

By: Representative Holland

To: Public Health and Human  
Services; Appropriations

## 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; TO REVISE  
4 THE MINIMUM CAPITAL EXPENDITURES REQUIRING A HEALTH CARE  
5 CERTIFICATE OF NEED AND TO PROVIDE FOR AN ANNUAL COST INDEX  
6 ADJUSTMENT FOR THOSE MINIMUM CAPITAL EXPENDITURES; TO AMEND  
7 SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO INCLUDE  
8 COMPUTERIZED TOMOGRAPHY (CT)-PET SERVICES IN THOSE NEW HEALTH  
9 SERVICES REQUIRING CERTIFICATE OF NEED REVIEW; TO CLARIFY THAT THE  
10 CONVERSION OF MOBILE SERVICES TO FIXED SITE SERVICES REQUIRES A  
11 CERTIFICATE OF NEED; TO AMEND SECTION 41-7-205, MISSISSIPPI CODE  
12 OF 1972, TO PROVIDE THAT A REQUEST FOR A NONCLINICAL EXPENDITURE  
13 BY A HEALTH CARE FACILITY EXCEEDING THE CAPITAL EXPENDITURE  
14 MINIMUM SHALL BE AUTHORIZED FOR EXPEDITED REVIEW; AND FOR RELATED  
15 PURPOSES.

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

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

19 41-7-173. For the purposes of Section 41-7-171 et seq., the  
20 following words shall have the meanings ascribed herein, unless  
21 the context otherwise requires:

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

33 care services or HMO's located in the geographic area of the  
34 proposal.

35 (b) "Certificate of need" means a written order of the  
36 State Department of Health setting forth the affirmative finding  
37 that a proposal in prescribed application form, sufficiently  
38 satisfies the plans, standards and criteria prescribed for such  
39 service or other project by Section 41-7-171 et seq., and by rules  
40 and regulations promulgated thereunder by the State Department of  
41 Health.

42 (c) (i) "Capital expenditure," when pertaining to  
43 defined major medical equipment, shall mean an expenditure which,  
44 under generally accepted accounting principles consistently  
45 applied, is not properly chargeable as an expense of operation and  
46 maintenance and which is incurred in performing a new clinical  
47 health service or the expansion of a clinical health service  
48 listed in Section 41-7-191(1)(d), including, but not limited to,  
49 major medical equipment.

50 (ii) "Capital expenditure," when pertaining to  
51 other than major medical equipment, shall mean any expenditure  
52 which under generally accepted accounting principles consistently  
53 applied is not properly chargeable as an expense of operation and  
54 maintenance and which exceeds Two Million Dollars (\$2,000,000.00)  
55 for a clinical health service and which exceeds Five Million  
56 Dollars (\$5,000,000.00) in nonclinical expenditures, as defined in  
57 Section 1 of this act, and indexed annually for inflation by the  
58 State Department of Health.

59 (iii) A "capital expenditure" shall include the  
60 acquisition, whether by lease, sufferance, gift, devise, legacy,  
61 settlement of a trust or other means, of any facility or part  
62 thereof, or equipment for a facility, the expenditure for which  
63 would have been considered a capital expenditure if acquired by  
64 purchase. Transactions which are separated in time but are  
65 planned to be undertaken within twelve (12) months of each other

66 and are components of an overall plan for meeting patient care  
67 objectives shall, for purposes of this definition, be viewed in  
68 their entirety without regard to their timing.

69 (iv) In those instances where a health care  
70 facility or other provider of clinical health services proposes to  
71 provide a service in which the capital expenditure for major  
72 medical equipment or other than major medical equipment or a  
73 combination of the two (2) may have been split between separate  
74 parties, the total capital expenditure required to provide the  
75 proposed service shall be considered in determining the necessity  
76 of certificate of need review and in determining the appropriate  
77 certificate of need review fee to be paid. The capital  
78 expenditure associated with facilities and equipment to provide  
79 services in Mississippi shall be considered regardless of where  
80 the capital expenditure was made, in state or out of state, and  
81 regardless of the domicile of the party making the capital  
82 expenditure, in state or out of state.

83 (d) "Change of ownership" includes, but is not limited  
84 to, inter vivos gifts, purchases, transfers, lease arrangements,  
85 cash and/or stock transactions or other comparable arrangements  
86 whenever any person or entity acquires or controls a majority  
87 interest of the facility or service. Changes of ownership from  
88 partnerships, single proprietorships or corporations to another  
89 form of ownership are specifically included. However, "change of  
90 ownership" shall not include any inherited interest acquired as a  
91 result of a testamentary instrument or under the laws of descent  
92 and distribution of the State of Mississippi.

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

97 (f) "Commencement of construction" means that all of  
98 the following have been completed with respect to a proposal or

99 project proposing construction, renovating, remodeling or  
100 alteration:

101 (i) A legally binding written contract has been  
102 consummated by the proponent and a lawfully licensed contractor to  
103 construct and/or complete the intent of the proposal within a  
104 specified period of time in accordance with final architectural  
105 plans which have been approved by the licensing authority of the  
106 State Department of Health;

107 (ii) Any and all permits and/or approvals deemed  
108 lawfully necessary by all authorities with responsibility for such  
109 have been secured; and

110 (iii) Actual bona fide undertaking of the subject  
111 proposal has commenced, and a progress payment of at least one  
112 percent (1%) of the total cost price of the contract has been paid  
113 to the contractor by the proponent, and the requirements of this  
114 paragraph (f) have been certified to in writing by the State  
115 Department of Health.

116 Force account expenditures, such as deposits, securities,  
117 bonds, et cetera, may, in the discretion of the State Department  
118 of Health, be excluded from any or all of the provisions of  
119 defined commencement of construction.

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

123 (h) "Develop," when used in connection with clinical  
124 health services, means to undertake those activities which, on  
125 their completion, will result in the offering of a new  
126 institutional health service or the incurring of