FACILITY; TO  
19 DIRECT THE DEPARTMENT TO ISSUE A CERTIFICATE OF NEED FOR THE  
20 CONSTRUCTION OF A NURSING FACILITY IN ANY UNDERSERVED MINORITY ZIP  
21 CODE AREA IN THE STATE; TO DIRECT THE DEPARTMENT TO ISSUE  
22 CERTIFICATES OF NEED FOR THE CONSTRUCTION OR CONVERSION OF  
23 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS AND  
24 CHILD/ADOLESCENT PSYCHIATRIC BEDS; TO REVOKE CERTAIN PREVIOUSLY  
25 ISSUED CERTIFICATES OF NEED THAT AUTHORIZED SOME OF THOSE BEDS IN  
26 WARREN COUNTY; TO REMOVE THE REPEALER ON AND REINSTATE IN THE  
27 HEALTH CARE CERTIFICATE OF NEED LAW THE PROVISION THAT AUTHORIZES  
28 THE NEW CONSTRUCTION OF A NURSING FACILITY WITHOUT THE ISSUANCE OF  
29 A CERTIFICATE OF NEED, IF THE FACILITY IS PART OF A CONTINUING  
30 CARE RETIREMENT COMMUNITY THAT CONTAINS INDEPENDENT LIVING  
31 ACCOMMODATIONS, PERSONAL CARE BEDS AND THE NURSING FACILITY BEDS  
32 ON A SINGLE SITE, AND THE FACILITY DOES NOT PARTICIPATE IN THE  
33 MEDICAID PROGRAM; TO ALLOW A PUBLICLY OWNED HOSPITAL SYSTEM HAVING  
34 MORE THAN ONE HOSPITAL FACILITY IN JACKSON COUNTY TO RELOCATE ANY  
35 NUMBER OF LICENSED HOSPITAL BEDS FROM ONE HOSPITAL FACILITY TO  
36 ANOTHER FACILITY IN JACKSON COUNTY WITHOUT THE ISSUANCE OF A  
37 CERTIFICATE OF NEED, AS LONG AS THERE IS NO INCREASE IN THE TOTAL  
38 NUMBER OF LICENSED HOSPITAL BEDS IN THOSE HOSPITAL FACILITIES IN  
39 JACKSON COUNTY; TO PROVIDE THAT ANY CAPITAL EXPENDITURES MADE BY  
40 THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER TO ESTABLISH A BURN  
41 UNIT SHALL BE EXEMPT FROM THE CERTIFICATE OF NEED PROCESS; TO  
42 AMEND SECTION 41-7-205, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
43 A REQUEST FOR A NONCLINICAL EXPENDITURE BY A HEALTH CARE FACILITY  
44 EXCEEDING THE CAPITAL EXPENDITURE MINIMUM SHALL BE AUTHORIZED FOR  
45 EXPEDITED REVIEW; AND FOR RELATED PURPOSES.

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

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

49           41-7-173. For the purposes of Section 41-7-171 et seq., the  
50 following words shall have the meanings as defined in this  
51 section, unless the context otherwise requires:

52           (a) "Affected person" means (i) the applicant; (ii) a  
53 person residing within the geographic area to be served by the  
54 applicant's proposal; (iii) a person who regularly uses health  
55 care facilities or HMOs located in the geographic area of the  
56 proposal that provide similar service to that which is proposed;  
57 (iv) health care facilities and HMOs that have, before receipt of  
58 the application under review, formally indicated an intention to  
59 provide service similar to that of the proposal being considered  
60 at a future date; (v) third-party payers who reimburse health care  
61 facilities located in the geographical area of the proposal; or  
62 (vi) any agency that establishes rates for health care services or  
63 HMOs located in the geographic area of the proposal.

64           (b) "Certificate of need" means a written order of the  
65 State Department of Health setting forth the affirmative finding  
66 that a proposal in prescribed application form, sufficiently  
67 satisfies the plans, standards and criteria prescribed for that  
68 service or other project by Section 41-7-171 et seq., and by rules  
69 and regulations promulgated under those sections by the State  
70 Department of Health.

71           (c) (i) "Capital expenditure," when pertaining to  
72 defined major medical equipment, \* \* \* means an expenditure that,  
73 under generally accepted accounting principles consistently  
74 applied, is not properly chargeable as an expense of operation and  
75 maintenance and that is incurred in performing a new clinical  
76 health service or the expansion of a clinical health service  
77 listed in Section 41-7-191(1)(d), including, but not limited to,  
78 major medical equipment.

79           (ii) "Capital expenditure," when pertaining to  
80 other than major medical equipment, \* \* \* means any expenditure  
81 which under generally accepted accounting principles consistently

82 applied is not properly chargeable as an expense of operation and  
83 maintenance and that exceeds Two Million Dollars (\$2,000,000.00)  
84 for a clinical health service and that exceeds Five Million  
85 Dollars (\$5,000,000.00) in nonclinical expenditures, as defined in  
86 paragraph (n) of this section, and indexed annually for inflation  
87 by the State Department of Health.

88 (iii) A "capital expenditure" \* \* \* includes the  
89 acquisition, whether by lease, sufferance, gift, devise, legacy,  
90 settlement of a trust or other means, of any facility or part  
91 thereof, or equipment for a facility, the expenditure for which  
92 would have been considered a capital expenditure if acquired by  
93 purchase. Transactions that are separated in time but are planned  
94 to be undertaken within twelve (12) months of each other and are  
95 components of an overall plan for meeting patient care objectives  
96 shall, for purposes of this definition, be viewed in their  
97 entirety without regard to their timing.

98 (iv) In those instances where a health care  
99 facility or other provider of clinical health services proposes to  
100 provide a service in which the capital expenditure for major  
101 medical equipment or other than major medical equipment or a  
102 combination of the two (2) may have been split between separate  
103 parties, the total capital expenditure required to provide the  
104 proposed service shall be considered in determining the necessity  
105 of certificate of need review and in determining the appropriate  
106 certificate of need review fee to be paid. The capital  
107 expenditure associated with facilities and equipment to provide  
108 services in Mississippi shall be considered regardless of where  
109 the capital expenditure was made, in state or out of state, and  
110 regardless of the domicile of the party making the capital  
111 expenditure, in state or out of state.

112 (d) "Change of ownership" includes, but is not limited  
113 to, inter vivos gifts, purchases, transfers, lease arrangements,  
114 cash and/or stock transactions or other comparable arrangements

115 whenever any person or entity acquires or controls a majority  
116 interest of the facility or service. Changes of ownership from  
117 partnerships, single proprietorships or corporations to another  
118 form of ownership are specifically included. However, "change of  
119 ownership" shall not include any inherited interest acquired as a  
120 result of a testamentary instrument or under the laws of descent  
121 and distribution of the State of Mississippi.

122 (e) "Clinical health service" means a single  
123 diagnostic, therapeutic, rehabilitative, preventive or palliative  
124 procedure or series of those procedures that may be separately  
125 identified for billing and accounting purposes.

126 (f) "Commencement of construction" means that all of  
127 the following have been completed with respect to a proposal or  
128 project proposing construction, renovating, remodeling or  
129 alteration:

130 (i) A legally binding written contract has been  
131 consummated by the proponent and a lawfully licensed contractor to  
132 construct and/or complete the intent of the proposal within a  
133 specified period of time in accordance with final architectural  
134 plans that have been approved by the licensing authority of the  
135 State Department of Health;

136 (ii) Any and all permits and/or approvals deemed  
137 lawfully necessary by all authorities with responsibility for that  
138 have been secured; and

139 (iii) Actual bona fide undertaking of the subject  
140 proposal has commenced, and a progress payment of at least one  
141 percent (1%) of the total cost price of the contract has been paid  
142 to the contractor by the proponent, and the requirements of this  
143 paragraph (f) have been certified to in writing by the State  
144 Department of Health.

145 Force account expenditures, such as deposits, securities,  
146 bonds, et cetera, may, in the discretion of the State Department

147 of Health, be excluded from any or all of the provisions of  
148 defined commencement of construction.

149 (g) "Consumer" means an individual who is not a  
150 provider of health care as defined in paragraph (r) of this  
151 section.

152 (h) "Develop," when used in connection with clinical  
153 health services, means to undertake those activities that, on  
154 their completion, will result in the offering of a new  
155 institutional health service or the incurring of a financial  
156 obligation as defined under applicable state law in relation to  
157 the offering of those services.

158 (i) "Health care facility" includes hospitals,  
159 psychiatric hospitals, chemical dependency hospitals, skilled  
160 nursing facilities, end stage renal disease (ESRD) facilities,  
161 including freestanding hemodialysis units, intermediate care  
162 facilities, ambulatory surgical facilities, intermediate care  
163 facilities for the mentally retarded, home health agencies,  
164 psychiatric residential treatment facilities, pediatric skilled  
165 nursing facilities, long-term care hospitals, comprehensive  
166 medical rehabilitation facilities, including facilities owned or  
167 operated by the state or a political subdivision or  
168 instrumentality of the state, but does not include Christian  
169 Science sanatoriums operated or listed and certified by the First  
170 Church of Christ, Scientist, Boston, Massachusetts. This  
171 definition shall not apply to facilities for the private practice,  
172 either independently or by incorporated medical groups, of  
173 physicians, dentists or health care professionals except where  
174 those facilities are an integral part of an institutional health  
175 service. The various health care facilities listed in this  
176 paragraph shall be defined as follows:

177 (i) "Hospital" means an institution that is  
178 primarily engaged in providing to inpatients, by or under the  
179 supervision of physicians, diagnostic services and therapeutic

180 services for medical diagnosis, treatment and care of injured,  
181 disabled or sick persons, or rehabilitation services for the  
182 rehabilitation of injured, disabled or sick persons. That term  
183 does not include psychiatric hospitals.

184 (ii) "Psychiatric hospital" means an institution  
185 that is primarily engaged in providing to inpatients, by or under  
186 the supervision of a physician, psychiatric services for the  
187 diagnosis and treatment of mentally ill persons.

188 (iii) "Chemical dependency hospital" means an  
189 institution that is primarily engaged in providing to inpatients,  
190 by or under the supervision of a physician, medical and related  
191 services for the diagnosis and treatment of chemical dependency  
192 such as alcohol and drug abuse.

193 (iv) "Skilled nursing facility" means an  
194 institution or a distinct part of an institution that is primarily  
195 engaged in providing to inpatients skilled nursing care and  
196 related services for patients who require medical or nursing care  
197 or rehabilitation services for the rehabilitation of injured,  
198 disabled or sick persons.

199 (v) "End stage renal disease (ESRD) facilities"  
200 means kidney disease treatment centers, that includes freestanding  
201 hemodialysis units and limited care facilities. The term "limited  
202 care facility" generally refers to an off-hospital-premises  
203 facility, regardless of whether it is provider or nonprovider  
204 operated, that is engaged primarily in furnishing maintenance  
205 hemodialysis services to stabilized patients.

206 (vi) "Intermediate care facility" means an  
207 institution that provides, on a regular basis, health-related care  
208 and services to individuals who do not require the degree of care  
209 and treatment that a hospital or skilled nursing facility is  
210 designed to provide, but who, because of their mental or physical  
211 condition, require health-related care and services (above the  
212 level of room and board).

213 (vii) "Ambulatory surgical facility" means a  
214 facility primarily organized or established for the purpose of  
215 performing surgery for outpatients and is a separate identifiable  
216 legal entity from any other health care facility. That term does  
217 not include the offices of private physicians or dentists, whether  
218 for individual or group practice, and does not include any  
219 abortion facility as defined in Section 41-75-1(e).

220 (viii) "Intermediate care facility for the  
221 mentally retarded" means an intermediate care facility that  
222 provides health or rehabilitative services in a planned program of  
223 activities to the mentally retarded, also including, but not  
224 limited to, cerebral palsy and other conditions covered by the  
225 Federal Developmentally Disabled Assistance and Bill of Rights  
226 Act, Public Law 94-103.

227 (ix) "Home health agency" means a public or  
228 privately owned agency or organization, or a subdivision of such  
229 an agency or organization, properly authorized to conduct business  
230 in Mississippi, that is primarily engaged in providing to  
231 individuals at the written direction of a licensed physician, in  
232 the individual's place of residence, skilled nursing services  
233 provided by or under the supervision of a registered nurse  
234 licensed to practice in Mississippi, and one or more of the  
235 following services or items:

- 236 1. Physical, occupational or speech therapy;
- 237 2. Medical social services;
- 238 3. Part-time or intermittent services of a  
239 home health aide;
- 240 4. Other services as approved by the  
241 licensing agency for home health agencies;
- 242 5. Medical supplies, other than drugs and  
243 biologicals, and the use of medical appliances; or

244                   6. Medical services provided by an intern or  
245 resident-in-training at a hospital under a teaching program of the  
246 hospital.

247           Further, all skilled nursing services and those services  
248 listed in items 1 through 4 of this subparagraph (ix) must be  
249 provided directly by the licensed home health agency. For  
250 purposes of this subparagraph, "directly" means either through an  
251 agency employee or by an arrangement with another individual not  
252 defined as a health care facility.

253           This subparagraph (ix) shall not apply to health care  
254 facilities that had contracts for the above services with a home  
255 health agency on January 1, 1990.

256                   (x) "Psychiatric residential treatment facility"  
257 means any nonhospital establishment with permanent licensed  
258 facilities that provides a twenty-four-hour program of care by  
259 qualified therapists, including, but not limited to, duly licensed  
260 mental health professionals, psychiatrists, psychologists,  
261 psychotherapists and licensed certified social workers, for  
262 emotionally disturbed children and adolescents referred to that  
263 facility by a court, local school district or by the Department of  
264 Human Services, who are not in an acute phase of illness requiring  
265 the services of a psychiatric hospital, and are in need of those  
266 restorative treatment services. For purposes of this paragraph,  
267 the term "emotionally disturbed" means a condition exhibiting one  
268 or more of the following characteristics over a long period of  
269 time and to a marked degree, that adversely affects educational  
270 performance:

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

273                           2. An inability to build or maintain  
274 satisfactory relationships with peers and teachers;

275                           3. Inappropriate types of behavior or  
276 feelings under normal circumstances;



277                   4. A general pervasive mood of unhappiness or  
278 depression; or

279                   5. A tendency to develop physical symptoms or  
280 fears associated with personal or school problems. An  
281 establishment furnishing primarily domiciliary care is not within  
282 this definition.

283                   (xi) "Pediatric skilled nursing facility" means an  
284 institution or a distinct part of an institution that is primarily  
285 engaged in providing to inpatients skilled nursing care and  
286 related services for persons under twenty-one (21) years of age  
287 who require medical or nursing care or rehabilitation services for  
288 the rehabilitation of injured, disabled or sick persons.

289                   (xii) "Long-term care hospital" means a  
290 freestanding, Medicare-certified hospital that has an average  
291 length of inpatient stay greater than twenty-five (25) days, that  
292 is primarily engaged in providing chronic or long-term medical  
293 care to patients who do not require more than three (3) hours of  
294 rehabilitation or comprehensive rehabilitation per day, and has a  
295 transfer agreement with an acute care medical center and a  
296 comprehensive medical rehabilitation facility. Long-term care  
297 hospitals shall not use rehabilitation, comprehensive medical  
298 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
299 nursing home, skilled nursing facility, or sub-acute care facility  
300 in association with its name.

301                   (xiii) "Comprehensive medical rehabilitation  
302 facility" means a hospital or hospital unit that is licensed  
303 and/or certified as a comprehensive medical rehabilitation  
304 facility that provides specialized programs that are accredited by  
305 the Commission on Accreditation of Rehabilitation Facilities and  
306 supervised by a physician board certified or board eligible in  
307 Psychiatry or other doctor of medicine or osteopathy with at least  
308 two (2) years of training in the medical direction of a  
309 comprehensive rehabilitation program that:

- 310                   1. Includes evaluation and treatment of  
311 individuals with physical disabilities;
- 312                   2. Emphasizes education and training of  
313 individuals with disabilities;
- 314                   3. Incorporates at least the following core  
315 disciplines:
- 316                   (i) Physical Therapy;
- 317                   (ii) Occupational Therapy;
- 318                   (iii) Speech and Language Therapy;
- 319                   (iv) Rehabilitation Nursing; and
- 320                   4. Incorporates at least three (3) of the  
321 following disciplines:
- 322                   (i) Psychology;
- 323                   (ii) Audiology;
- 324                   (iii) Respiratory Therapy;
- 325                   (iv) Therapeutic Recreation;
- 326                   (v) Orthotics;
- 327                   (vi) Prosthetics;
- 328                   (vii) Special Education;
- 329                   (viii) Vocational Rehabilitation;
- 330                   (ix) Psychotherapy;
- 331                   (x) Social Work;
- 332                   (xi) Rehabilitation Engineering.

333           These specialized programs include, but are not limited to:  
334 spinal cord injury programs, head injury programs and infant and  
335 early childhood development programs.

336           (j) "Health maintenance organization" or "HMO" means a  
337 public or private organization organized under the laws of this  
338 state or the federal government that:

- 339                   (i) Provides or otherwise makes available to  
340 enrolled participants health care services, including  
341 substantially the following basic health care services: usual

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

344 (ii) Is compensated (except for copayments) for  
345 the provision of the basic health care services listed in  
346 subparagraph (i) of this paragraph to enrolled participants on a  
347 predetermined basis; and

348 (iii) Provides physician services primarily:

349 1. Directly through physicians who are either  
350 employees or partners of the organization; or

351 2. Through arrangements with individual  
352 physicians or one or more groups of physicians (organized on a  
353 group practice or individual practice basis).

354 (k) "Health service area" means a geographic area of  
355 the state designated in the State Health Plan as the area to be  
356 used in planning for specified health facilities and services and  
357 to be used when considering certificate of need applications to  
358 provide health facilities and services.

359 \* \* \*

360 (l) "Institutional health services" \* \* \* means  
361 clinical health services provided in or through health care  
362 facilities and \* \* \* includes the entities in or through which  
363 those services are provided.

364 (m) "Major medical equipment" means medical equipment  
365 designed for providing medical or any health-related service  
366 subject to licensure under this chapter or any clinical health  
367 service listed in Section 41-7-191(1)(d) as requiring a  
368 certificate of need. However, this definition shall not be  
369 applicable to clinical laboratories if they are determined by the  
370 State Department of Health to be independent of any physician's  
371 office, hospital or other health care facility or otherwise not so  
372 defined by federal or state law, or rules and regulations  
373 promulgated under those laws.

374 (n) "Nonclinical expenditures" means any expenditure  
375 for:

376 (i) Repairs, renovations, alterations and  
377 improvements to the physical plant of a health facility that do  
378 not result in a change in beds, a change in a listed clinical  
379 health service, or the addition of major medical equipment, and do  
380 not constitute the replacement or relocation of a health facility,  
381 or

382 (ii) Projects that do not involve the provision of  
383 clinical health services or direct patient care, including, but  
384 not limited to, the following:

- 385 1. Administrative offices;
- 386 2. Energy conservation;
- 387 3. Heating and/or air conditioning systems;
- 388 4. Management information systems;
- 389 5. Medical offices;
- 390 6. Parking facilities;
- 391 7. Telecommunications or telephone systems;

392 or

- 393 8. Ventilation systems.

394 (o) "State Department of Health" \* \* \* means the state  
395 agency created under Section 41-3-15, which shall be considered to  
396 be the State Health Planning and Development Agency, as defined in  
397 paragraph (u) of this section.

398 (p) "Offer," when used in connection with clinical  
399 health services, means that it has been determined by the State  
400 Department of Health that the health care facility is capable of  
401 providing specified health services.

402 (q) "Person" means an individual, a trust or estate,  
403 partnership, corporation (including associations, joint stock  
404 companies and insurance companies), the state or a political  
405 subdivision or instrumentality of the state.

406           (r) "Provider" \* \* \* means any person who is a provider  
407 or representative of a provider of health care services requiring  
408 a certificate of need under Section 41-7-171 et seq., or who has  
409 any financial or indirect interest in any provider of services.

410           (s) "Secretary" means the Secretary of Health and Human  
411 Services, and any officer or employee of the Department of Health  
412 and Human Services to whom the authority involved has been  
413 delegated.

414           (t) "State Health Plan" means the sole and official  
415 statewide health plan for Mississippi that identifies priority  
416 state health needs and establishes standards and criteria for  
417 health-related activities that require certificate of need review  
418 in compliance with Section 41-7-191.

419           (u) "State Health Planning and Development Agency"  
420 means the agency of state government designated to perform health  
421 planning and resource development programs for the State of  
422 Mississippi.

423           **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is  
424 amended as follows:

425           41-7-191. (1) No person shall engage in any of the  
426 following activities without obtaining the required certificate of  
427 need:

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

432           (b) The relocation of a health care facility or portion  
433 thereof, or major medical equipment, unless that relocation of a  
434 health care facility or portion thereof, or major medical  
435 equipment, which does not involve a capital expenditure by or on  
436 behalf of a health care facility, is within five thousand two  
437 hundred eighty (5,280) feet from the main entrance of the health  
438 care facility;

439           (c) Any change in the existing bed complement of any  
440 health care facility through the addition or conversion of any  
441 beds or the alteration, modernizing or refurbishing of any unit or  
442 department in which the beds may be located; however, if a health  
443 care facility has voluntarily delicensed some of its existing bed  
444 complement, it may later relicense some or all of its delicensed  
445 beds without the necessity of having to acquire a certificate of  
446 need. The State Department of Health shall maintain a record of  
447 the delicensing health care facility and its voluntarily  
448 delicensed beds and continue counting those beds as part of the  
449 state's total bed count for health care planning purposes. If a  
450 health care facility that has voluntarily delicensed some of its  
451 beds later desires to relicense some or all of its voluntarily  
452 delicensed beds, it shall notify the State Department of Health of  
453 its intent to increase the number of its licensed beds. The State  
454 Department of Health shall survey the health care facility within  
455 thirty (30) days of that notice and, if appropriate, issue the  
456 health care facility a new license reflecting the new contingent  
457 of beds. However, in no event may a health care facility that has  
458 voluntarily delicensed some of its beds be reissued a license to  
459 operate beds in excess of its bed count before the voluntary  
460 delicensure of some of its beds without seeking certificate of  
461 need approval;

462           (d) Offering of the following clinical health services  
463 if those services have not been provided on a regular basis by the  
464 proposed provider of those services within the period of twelve  
465 (12) months before the time those services would be offered:

- 466                   (i) Open heart surgery services;
- 467                   (ii) Cardiac catheterization services;
- 468                   (iii) Comprehensive inpatient rehabilitation  
469 services;
- 470                   (iv) Licensed psychiatric services;
- 471                   (v) Licensed chemical dependency services;

472 (vi) Radiation therapy services;

473 (vii) Diagnostic imaging services of an invasive  
474 nature, i.e. invasive digital angiography;

475 (viii) Nursing home care as defined in  
476 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(i);

477 (ix) Home health services;

478 (x) Swing-bed services;

479 (xi) Ambulatory surgical services;

480 (xii) Magnetic resonance imaging services;

481 (xiii) [Deleted]

482 (xiv) Long-term care hospital services;

483 (xv) Positron Emission Tomography (PET) services;

484 (xvi) Computerized Tomography (CT)-PET services;

485 (e) The relocation of one or more clinical health  
486 services from one physical facility or site to another physical  
487 facility or site, unless that relocation, which does not involve a  
488 capital expenditure by or on behalf of a health care facility, (i)  
489 is to a physical facility or site within five thousand two hundred  
490 eighty (5,280) feet from the main entrance of the health care  
491 facility where the health care service is located, or (ii) is the  
492 result of an order of a court of appropriate jurisdiction or a  
493 result of pending litigation in that court, or by order of the  
494 State Department of Health, or by order of any other agency or  
495 legal entity of the state, the federal government, or any  
496 political subdivision of either, whose order is also approved by  
497 the State Department of Health;

498 (f) The acquisition or otherwise control of any major  
499 medical equipment for the provision of medical services, including  
500 the conversion of mobile services to fixed site services; \* \* \*  
501 however, (i) the acquisition of any major medical equipment used  
502 only for research purposes, and (ii) the acquisition of major  
503 medical equipment to replace medical equipment for which a  
504 facility is already providing medical services and for which the

505 State Department of Health has been notified before the date of  
506 that acquisition shall be exempt from this paragraph; an  
507 acquisition for less than fair market value must be reviewed, if  
508 the acquisition at fair market value would be subject to review;

509 (g) Changes of ownership of existing health care  
510 facilities in which a notice of intent is not filed with the State  
511 Department of Health at least thirty (30) days before the date  
512 that the change of ownership occurs, or a change in services or  
513 bed capacity as prescribed in paragraph (c) or (d) of this  
514 subsection as a result of the change of ownership; an acquisition  
515 for less than fair market value must be reviewed, if the  
516 acquisition at fair market value would be subject to review;

517 (h) The change of ownership of any health care facility  
518 defined in subparagraphs (iv), (vi) and (viii) of Section  
519 41-7-173(i), in which a notice of intent as described in paragraph  
520 (g) has not been filed and if the Executive Director, Division of  
521 Medicaid, Office of the Governor, has not certified in writing  
522 that there will be no increase in allowable costs to Medicaid from  
523 revaluation of the assets or from increased interest and  
524 depreciation as a result of the proposed change of ownership;

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

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

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



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

543           (m) Reopening a health care facility that has ceased to  
544 operate for a period of sixty (60) months or more, which reopening  
545 requires a certificate of need for the establishment of a new  
546 health care facility.

547           (2) The State Department of Health shall not grant approval  
548 for or issue a certificate of need to any person proposing the new  
549 construction of, addition to, or expansion of any health care  
550 facility defined in subparagraphs (iv) (skilled nursing facility)  
551 and (vi) (intermediate care facility) of Section 41-7-173(i) or  
552 the conversion of vacant hospital beds to provide skilled or  
553 intermediate nursing home care, except as \* \* \* authorized as  
554 follows in this subsection:

555           (a) The department may issue a certificate of need to  
556 any person proposing the new construction of any health care  
557 facility defined in subparagraphs (iv) and (vi) of Section  
558 41-7-173(i) as part of a life care retirement facility, in any  
559 county bordering on the Gulf of Mexico in which is located a  
560 National Aeronautics and Space Administration facility, not to  
561 exceed forty (40) beds. From and after July 1, 1999, there shall  
562 be no prohibition or restrictions on participation in the Medicaid  
563 program (Section 43-13-101 et seq.) for the beds in the health  
564 care facility that were authorized under this paragraph (a).

565           (b) The department may issue certificates of need in  
566 Harrison County to provide skilled nursing home care for  
567 Alzheimer's disease patients and other patients, not to exceed one  
568 hundred fifty (150) beds. From and after July 1, 1999, there  
569 shall be no prohibition or restrictions on participation in the

570 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
571 nursing facilities that were authorized under this paragraph (b).

572 (c) The department may issue a certificate of need for  
573 the addition to or expansion of any skilled nursing facility that  
574 is part of an existing continuing care retirement community  
575 located in Madison County, provided that the recipient of the  
576 certificate of need agrees in writing that the skilled nursing  
577 facility will not at any time participate in the Medicaid program  
578 (Section 43-13-101 et seq.) or admit or keep any patients in the  
579 skilled nursing facility who are participating in the Medicaid  
580 program. This written agreement by the recipient of the  
581 certificate of need shall be fully binding on any subsequent owner  
582 of the skilled nursing facility, if the ownership of the facility  
583 is transferred at any time after the issuance of the certificate  
584 of need. Agreement that the skilled nursing facility will not  
585 participate in the Medicaid program shall be a condition of the  
586 issuance of a certificate of need to any person under this  
587 paragraph (c), and if the skilled nursing facility at any time  
588 after the issuance of the certificate of need, regardless of the  
589 ownership of the facility, participates in the Medicaid program or  
590 admits or keeps any patients in the facility who are participating  
591 in the Medicaid program, the State Department of Health shall  
592 revoke the certificate of need, if it is still outstanding, and  
593 shall deny or revoke the license of the skilled nursing facility,  
594 at the time that the department determines, after a hearing  
595 complying with due process, that the facility has failed to comply  
596 with any of the conditions upon which the certificate of need was  
597 issued, as provided in this paragraph and in the written agreement  
598 by the recipient of the certificate of need. The total number of  
599 beds that may be authorized under the authority of this paragraph  
600 (c) shall not exceed sixty (60) beds.

601 (d) The State Department of Health may issue a  
602 certificate of need to any hospital located in DeSoto County for

603 the new construction of a skilled nursing facility, not to exceed  
604 one hundred twenty (120) beds, in DeSoto County. From and after  
605 July 1, 1999, there shall be no prohibition or restrictions on  
606 participation in the Medicaid program (Section 43-13-101 et seq.)  
607 for the beds in the nursing facility that were authorized under  
608 this paragraph (d).

609 (e) The State Department of Health may issue a  
610 certificate of need for the construction of a nursing facility or  
611 the conversion of beds to nursing facility beds at a personal care  
612 facility for the elderly in Lowndes County that is owned and  
613 operated by a Mississippi nonprofit corporation, not to exceed  
614 sixty (60) beds. From and after July 1, 1999, there shall be no  
615 prohibition or restrictions on participation in the Medicaid  
616 program (Section 43-13-101 et seq.) for the beds in the nursing  
617 facility that were authorized under this paragraph (e).

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

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

634 (h) The State Department of Health may issue a  
635 certificate of need for the construction or expansion of nursing

636 facility beds or the conversion of other beds to nursing facility  
637 beds in either Hancock, Harrison or Jackson County, not to exceed  
638 sixty (60) beds. From and after July 1, 1999, there shall be no  
639 prohibition or restrictions on participation in the Medicaid  
640 program (Section 43-13-101 et seq.) for the beds in the facility  
641 that were authorized under this paragraph (h).

642 (i) The department may issue a certificate of need for  
643 the new construction of a skilled nursing facility in Leake  
644 County, provided that the recipient of the certificate of need  
645 agrees in writing that the skilled nursing facility will not at  
646 any time participate in the Medicaid program (Section 43-13-101 et  
647 seq.) or admit or keep any patients in the skilled nursing  
648 facility who are participating in the Medicaid program. This  
649 written agreement by the recipient of the certificate of need  
650 shall be fully binding on any subsequent owner of the skilled  
651 nursing facility, if the ownership of the facility is transferred  
652 at any time after the issuance of the certificate of need.  
653 Agreement that the skilled nursing facility will not participate  
654 in the Medicaid program shall be a condition of the issuance of a  
655 certificate of need to any person under this paragraph (i), and if  
656 the skilled nursing facility at any time after the issuance of the  
657 certificate of need, regardless of the ownership of the facility,  
658 participates in the Medicaid program or admits or keeps any  
659 patients in the facility who are participating in the Medicaid  
660 program, the State Department of Health shall revoke the  
661 certificate of need, if it is still outstanding, and shall deny or  
662 revoke the license of the skilled nursing facility, at the time  
663 that the department determines, after a hearing complying with due  
664 process, that the facility has failed to comply with any of the  
665 conditions upon which the certificate of need was issued, as  
666 provided in this paragraph and in the written agreement by the  
667 recipient of the certificate of need. The provision of Section  
668 43-7-193(1) regarding substantial compliance of the projection of

669 need as reported in the current State Health Plan is waived for  
670 the purposes of this paragraph. The total number of nursing  
671 facility beds that may be authorized by any certificate of need  
672 issued under this paragraph (i) shall not exceed sixty (60) beds.  
673 If the skilled nursing facility authorized by the certificate of  
674 need issued under this paragraph is not constructed and fully  
675 operational within eighteen (18) months after July 1, 1994, the  
676 State Department of Health, after a hearing complying with due  
677 process, shall revoke the certificate of need, if it is still  
678 outstanding, and shall not issue a license for the skilled nursing  
679 facility at any time after the expiration of the eighteen-month  
680 period.

681 (j) The department may issue certificates of need to  
682 allow any existing freestanding long-term care facility in  
683 Tishomingo County and Hancock County that on July 1, 1995, is  
684 licensed with fewer than sixty (60) beds. For the purposes of  
685 this paragraph (j), the provision of Section 41-7-193(1) requiring  
686 substantial compliance with the projection of need as reported in  
687 the current State Health Plan is waived. From and after July 1,  
688 1999, there shall be no prohibition or restrictions on  
689 participation in the Medicaid program (Section 43-13-101 et seq.)  
690 for the beds in the long-term care facilities that were authorized  
691 under this paragraph (j).

692 (k) The department may issue a certificate of need for  
693 the construction of a nursing facility at a continuing care  
694 retirement community in Lowndes County. The total number of beds  
695 that may be authorized under the authority of this paragraph (k)  
696 shall not exceed sixty (60) beds. From and after July 1, 2001,  
697 the prohibition on the facility participating in the Medicaid  
698 program (Section 43-13-101 et seq.) that was a condition of  
699 issuance of the certificate of need under this paragraph (k) shall  
700 be revised as follows: The nursing facility may participate in  
701 the Medicaid program from and after July 1, 2001, if the owner of

702 the facility on July 1, 2001, agrees in writing that no more than  
703 thirty (30) of the beds at the facility will be certified for  
704 participation in the Medicaid program, and that no claim will be  
705 submitted for Medicaid reimbursement for more than thirty (30)  
706 patients in the facility in any month or for any patient in the  
707 facility who is in a bed that is not Medicaid-certified. This  
708 written agreement by the owner of the facility shall be a  
709 condition of licensure of the facility, and the agreement shall be  
710 fully binding on any subsequent owner of the facility if the  
711 ownership of the facility is transferred at any time after July 1,  
712 2001. After this written agreement is executed, the Division of  
713 Medicaid and the State Department of Health shall not certify more  
714 than thirty (30) of the beds in the facility for participation in  
715 the Medicaid program. If the facility violates the terms of the  
716 written agreement by admitting or keeping in the facility on a  
717 regular or continuing basis more than thirty (30) patients who are  
718 participating in the Medicaid program, the State Department of  
719 Health shall revoke the license of the facility, at the time that  
720 the department determines, after a hearing complying with due  
721 process, that the facility has violated the written agreement.

722 (l) Provided that funds are specifically appropriated  
723 therefor by the Legislature, the department may issue a  
724 certificate of need to a rehabilitation hospital in Hinds County  
725 for the construction of a sixty-bed long-term care nursing  
726 facility dedicated to the care and treatment of persons with  
727 severe disabilities including persons with spinal cord and  
728 closed-head injuries and ventilator-dependent patients. The  
729 provision of Section 41-7-193(1) regarding substantial compliance  
730 with projection of need as reported in the current State Health  
731 Plan is \* \* \* waived for the purpose of this paragraph.

732 (m) The State Department of Health may issue a  
733 certificate of need to a county-owned hospital in the Second  
734 Judicial District of Panola County for the conversion of not more

735 than seventy-two (72) hospital beds to nursing facility beds,  
736 provided that the recipient of the certificate of need agrees in  
737 writing that none of the beds at the nursing facility will be  
738 certified for participation in the Medicaid program (Section  
739 43-13-101 et seq.), and that no claim will be submitted for  
740 Medicaid reimbursement in the nursing facility in any day or for  
741 any patient in the nursing facility. This written agreement by  
742 the recipient of the certificate of need shall be a condition of  
743 the issuance of the certificate of need under this paragraph, and  
744 the agreement shall be fully binding on any subsequent owner of  
745 the nursing facility if the ownership of the nursing facility is  
746 transferred at any time after the issuance of the certificate of  
747 need. After this written agreement is executed, the Division of  
748 Medicaid and the State Department of Health shall not certify any  
749 of the beds in the nursing facility for participation in the  
750 Medicaid program. If the nursing facility violates the terms of  
751 the written agreement by admitting or keeping in the nursing  
752 facility on a regular or continuing basis any patients who are  
753 participating in the Medicaid program, the State Department of  
754 Health shall revoke the license of the nursing facility, at the  
755 time that the department determines, after a hearing complying  
756 with due process, that the nursing facility has violated the  
757 condition upon which the certificate of need was issued, as  
758 provided in this paragraph and in the written agreement. If the  
759 certificate of need authorized under this paragraph is not issued  
760 within twelve (12) months after July 1, 2001, the department shall  
761 deny the application for the certificate of need and shall not  
762 issue the certificate of need at any time after the twelve-month  
763 period, unless the issuance is contested. If the certificate of  
764 need is issued and substantial construction of the nursing  
765 facility beds has not commenced within eighteen (18) months after  
766 July 1, 2001, the State Department of Health, after a hearing  
767 complying with due process, shall revoke the certificate of need

768 if it is still outstanding, and the department shall not issue a  
769 license for the nursing facility at any time after the  
770 eighteen-month period. \* \* \* However, \* \* \* if the issuance of  
771 the certificate of need is contested, the department shall require  
772 substantial construction of the nursing facility beds within six  
773 (6) months after final adjudication on the issuance of the  
774 certificate of need.

775 (n) The department may issue a certificate of need for  
776 the new construction, addition or conversion of skilled nursing  
777 facility beds in Madison County, provided that the recipient of  
778 the certificate of need agrees in writing that the skilled nursing  
779 facility will not at any time participate in the Medicaid program  
780 (Section 43-13-101 et seq.) or admit or keep any patients in the  
781 skilled nursing facility who are participating in the Medicaid  
782 program. This written agreement by the recipient of the  
783 certificate of need shall be fully binding on any subsequent owner  
784 of the skilled nursing facility, if the ownership of the facility  
785 is transferred at any time after the issuance of the certificate  
786 of need. Agreement that the skilled nursing facility will not  
787 participate in the Medicaid program shall be a condition of the  
788 issuance of a certificate of need to any person under this  
789 paragraph (n), and if the skilled nursing facility at any time  
790 after the issuance of the certificate of need, regardless of the  
791 ownership of the facility, participates in the Medicaid program or  
792 admits or keeps any patients in the facility who are participating  
793 in the Medicaid program, the State Department of Health shall  
794 revoke the certificate of need, if it is still outstanding, and  
795 shall deny or revoke the license of the skilled nursing facility,  
796 at the time that the department determines, after a hearing  
797 complying with due process, that the facility has failed to comply  
798 with any of the conditions upon which the certificate of need was  
799 issued, as provided in this paragraph and in the written agreement  
800 by the recipient of the certificate of need. The total number of



801 nursing facility beds that may be authorized by any certificate of  
802 need issued under this paragraph (n) shall not exceed sixty (60)  
803 beds. If the certificate of need authorized under this paragraph  
804 is not issued within twelve (12) months after July 1, 1998, the  
805 department shall deny the application for the certificate of need  
806 and shall not issue the certificate of need at any time after the  
807 twelve-month period, unless the issuance is contested. If the  
808 certificate of need is issued and substantial construction of the  
809 nursing facility beds has not commenced within eighteen (18)  
810 months after the effective date of July 1, 1998, the State  
811 Department of Health, after a hearing complying with due process,  
812 shall revoke the certificate of need if it is still outstanding,  
813 and the department shall not issue a license for the nursing  
814 facility at any time after the eighteen-month period. \* \* \*  
815 However, \* \* \* if the issuance of the certificate of need is  
816 contested, the department shall require substantial construction  
817 of the nursing facility beds within six (6) months after final  
818 adjudication on the issuance of the certificate of need.

819 (o) The department may issue a certificate of need for  
820 the new construction, addition or conversion of skilled nursing  
821 facility beds in Leake County, provided that the recipient of the  
822 certificate of need agrees in writing that the skilled nursing  
823 facility will not at any time participate in the Medicaid program  
824 (Section 43-13-101 et seq.) or admit or keep any patients in the  
825 skilled nursing facility who are participating in the Medicaid  
826 program. This written agreement by the recipient of the  
827 certificate of need shall be fully binding on any subsequent owner  
828 of the skilled nursing facility, if the ownership of the facility  
829 is transferred at any time after the issuance of the certificate  
830 of need. Agreement that the skilled nursing facility will not  
831 participate in the Medicaid program shall be a condition of the  
832 issuance of a certificate of need to any person under this  
833 paragraph (o), and if the skilled nursing facility at any time

834 after the issuance of the certificate of need, regardless of the  
835 ownership of the facility, participates in the Medicaid program or  
836 admits or keeps any patients in the facility who are participating  
837 in the Medicaid program, the State Department of Health shall  
838 revoke the certificate of need, if it is still outstanding, and  
839 shall deny or revoke the license of the skilled nursing facility,  
840 at the time that the department determines, after a hearing  
841 complying with due process, that the facility has failed to comply  
842 with any of the conditions upon which the certificate of need was  
843 issued, as provided in this paragraph and in the written agreement  
844 by the recipient of the certificate of need. The total number of  
845 nursing facility beds that may be authorized by any certificate of  
846 need issued under this paragraph (o) shall not exceed sixty (60)  
847 beds. If the certificate of need authorized under this paragraph  
848 is not issued within twelve (12) months after July 1, 2001, the  
849 department shall deny the application for the certificate of need  
850 and shall not issue the certificate of need at any time after the  
851 twelve-month period, unless the issuance is contested. If the  
852 certificate of need is issued and substantial construction of the  
853 nursing facility beds has not commenced within eighteen (18)  
854 months after the effective date of July 1, 2001, the State  
855 Department of Health, after a hearing complying with due process,  
856 shall revoke the certificate of need if it is still outstanding,  
857 and the department shall not issue a license for the nursing  
858 facility at any time after the eighteen-month period. \* \* \*  
859 However, \* \* \* if the issuance of the certificate of need is  
860 contested, the department shall require substantial construction  
861 of the nursing facility beds within six (6) months after final  
862 adjudication on the issuance of the certificate of need.

863 (p) The department may issue a certificate of need for  
864 the construction of a municipally owned nursing facility within  
865 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
866 beds, provided that the recipient of the certificate of need

867 agrees in writing that the skilled nursing facility will not at  
868 any time participate in the Medicaid program (Section 43-13-101 et  
869 seq.) or admit or keep any patients in the skilled nursing  
870 facility who are participating in the Medicaid program. This  
871 written agreement by the recipient of the certificate of need  
872 shall be fully binding on any subsequent owner of the skilled  
873 nursing facility, if the ownership of the facility is transferred  
874 at any time after the issuance of the certificate of need.

875 Agreement that the skilled nursing facility will not participate  
876 in the Medicaid program shall be a condition of the issuance of a  
877 certificate of need to any person under this paragraph (p), and if  
878 the skilled nursing facility at any time after the issuance of the  
879 certificate of need, regardless of the ownership of the facility,  
880 participates in the Medicaid program or admits or keeps any  
881 patients in the facility who are participating in the Medicaid  
882 program, the State Department of Health shall revoke the  
883 certificate of need, if it is still outstanding, and shall deny or  
884 revoke the license of the skilled nursing facility, at the time  
885 that the department determines, after a hearing complying with due  
886 process, that the facility has failed to comply with any of the  
887 conditions upon which the certificate of need was issued, as  
888 provided in this paragraph and in the written agreement by the  
889 recipient of the certificate of need. The provision of Section  
890 43-7-193(1) regarding substantial compliance of the projection of  
891 need as reported in the current State Health Plan is waived for  
892 the purposes of this paragraph. If the certificate of need  
893 authorized under this paragraph is not issued within twelve (12)  
894 months after July 1, 1998, the department shall deny the  
895 application for the certificate of need and shall not issue the  
896 certificate of need at any time after the twelve-month period,  
897 unless the issuance is contested. If the certificate of need is  
898 issued and substantial construction of the nursing facility beds  
899 has not commenced within eighteen (18) months after July 1, 1998,

900 the State Department of Health, after a hearing complying with due  
901 process, shall revoke the certificate of need if it is still  
902 outstanding, and the department shall not issue a license for the  
903 nursing facility at any time after the eighteen-month  
904 period. \* \* \* However, \* \* \* if the issuance of the certificate  
905 of need is contested, the department shall require substantial  
906 construction of the nursing facility beds within six (6) months  
907 after final adjudication on the issuance of the certificate of  
908 need.

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

919 (ii) Subject to the provisions of subparagraph  
920 (v), during each of the next four (4) fiscal years, the department  
921 shall issue six (6) certificates of need for new nursing facility  
922 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
923 (1) certificate of need shall be issued for new nursing facility  
924 beds in the county in each of the four (4) Long-Term Care Planning  
925 Districts designated in the fiscal year 1999 State Health Plan  
926 that has the highest need in the district for those beds; and two  
927 (2) certificates of need shall be issued for new nursing facility  
928 beds in the two (2) counties from the state at large that have the  
929 highest need in the state for those beds, when considering the  
930 need on a statewide basis and without regard to the Long-Term Care  
931 Planning Districts in which the counties are located. During  
932 fiscal year 2003, one (1) certificate of need shall be issued for

933 new nursing facility beds in any county having a need for fifty  
934 (50) or more additional nursing facility beds, as shown in the  
935 fiscal year 1999 State Health Plan, that has not received a  
936 certificate of need under this paragraph (q) during the three (3)  
937 previous fiscal years. During fiscal year 2000, in addition to  
938 the six (6) certificates of need authorized in this subparagraph,  
939 the department also shall issue a certificate of need for new  
940 nursing facility beds in Amite County and a certificate of need  
941 for new nursing facility beds in Carroll County.

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

956 (iv) Subject to the provisions of subparagraph  
957 (v), the certificate of need issued under subparagraph (ii) for  
958 nursing facility beds in the two (2) counties from the state at  
959 large during each fiscal year shall first be available for nursing  
960 facility beds in the two (2) counties that have the highest need  
961 in the state for those beds, as shown in the fiscal year 1999  
962 State Health Plan, when considering the need on a statewide basis  
963 and without regard to the Long-Term Care Planning Districts in  
964 which the counties are located. If there are no applications for  
965 a certificate of need for nursing facility beds in either of the

966 two (2) counties having the highest need for those beds on a  
967 statewide basis by the date specified by the department, then the  
968 certificate of need shall be available for nursing facility beds  
969 in other counties from the state at large in descending order of  
970 the need for those beds on a statewide basis, from the county with  
971 the second highest need to the county with the lowest need, until  
972 an application is received for nursing facility beds in an  
973 eligible county from the state at large.

974           (v) If a certificate of need is authorized to be  
975 issued under this paragraph (q) for nursing facility beds in a  
976 county on the basis of the need in the Long-Term Care Planning  
977 District during any fiscal year of the four-year period, a  
978 certificate of need shall not also be available under this  
979 paragraph (q) for additional nursing facility beds in that county  
980 on the basis of the need in the state at large, and that county  
981 shall be excluded in determining which counties have the highest  
982 need for nursing facility beds in the state at large for that  
983 fiscal year. After a certificate of need has been issued under  
984 this paragraph (q) for nursing facility beds in a county during  
985 any fiscal year of the four-year period, a certificate of need  
986 shall not be available again under this paragraph (q) for  
987 additional nursing facility beds in that county during the  
988 four-year period, and that county shall be excluded in determining  
989 which counties have the highest need for nursing facility beds in  
990 succeeding fiscal years.

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

999                   1. The county-owned hospital fully meets all  
1000 applicable criteria and standards required to obtain a certificate  
1001 of need for the nursing facility beds; and

1002                   2. The county-owned hospital's qualifications  
1003 for the certificate of need, as shown in its application and as  
1004 determined by the department, are at least equal to the  
1005 qualifications of the other applicants for the certificate of  
1006 need.

1007                   (r) (i) Beginning on July 1, 1999, the State  
1008 Department of Health shall issue certificates of need during each  
1009 of the next two (2) fiscal years for the construction or expansion  
1010 of nursing facility beds or the conversion of other beds to  
1011 nursing facility beds in each of the four (4) Long-Term Care  
1012 Planning Districts designated in the fiscal year 1999 State Health  
1013 Plan, to provide care exclusively to patients with Alzheimer's  
1014 disease.

1015                   (ii) Not more than twenty (20) beds may be  
1016 authorized by any certificate of need issued under this paragraph  
1017 (r), and not more than a total of sixty (60) beds may be  
1018 authorized in any Long-Term Care Planning District by all  
1019 certificates of need issued under this paragraph (r). However,  
1020 the total number of beds that may be authorized by all  
1021 certificates of need issued under this paragraph (r) during any  
1022 fiscal year shall not exceed one hundred twenty (120) beds, and  
1023 the total number of beds that may be authorized in any Long-Term  
1024 Care Planning District during any fiscal year shall not exceed  
1025 forty (40) beds. Of the certificates of need that are issued for  
1026 each Long-Term Care Planning District during the next two (2)  
1027 fiscal years, at least one (1) shall be issued for beds in the  
1028 northern part of the district, at least one (1) shall be issued  
1029 for beds in the central part of the district, and at least one (1)  
1030 shall be issued for beds in the southern part of the district.

1031 (iii) The State Department of Health, in  
1032 consultation with the Department of Mental Health and the Division  
1033 of Medicaid, shall develop and prescribe the staffing levels,  
1034 space requirements and other standards and requirements that must  
1035 be met with regard to the nursing facility beds authorized under  
1036 this paragraph (r) to provide care exclusively to patients with  
1037 Alzheimer's disease.

1038 (s) The State Department of Health may issue a  
1039 certificate of need to a nonprofit skilled nursing facility using  
1040 the Green House model of skilled nursing care and located in Yazoo  
1041 City, Yazoo County, Mississippi, for the construction, expansion  
1042 or conversion of not more than nineteen (19) nursing facility  
1043 beds. For purposes of this paragraph (s), the provisions of  
1044 Section 41-7-193(1) requiring substantial compliance with the  
1045 projection of need as reported in the current State Health Plan  
1046 and the provisions of Section 41-7-197 requiring a formal  
1047 certificate of need hearing process are waived. There shall be no  
1048 prohibition or restrictions on participation in the Medicaid  
1049 program for the person receiving the certificate of need  
1050 authorized under this paragraph (s).

1051 (t) The State Department of Health shall issue  
1052 certificates of need to the owner of a nursing facility in  
1053 operation at the time of Hurricane Katrina in Hancock County that  
1054 was not operational on December 31, 2005, because of damage  
1055 sustained from Hurricane Katrina to authorize the following: (i)  
1056 the construction of a new nursing facility in Harrison County;  
1057 (ii) the relocation of forty-nine (49) nursing facility beds from  
1058 the Hancock County facility to the new Harrison County facility;  
1059 (iii) the establishment of not more than twenty (20) non-Medicaid  
1060 nursing facility beds at the Hancock County facility; and (iv) the  
1061 establishment of not more than twenty (20) non-Medicaid beds at  
1062 the new Harrison County facility. The certificates of need that  
1063 authorize the non-Medicaid nursing facility beds under



1064 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1065 subject to the following conditions: The owner of the Hancock  
1066 County facility and the new Harrison County facility must agree in  
1067 writing that no more than fifty (50) of the beds at the Hancock  
1068 County facility and no more than forty-nine (49) of the beds at  
1069 the Harrison County facility will be certified for participation  
1070 in the Medicaid program, and that no claim will be submitted for  
1071 Medicaid reimbursement for more than fifty (50) patients in the  
1072 Hancock County facility in any month, or for more than forty-nine  
1073 (49) patients in the Harrison County facility in any month, or for  
1074 any patient in either facility who is in a bed that is not  
1075 Medicaid-certified. This written agreement by the owner of the  
1076 nursing facilities shall be a condition of the issuance of the  
1077 certificates of need under this paragraph (t), and the agreement  
1078 shall be fully binding on any later owner or owners of either  
1079 facility if the ownership of either facility is transferred at any  
1080 time after the certificates of need are issued. After this  
1081 written agreement is executed, the Division of Medicaid and the  
1082 State Department of Health shall not certify more than fifty (50)  
1083 of the beds at the Hancock County facility or more than forty-nine  
1084 (49) of the beds at the Harrison County facility for participation  
1085 in the Medicaid program. If the Hancock County facility violates  
1086 the terms of the written agreement by admitting or keeping in the  
1087 facility on a regular or continuing basis more than fifty (50)  
1088 patients who are participating in the Medicaid program, or if the  
1089 Harrison County facility violates the terms of the written  
1090 agreement by admitting or keeping in the facility on a regular or  
1091 continuing basis more than forty-nine (49) patients who are  
1092 participating in the Medicaid program, the State Department of  
1093 Health shall revoke the license of the facility that is in  
1094 violation of the agreement, at the time that the department  
1095 determines, after a hearing complying with due process, that the  
1096 facility has violated the agreement.

1097           (u) (i) The State Department of Health shall issue  
1098 certificates of need for long-term care beds in each of the four  
1099 (4) Long-Term Care Planning Districts designated in the fiscal  
1100 year 2006 State Health Plan, to provide care exclusively to  
1101 patients with Alzheimer's disease. In issuing the certificates of  
1102 need under this paragraph (u), the department shall give  
1103 preference to existing facilities that could accommodate  
1104 Alzheimer's patients without the construction of new facilities  
1105 and to providers that have shown positive performance in providing  
1106 long-term care to patients with Alzheimer's disease or dementia.

1107           (ii) Not more than twenty (20) beds may be  
1108 authorized by any certificate of need issued under this paragraph  
1109 (u), and not more than a total of forty (40) beds may be  
1110 authorized in any Long-Term Care Planning District by all  
1111 certificates of need issued under this paragraph (u).

1112           (iii) The State Department of Health, in  
1113 consultation with the Department of Mental Health and the Division  
1114 of Medicaid, shall develop and prescribe the staffing levels,  
1115 space requirements and other standards and requirements that must  
1116 be met with regard to the beds authorized under this paragraph (u)  
1117 to provide care exclusively to patients with Alzheimer's disease.

1118           (v) The State Department of Health shall issue a  
1119 certificate of need to a nonprofit skilled nursing facility  
1120 located in the City of Jackson, Mississippi, for the construction  
1121 of a new nursing home based on the Green House model of skilled  
1122 nursing care in the City of Pearl, Mississippi, and the relocation  
1123 of its sixty (60) skilled nursing facility beds to the new nursing  
1124 facility in the City of Pearl. For purposes of this paragraph  
1125 (v), the provisions of Section 41-7-193(1) requiring review by the  
1126 Department of Health and substantial compliance with the  
1127 projection of need as reported in the current State Health Plan  
1128 and Section 41-7-197 regarding the certificate of need hearing  
1129 process, are waived. There shall be no prohibition or

1130 restrictions on participation in the Medicaid program for the  
1131 entity receiving the certificate of need authorized under this  
1132 paragraph (v).

1133 (w) (i) The State Department of Health shall issue a  
1134 certificate of need for the construction of a nursing facility in  
1135 an underserved minority ZIP code area, not to exceed sixty (60)  
1136 beds. For the purpose of this paragraph (w), the term "minority"  
1137 means Black, Hispanic, Asian or Pacific Islander, American Indian  
1138 or Alaskan native; and an "underserved minority ZIP code area"  
1139 means a United States Postal Service ZIP code area that:

1140 1. Has a population of not less than thirty  
1141 thousand (30,000), according to the 2000 federal decennial census,  
1142 of which not less than seventy-five percent (75%) of the  
1143 population in the ZIP code area are racial minorities;

1144 2. Is wholly or partially located in a county  
1145 that has a projected need for not less than five hundred sixty-two  
1146 (562) additional nursing facility beds, according to the 2007  
1147 State Health Plan; and

1148 3. Has no existing or approved nonpublic  
1149 nursing facility located in the ZIP code area.

1150 (ii) If a certificate of need issued under this  
1151 paragraph (w) authorizes a nursing facility to be constructed in a  
1152 United States Postal Service ZIP code area that is located in more  
1153 than one (1) county, the nursing facility must be constructed in  
1154 that portion of the ZIP code area located in the county that has a  
1155 projected need for not less than five hundred sixty-two (562)  
1156 additional nursing facility beds, according to the 2007 State  
1157 Health Plan.

1158 (iii) In the certificate of need review process  
1159 under this paragraph (w), the department shall give first priority  
1160 for the certificate of need to applicants that:

1161 1. Are a not-for-profit corporation whose  
1162 principals, partners or co-owners currently own and operate a

1163 nursing facility or facilities in the State of Mississippi but do  
1164 not own or operate a nursing facility or other health care  
1165 facility in the county where the nursing facility is to be  
1166 constructed;

1167 2. Have demonstrated a history of quality of  
1168 care within the preceding twenty-four (24) months and have not  
1169 received any of the following sanctions:

1170 a. Termination of Medicaid and/or  
1171 Medicare certification; or

1172 b. Denial, suspension or revocation of  
1173 nursing facility license; and

1174 3. The department finds no clear pattern of  
1175 substantial or repeated state licensure and Medicaid certification  
1176 sanctions, including administrative penalties and/or other  
1177 sanctions.

1178 (3) The State Department of Health may grant approval for  
1179 and issue certificates of need to any person proposing the new  
1180 construction of, addition to, conversion of beds of or expansion  
1181 of any health care facility defined in subparagraph (x)  
1182 (psychiatric residential treatment facility) of Section  
1183 41-7-173(i). The total number of beds that may be authorized by  
1184 those certificates of need shall not exceed three hundred  
1185 fifty-four (354) beds for the entire state.

1186 (a) Of the total number of beds authorized under this  
1187 subsection, the department shall issue a certificate of need to a  
1188 privately-owned psychiatric residential treatment facility in  
1189 Simpson County for the conversion of sixteen (16) intermediate  
1190 care facility for the mentally retarded (ICF-MR) beds to  
1191 psychiatric residential treatment facility beds, provided that  
1192 facility agrees in writing that the facility shall give priority  
1193 for the use of those sixteen (16) beds to Mississippi residents  
1194 who are presently being treated in out-of-state facilities.

1195           (b) Of the total number of beds authorized under this  
1196 subsection, the department may issue a certificate or certificates  
1197 of need for the construction or expansion of psychiatric  
1198 residential treatment facility beds or the conversion of other  
1199 beds to psychiatric residential treatment facility beds in Warren  
1200 County, not to exceed sixty (60) psychiatric residential treatment  
1201 facility beds, provided that the facility agrees in writing that  
1202 no more than thirty (30) of the beds at the psychiatric  
1203 residential treatment facility will be certified for participation  
1204 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1205 any patients other than those who are participating only in the  
1206 Medicaid program of another state, and that no claim will be  
1207 submitted to the Division of Medicaid for Medicaid reimbursement  
1208 for more than thirty (30) patients in the psychiatric residential  
1209 treatment facility in any day or for any patient in the  
1210 psychiatric residential treatment facility who is in a bed that is  
1211 not Medicaid-certified. This written agreement by the recipient  
1212 of the certificate of need shall be a condition of the issuance of  
1213 the certificate of need under this paragraph, and the agreement  
1214 shall be fully binding on any subsequent owner of the psychiatric  
1215 residential treatment facility if the ownership of the facility is  
1216 transferred at any time after the issuance of the certificate of  
1217 need. After this written agreement is executed, the Division of  
1218 Medicaid and the State Department of Health shall not certify more  
1219 than thirty (30) of the beds in the psychiatric residential  
1220 treatment facility for participation in the Medicaid program for  
1221 the use of any patients other than those who are participating  
1222 only in the Medicaid program of another state. If the psychiatric  
1223 residential treatment facility violates the terms of the written  
1224 agreement by admitting or keeping in the facility on a regular or  
1225 continuing basis more than thirty (30) patients who are  
1226 participating in the Mississippi Medicaid program, the State  
1227 Department of Health shall revoke the license of the facility, at

1228 the time that the department determines, after a hearing complying  
1229 with due process, that the facility has violated the condition  
1230 upon which the certificate of need was issued, as provided in this  
1231 paragraph and in the written agreement.

1232 The State Department of Health, on or before July 1, 2007,  
1233 shall revoke the certificate of need that was issued under the  
1234 authority of this paragraph (b) \* \* \*.

1235 (c) Of the total number of beds authorized under this  
1236 subsection, the department shall issue a certificate of need to a  
1237 hospital currently operating Medicaid-certified acute psychiatric  
1238 beds for adolescents in DeSoto County, for the establishment of a  
1239 forty-bed psychiatric residential treatment facility in DeSoto  
1240 County, provided that the hospital agrees in writing (i) that the  
1241 hospital shall give priority for the use of those forty (40) beds  
1242 to Mississippi residents who are presently being treated in  
1243 out-of-state facilities, and (ii) that no more than fifteen (15)  
1244 of the beds at the psychiatric residential treatment facility will  
1245 be certified for participation in the Medicaid program (Section  
1246 43-13-101 et seq.), and that no claim will be submitted for  
1247 Medicaid reimbursement for more than fifteen (15) patients in the  
1248 psychiatric residential treatment facility in any day or for any  
1249 patient in the psychiatric residential treatment facility who is  
1250 in a bed that is not Medicaid-certified. This written agreement  
1251 by the recipient of the certificate of need shall be a condition  
1252 of the issuance of the certificate of need under this paragraph,  
1253 and the agreement shall be fully binding on any subsequent owner  
1254 of the psychiatric residential treatment facility if the ownership  
1255 of the facility is transferred at any time after the issuance of  
1256 the certificate of need. After this written agreement is  
1257 executed, the Division of Medicaid and the State Department of  
1258 Health shall not certify more than fifteen (15) of the beds in the  
1259 psychiatric residential treatment facility for participation in  
1260 the Medicaid program. If the psychiatric residential treatment

1261 facility violates the terms of the written agreement by admitting  
1262 or keeping in the facility on a regular or continuing basis more  
1263 than fifteen (15) patients who are participating in the Medicaid  
1264 program, the State Department of Health shall revoke the license  
1265 of the facility, at the time that the department determines, after  
1266 a hearing complying with due process, that the facility has  
1267 violated the condition upon which the certificate of need was  
1268 issued, as provided in this paragraph and in the written  
1269 agreement.

1270 (d) Of the total number of beds authorized under this  
1271 subsection, the department may issue a certificate or certificates  
1272 of need for the construction or expansion of psychiatric  
1273 residential treatment facility beds or the conversion of other  
1274 beds to psychiatric treatment facility beds, not to exceed thirty  
1275 (30) psychiatric residential treatment facility beds, in either  
1276 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1277 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1278 (e) Of the total number of beds authorized under this  
1279 subsection (3) the department shall issue a certificate of need to  
1280 a privately-owned, nonprofit psychiatric residential treatment  
1281 facility in Hinds County for an eight-bed expansion of the  
1282 facility, provided that the facility agrees in writing that the  
1283 facility shall give priority for the use of those eight (8) beds  
1284 to Mississippi residents who are presently being treated in  
1285 out-of-state facilities.

1286 (f) The department shall issue a certificate of need to  
1287 a one-hundred-thirty-four-bed specialty hospital located on  
1288 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1289 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1290 Mississippi, for the addition, construction or expansion of  
1291 child/adolescent psychiatric residential treatment facility beds  
1292 in Lauderdale County. As a condition of issuance of the  
1293 certificate of need under this paragraph, the facility shall give

1294 priority in admissions to the child/adolescent psychiatric  
1295 residential treatment facility beds authorized under this  
1296 paragraph to patients who otherwise would require out-of-state  
1297 placement. The Division of Medicaid, in conjunction with the  
1298 Department of Human Services, shall furnish the facility a list of  
1299 all out-of-state patients on a quarterly basis. Furthermore,  
1300 notice shall also be provided to the parent, custodial parent or  
1301 guardian of each out-of-state patient notifying them of the  
1302 priority status granted by this paragraph. For purposes of this  
1303 paragraph, the provisions of Section 41-7-193(1) requiring  
1304 substantial compliance with the projection of need as reported in  
1305 the current State Health Plan are waived. The total number of  
1306 child/adolescent psychiatric residential treatment facility beds  
1307 that may be authorized under the authority of this paragraph shall  
1308 be sixty (60) beds. There shall be no prohibition or restrictions  
1309 on participation in the Medicaid program (Section 43-13-101 et  
1310 seq.) for the person receiving the certificate of need authorized  
1311 under this paragraph or for the beds converted under the authority  
1312 of that certificate of need.

1313 (g) Of the total number of beds authorized under this  
1314 subsection, from and after July 1, 2007, the department shall  
1315 issue a certificate or certificates of need for the construction  
1316 or expansion of psychiatric residential treatment facility beds or  
1317 the conversion of other beds to psychiatric residential treatment  
1318 facility beds, not to exceed eighty (80) psychiatric residential  
1319 treatment facility beds. However, the total number of psychiatric  
1320 residential treatment facility beds that may be authorized by all  
1321 certificates of need issued under this paragraph (g) shall not  
1322 exceed twenty (20) beds until the department has revoked the  
1323 certificate of need authorized under subsection (3)(b) of this  
1324 section. For purposes of this paragraph, the provisions of  
1325 Section 41-7-193(1) requiring substantial compliance with the  
1326 projection of need as reported in the current State Health Plan



1327 are waived. There shall be no prohibition or restrictions on  
1328 participation in the Medicaid program (Section 43-13-101 et seq.)  
1329 for the person receiving the certificate of need authorized under  
1330 this paragraph or for the beds converted under the authority of  
1331 that certificate of need.

1332 (4) (a) From and after July 1, 1993, the department shall  
1333 not issue a certificate of need to any person for the new  
1334 construction of any hospital, psychiatric hospital or chemical  
1335 dependency hospital that will contain any child/adolescent  
1336 psychiatric or child/adolescent chemical dependency beds, or for  
1337 the conversion of any other health care facility to a hospital,  
1338 psychiatric hospital or chemical dependency hospital that will  
1339 contain any child/adolescent psychiatric or child/adolescent  
1340 chemical dependency beds, or for the addition of any  
1341 child/adolescent psychiatric or child/adolescent chemical  
1342 dependency beds in any hospital, psychiatric hospital or chemical  
1343 dependency hospital, or for the conversion of any beds of another  
1344 category in any hospital, psychiatric hospital or chemical  
1345 dependency hospital to child/adolescent psychiatric or  
1346 child/adolescent chemical dependency beds, except as \* \* \*  
1347 authorized as follows in this subsection:

1348 (i) The department may issue certificates of need  
1349 to any person for any purpose described in this subsection,  
1350 provided that the hospital, psychiatric hospital or chemical  
1351 dependency hospital does not participate in the Medicaid program  
1352 (Section 43-13-101 et seq.) at the time of the application for the  
1353 certificate of need and the owner of the hospital, psychiatric  
1354 hospital or chemical dependency hospital agrees in writing that  
1355 the hospital, psychiatric hospital or chemical dependency hospital  
1356 will not at any time participate in the Medicaid program or admit  
1357 or keep any patients who are participating in the Medicaid program  
1358 in the hospital, psychiatric hospital or chemical dependency  
1359 hospital. This written agreement by the recipient of the

1360 certificate of need shall be fully binding on any subsequent owner  
1361 of the hospital, psychiatric hospital or chemical dependency  
1362 hospital, if the ownership of the facility is transferred at any  
1363 time after the issuance of the certificate of need. Agreement  
1364 that the hospital, psychiatric hospital or chemical dependency  
1365 hospital will not participate in the Medicaid program shall be a  
1366 condition of the issuance of a certificate of need to any person  
1367 under this subparagraph \* \* \* (i), and if the hospital,  
1368 psychiatric hospital or chemical dependency hospital at any time  
1369 after the issuance of the certificate of need, regardless of the  
1370 ownership of the facility, participates in the Medicaid program or  
1371 admits or keeps any patients in the hospital, psychiatric hospital  
1372 or chemical dependency hospital who are participating in the  
1373 Medicaid program, the State Department of Health shall revoke the  
1374 certificate of need, if it is still outstanding, and shall deny or  
1375 revoke the license of the hospital, psychiatric hospital or  
1376 chemical dependency hospital, at the time that the department  
1377 determines, after a hearing complying with due process, that the  
1378 hospital, psychiatric hospital or chemical dependency hospital has  
1379 failed to comply with any of the conditions upon which the  
1380 certificate of need was issued, as provided in this subparagraph  
1381 (i) and in the written agreement by the recipient of the  
1382 certificate of need.

1383                   (ii) The department may issue a certificate of  
1384 need for the conversion of existing beds in a county hospital in  
1385 Choctaw County from acute care beds to child/adolescent chemical  
1386 dependency beds. For purposes of this subparagraph (ii), the  
1387 provisions of Section 41-7-193(1) requiring substantial compliance  
1388 with the projection of need as reported in the current State  
1389 Health Plan is waived. The total number of beds that may be  
1390 authorized under authority of this subparagraph shall not exceed  
1391 twenty (20) beds. There shall be no prohibition or restrictions  
1392 on participation in the Medicaid program (Section 43-13-101 et

1393 seq.) for the hospital receiving the certificate of need  
1394 authorized under this subparagraph \* \* \* or for the beds converted  
1395 under the authority of that certificate of need.

1396 (iii) The department may issue a certificate or  
1397 certificates of need for the construction or expansion of  
1398 child/adolescent psychiatric beds or the conversion of other beds  
1399 to child/adolescent psychiatric beds in Warren County. For  
1400 purposes of this subparagraph (iii), the provisions of Section  
1401 41-7-193(1) requiring substantial compliance with the projection  
1402 of need as reported in the current State Health Plan are waived.  
1403 The total number of beds that may be authorized under the  
1404 authority of this subparagraph shall not exceed twenty (20) beds.  
1405 There shall be no prohibition or restrictions on participation in  
1406 the Medicaid program (Section 43-13-101 et seq.) for the person  
1407 receiving the certificate of need authorized under this  
1408 subparagraph \* \* \* or for the beds converted under the authority  
1409 of that certificate of need.

1410 The State Department of Health, on or before July 1, 2007,  
1411 shall revoke the certificate of need that was issued under the  
1412 authority of this subparagraph (iii).

1413 \* \* \*

1414 (iv) The department shall issue a certificate of  
1415 need to the Region 7 Mental Health/Retardation Commission for the  
1416 construction or expansion of child/adolescent psychiatric beds or  
1417 the conversion of other beds to child/adolescent psychiatric beds  
1418 in any of the counties served by the commission. For purposes of  
1419 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1420 requiring substantial compliance with the projection of need as  
1421 reported in the current State Health Plan is waived. The total  
1422 number of beds that may be authorized under the authority of this  
1423 subparagraph shall not exceed twenty (20) beds. There shall be no  
1424 prohibition or restrictions on participation in the Medicaid  
1425 program (Section 43-13-101 et seq.) for the person receiving the

1426 certificate of need authorized under this subparagraph \* \* \* or  
1427 for the beds converted under the authority of that certificate of  
1428 need.

1429           (v) The department may issue a certificate of need  
1430 to any county hospital located in Leflore County for the  
1431 construction or expansion of adult psychiatric beds or the  
1432 conversion of other beds to adult psychiatric beds, not to exceed  
1433 twenty (20) beds, provided that the recipient of the certificate  
1434 of need agrees in writing that the adult psychiatric beds will not  
1435 at any time be certified for participation in the Medicaid program  
1436 and that the hospital will not admit or keep any patients who are  
1437 participating in the Medicaid program in any of those adult  
1438 psychiatric beds. This written agreement by the recipient of the  
1439 certificate of need shall be fully binding on any subsequent owner  
1440 of the hospital if the ownership of the hospital is transferred at  
1441 any time after the issuance of the certificate of need. Agreement  
1442 that the adult psychiatric beds will not be certified for  
1443 participation in the Medicaid program shall be a condition of the  
1444 issuance of a certificate of need to any person under this  
1445 subparagraph \* \* \* (v), and if the hospital at any time after the  
1446 issuance of the certificate of need, regardless of the ownership  
1447 of the hospital, has any of those adult psychiatric beds certified  
1448 for participation in the Medicaid program or admits or keeps any  
1449 Medicaid patients in those adult psychiatric beds, the State  
1450 Department of Health shall revoke the certificate of need, if it  
1451 is still outstanding, and shall deny or revoke the license of the  
1452 hospital at the time that the department determines, after a  
1453 hearing complying with due process, that the hospital has failed  
1454 to comply with any of the conditions upon which the certificate of  
1455 need was issued, as provided in this subparagraph and in the  
1456 written agreement by the recipient of the certificate of need.

1457           (vi) The department may issue a certificate or  
1458 certificates of need for the expansion of child psychiatric beds

1459 or the conversion of other beds to child psychiatric beds at the  
1460 University of Mississippi Medical Center. For purposes of this  
1461 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
1462 requiring substantial compliance with the projection of need as  
1463 reported in the current State Health Plan is waived. The total  
1464 number of beds that may be authorized under the authority of this  
1465 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
1466 shall be no prohibition or restrictions on participation in the  
1467 Medicaid program (Section 43-13-101 et seq.) for the hospital  
1468 receiving the certificate of need authorized under this  
1469 subparagraph \* \* \* or for the beds converted under the authority  
1470 of that certificate of need.

1471 (vii) From and after July 1, 2007, the department  
1472 shall issue a certificate or certificates of need for the  
1473 construction or expansion of child/adolescent psychiatric beds or  
1474 the conversion of other beds to child/adolescent psychiatric beds,  
1475 not to exceed forty (40) beds. However, the total number of  
1476 child/adolescent psychiatric beds that may be authorized by all  
1477 certificates of need issued under this subparagraph (vii) shall  
1478 not exceed twenty (20) beds until the department has revoked the  
1479 certificate of need authorized under subsection (4)(a)(iii) of  
1480 this section. For purposes of this subparagraph, the provisions  
1481 of Section 41-7-193(1) requiring substantial compliance with the  
1482 projection of need as reported in the current State Health Plan  
1483 are waived. There shall be no prohibition or restrictions on  
1484 participation in the Medicaid program (Section 43-13-101 et seq.)  
1485 for the person receiving the certificate of need authorized under  
1486 this subparagraph or for the beds converted under the authority of  
1487 that certificate of need.

1488 (b) From and after July 1, 1990, no hospital,  
1489 psychiatric hospital or chemical dependency hospital shall be  
1490 authorized to add any child/adolescent psychiatric or  
1491 child/adolescent chemical dependency beds or convert any beds of

1492 another category to child/adolescent psychiatric or  
1493 child/adolescent chemical dependency beds without a certificate of  
1494 need under the authority of subsection (1)(c) of this section.

1495 (5) The department may issue a certificate of need to a  
1496 county hospital in Winston County for the conversion of fifteen  
1497 (15) acute care beds to geriatric psychiatric care beds.

1498 (6) The State Department of Health shall issue a certificate  
1499 of need to a Mississippi corporation qualified to manage a  
1500 long-term care hospital as defined in Section 41-7-173(i)(xii) in  
1501 Harrison County, not to exceed eighty (80) beds, including any  
1502 necessary renovation or construction required for licensure and  
1503 certification, provided that the recipient of the certificate of  
1504 need agrees in writing that the long-term care hospital will not  
1505 at any time participate in the Medicaid program (Section 43-13-101  
1506 et seq.) or admit or keep any patients in the long-term care  
1507 hospital who are participating in the Medicaid program. This  
1508 written agreement by the recipient of the certificate of need  
1509 shall be fully binding on any subsequent owner of the long-term  
1510 care hospital, if the ownership of the facility is transferred at  
1511 any time after the issuance of the certificate of need. Agreement  
1512 that the long-term care hospital will not participate in the  
1513 Medicaid program shall be a condition of the issuance of a  
1514 certificate of need to any person under this subsection (6), and  
1515 if those long-term care hospital at any time after the issuance of  
1516 the certificate of need, regardless of the ownership of the  
1517 facility, participates in the Medicaid program or admits or keeps  
1518 any patients in the facility who are participating in the Medicaid  
1519 program, the State Department of Health shall revoke the  
1520 certificate of need, if it is still outstanding, and shall deny or  
1521 revoke the license of the long-term care hospital, at the time  
1522 that the department determines, after a hearing complying with due  
1523 process, that the facility has failed to comply with any of the  
1524 conditions upon which the certificate of need was issued, as

1525 provided in this subsection and in the written agreement by the  
1526 recipient of the certificate of need. For purposes of this  
1527 subsection, the provision of Section 41-7-193(1) requiring  
1528 substantial compliance with the projection of need as reported in  
1529 the current State Health Plan is \* \* \* waived.

1530 (7) The State Department of Health may issue a certificate  
1531 of need to any hospital in the state to utilize a portion of its  
1532 beds for the "swing-bed" concept. Any such hospital must be in  
1533 conformance with the federal regulations regarding the swing-bed  
1534 concept at the time it submits its application for a certificate  
1535 of need to the State Department of Health, except that the  
1536 hospital may have more licensed beds or a higher average daily  
1537 census (ADC) than the maximum number specified in federal  
1538 regulations for participation in the swing-bed program. Any  
1539 hospital meeting all federal requirements for participation in the  
1540 swing-bed program that receives the certificate of need shall  
1541 render services provided under the swing-bed concept to any  
1542 patient eligible for Medicare (Title XVIII of the Social Security  
1543 Act) who is certified by a physician to be in need of those  
1544 services, and no such hospital shall permit any patient who is  
1545 eligible for both Medicaid and Medicare or eligible only for  
1546 Medicaid to stay in the swing beds of the hospital for more than  
1547 thirty (30) days per admission unless the hospital receives prior  
1548 approval for that patient from the Division of Medicaid, Office of  
1549 the Governor. Any hospital having more licensed beds or a higher  
1550 average daily census (ADC) than the maximum number specified in  
1551 federal regulations for participation in the swing-bed program  
1552 that receives the certificate of need shall develop a procedure to  
1553 insure that before a patient is allowed to stay in the swing beds  
1554 of the hospital, there are no vacant nursing home beds available  
1555 for that patient located within a fifty-mile radius of the  
1556 hospital. When any such hospital has a patient staying in the  
1557 swing beds of the hospital and the hospital receives notice from a

1558 nursing home located within that radius that there is a vacant bed  
1559 available for that patient, the hospital shall transfer the  
1560 patient to the nursing home within a reasonable time after receipt  
1561 of the notice. Any hospital that is subject to the requirements  
1562 of the two (2) preceding sentences of this subsection may be  
1563 suspended from participation in the swing-bed program for a  
1564 reasonable period of time by the State Department of Health if the  
1565 department, after a hearing complying with due process, determines  
1566 that the hospital has failed to comply with any of those  
1567 requirements.

1568 (8) The Department of Health shall not grant approval for or  
1569 issue a certificate of need to any person proposing the new  
1570 construction of, addition to or expansion of a health care  
1571 facility as defined in subparagraph (viii) of Section 41-7-173(i),  
1572 except as follows: The department may issue a certificate of need  
1573 to a nonprofit corporation located in Madison County, Mississippi,  
1574 for the construction, expansion or conversion of not more than  
1575 twenty (20) beds in a community living program for developmentally  
1576 disabled adults in a facility as defined in subparagraph (viii) of  
1577 Section 41-7-173(i). For purposes of this subsection (8), the  
1578 provisions of Section 41-7-193(1) requiring substantial compliance  
1579 with the projection of need as reported in the current State  
1580 Health Plan and the provisions of Section 41-7-197 requiring a  
1581 formal certificate of need hearing process are waived. There  
1582 shall be no prohibition or restrictions on participation in the  
1583 Medicaid program for the person receiving the certificate of need  
1584 authorized under this subsection (8).

1585 (9) The Department of Health shall not grant approval for or  
1586 issue a certificate of need to any person proposing the  
1587 establishment of, or expansion of the currently approved territory  
1588 of, or the contracting to establish a home office, subunit or  
1589 branch office within the space operated as a health care facility  
1590 as defined in Section 41-7-173(i)(i) through (viii) by a health



1591 care facility as defined in subparagraph (ix) of Section  
1592 41-7-173(i).

1593 (10) Health care facilities owned and/or operated by the  
1594 state or its agencies are exempt from the restraints in this  
1595 section against issuance of a certificate of need if the addition  
1596 or expansion consists of repairing or renovation necessary to  
1597 comply with the state licensure law. This exception shall not  
1598 apply to the new construction of any building by the state  
1599 facility. This exception shall not apply to any health care  
1600 facilities owned and/or operated by counties, municipalities,  
1601 districts, unincorporated areas, other defined persons, or any  
1602 combination thereof.

1603 (11) The new construction, renovation or expansion of or  
1604 addition to any health care facility defined in subparagraph (ii)  
1605 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1606 facility), subparagraph (vi) (intermediate care facility),  
1607 subparagraph (viii) (intermediate care facility for the mentally  
1608 retarded) and subparagraph (x) (psychiatric residential treatment  
1609 facility) of Section 41-7-173(i) that is owned by the State of  
1610 Mississippi and under the direction and control of the State  
1611 Department of Mental Health, and the addition of new beds or the  
1612 conversion of beds from one category to another in any such  
1613 defined health care facility that is owned by the State of  
1614 Mississippi and under the direction and control of the State  
1615 Department of Mental Health, shall not require the issuance of a  
1616 certificate of need under Section 41-7-171 et seq.,  
1617 notwithstanding any provision in Section 41-7-171 et seq. to the  
1618 contrary.

1619 (12) The new construction, renovation or expansion of or  
1620 addition to any veterans homes or domiciliaries for eligible  
1621 veterans of the State of Mississippi as authorized under Section  
1622 35-1-19 shall not require the issuance of a certificate of need,

1623 notwithstanding any provision in Section 41-7-171 et seq. to the  
1624 contrary.

1625           (13) The new construction of a nursing facility or nursing  
1626 facility beds or the conversion of other beds to nursing facility  
1627 beds shall not require the issuance of a certificate of need,  
1628 notwithstanding any provision in Section 41-7-171 et seq. to the  
1629 contrary, if the conditions of this subsection are met.

1630           (a) Before any construction or conversion may be  
1631 undertaken without a certificate of need, the owner of the nursing  
1632 facility, in the case of an existing facility, or the applicant to  
1633 construct a nursing facility, in the case of new construction,  
1634 first must file a written notice of intent and sign a written  
1635 agreement with the State Department of Health that the entire  
1636 nursing facility will not at any time participate in or have any  
1637 beds certified for participation in the Medicaid program (Section  
1638 43-13-101 et seq.), will not admit or keep any patients in the  
1639 nursing facility who are participating in the Medicaid program,  
1640 and will not submit any claim for Medicaid reimbursement for any  
1641 patient in the facility. This written agreement by the owner or  
1642 applicant shall be a condition of exercising the authority under  
1643 this subsection without a certificate of need, and the agreement  
1644 shall be fully binding on any subsequent owner of the nursing  
1645 facility if the ownership of the facility is transferred at any  
1646 time after the agreement is signed. After the written agreement  
1647 is signed, the Division of Medicaid and the State Department of  
1648 Health shall not certify any beds in the nursing facility for  
1649 participation in the Medicaid program. If the nursing facility  
1650 violates the terms of the written agreement by participating in  
1651 the Medicaid program, having any beds certified for participation  
1652 in the Medicaid program, admitting or keeping any patient in the  
1653 facility who is participating in the Medicaid program, or  
1654 submitting any claim for Medicaid reimbursement for any patient in  
1655 the facility, the State Department of Health shall revoke the

1656 license of the nursing facility at the time that the department  
1657 determines, after a hearing complying with due process, that the  
1658 facility has violated the terms of the written agreement.

1659 (b) For the purposes of this subsection, participation  
1660 in the Medicaid program by a nursing facility includes Medicaid  
1661 reimbursement of coinsurance and deductibles for recipients who  
1662 are qualified Medicare beneficiaries and/or those who are dually  
1663 eligible. Any nursing facility exercising the authority under  
1664 this subsection may not bill or submit a claim to the Division of  
1665 Medicaid for services to qualified Medicare beneficiaries and/or  
1666 those who are dually eligible.

1667 (c) The new construction of a nursing facility or  
1668 nursing facility beds or the conversion of other beds to nursing  
1669 facility beds described in this section must be either a part of a  
1670 completely new continuing care retirement community, as described  
1671 in the latest edition of the Mississippi State Health Plan, or an  
1672 addition to existing personal care and independent living  
1673 components, and so that the completed project will be a continuing  
1674 care retirement community, containing (i) independent living  
1675 accommodations, (ii) personal care beds, and (iii) the nursing  
1676 home facility beds. The three (3) components must be located on a  
1677 single site and be operated as one (1) inseparable facility. The  
1678 nursing facility component must contain a minimum of thirty (30)  
1679 beds. Any nursing facility beds authorized by this section will  
1680 not be counted against the bed need set forth in the State Health  
1681 Plan, as identified in Section 41-7-171 et seq.

1682 \* \* \*

1683 (14) The State Department of Health shall issue a  
1684 certificate of need to any hospital that is currently licensed for  
1685 two hundred fifty (250) or more acute care beds and is located in  
1686 any general hospital service area not having a comprehensive  
1687 cancer center, for the establishment and equipping of such a  
1688 center that provides facilities and services for outpatient

1689 radiation oncology therapy, outpatient medical oncology therapy,  
1690 and appropriate support services including the provision of  
1691 radiation therapy services. The provision of Section 41-7-193(1)  
1692 regarding substantial compliance with the projection of need as  
1693 reported in the current State Health Plan is waived for the  
1694 purpose of this subsection.

1695 (15) The State Department of Health may authorize the  
1696 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1697 North Panola Community Hospital to the South Panola Community  
1698 Hospital. The authorization for the transfer of those beds shall  
1699 be exempt from the certificate of need review process.

1700 (16) The State Department of Health shall issue any  
1701 certificates of need necessary for Mississippi State University  
1702 and a public or private health care provider to jointly acquire  
1703 and operate a linear accelerator and a magnetic resonance imaging  
1704 unit. Those certificates of need shall cover all capital  
1705 expenditures related to the project between Mississippi State  
1706 University and the health care provider, including, but not  
1707 limited to, the acquisition of the linear accelerator, the  
1708 magnetic resonance imaging unit and other radiological modalities;  
1709 the offering of linear accelerator and magnetic resonance imaging  
1710 services; and the cost of construction of facilities in which to  
1711 locate these services. The linear accelerator and the magnetic  
1712 resonance imaging unit shall be (a) located in the City of  
1713 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1714 Mississippi State University and the public or private health care  
1715 provider selected by Mississippi State University through a  
1716 request for proposals (RFP) process in which Mississippi State  
1717 University selects, and the Board of Trustees of State  
1718 Institutions of Higher Learning approves, the health care provider  
1719 that makes the best overall proposal; (c) available to Mississippi  
1720 State University for research purposes two-thirds (2/3) of the  
1721 time that the linear accelerator and magnetic resonance imaging

1722 unit are operational; and (d) available to the public or private  
1723 health care provider selected by Mississippi State University and  
1724 approved by the Board of Trustees of State Institutions of Higher  
1725 Learning one-third (1/3) of the time for clinical, diagnostic and  
1726 treatment purposes. For purposes of this subsection, the  
1727 provisions of Section 41-7-193(1) requiring substantial compliance  
1728 with the projection of need as reported in the current State  
1729 Health Plan are waived.

1730       (17) Any publicly owned hospital or publicly owned hospital  
1731 system that has more than one (1) hospital facility located in  
1732 Jackson County, whether or not those facilities have separate  
1733 physical licenses, may relocate any number of licensed hospital  
1734 beds from one (1) hospital facility to another facility in Jackson  
1735 County and increase the number of licensed hospital beds in the  
1736 facility to which the beds are being relocated, without the  
1737 issuance of a certificate of need, as long as there is no increase  
1738 in the total number of licensed hospital beds in those hospital  
1739 facilities in Jackson County. Nothing in this subsection (17)  
1740 shall be construed to authorize any new construction of hospital  
1741 beds at any hospital located in Jackson County.

1742       (18) Any capital expenditures made by the University of  
1743 Mississippi Medical Center in connection with the establishment of  
1744 a separate unit for the treatment of burn victims, as authorized  
1745 by House Bill No. 567, 2007 Regular Session, shall be exempt from  
1746 the certificate of need review process and shall not require the  
1747 issuance of a certificate of need, notwithstanding any provision  
1748 in Section 41-7-171 et seq. to the contrary.

1749       (19) Nothing in this section or in any other provision of  
1750 Section 41-7-171 et seq. shall prevent any nursing facility from  
1751 designating an appropriate number of existing beds in the facility  
1752 as beds for providing care exclusively to patients with  
1753 Alzheimer's disease.

1754           **SECTION 3.** Section 41-7-205, Mississippi Code of 1972, is  
1755 amended as follows:

1756           41-7-205. The State Department of Health shall provide an  
1757 expedited review for those projects that it determines to warrant  
1758 that action. All requests for such an expedited review by the  
1759 applicant must be made in writing to the State Department of  
1760 Health. The State Department of Health shall make a determination  
1761 as to whether expedited review is appropriate within fifteen (15)  
1762 days after receipt of a written request. The State Department of  
1763 Health shall render its decision concerning the issuance of a  
1764 certificate of need within ninety (90) days after the receipt of a  
1765 completed application. A project is subject to expedited review  
1766 only if it meets one (1) of the following criteria:

1767           (a) A transfer or change of ownership of a health care  
1768 facility in which the facility continues to operate under the same  
1769 category of license or permit as it possessed before the date of  
1770 the proposed change of ownership and none of the other activities  
1771 described in Section 41-7-191(1) take place in conjunction with  
1772 that transfer;

1773           (b) Replacement of equipment with used equipment of  
1774 similar capability if the equipment is included in the facility's  
1775 annual capital expenditure budget or plan;

1776           (c) A request for project cost overruns that exceed the  
1777 rate of inflation as determined by the State Department of Health;

1778           (d) A request for relocation of services or facilities  
1779 if the relocation of those services or facilities (i) involves a  
1780 capital expenditure by or on behalf of a health care facility, or  
1781 (ii) is more than one thousand three hundred twenty (1,320) feet  
1782 from the main entrance of the health care facility or the facility  
1783 where the service is located;

1784           (e) A request for a certificate of need to comply with  
1785 duly recognized fire, building, or life safety codes, or to comply

1786 with state licensure standards or accreditation standards required  
1787 for reimbursements; and

1788 (f) A request for a certificate of need that is a  
1789 nonclinical expenditure exceeding the capital expenditure minimum  
1790 under Section 41-7-173(c)(ii).

1791 **SECTION 4.** This act shall take effect and be in force from  
1792 and after its passage.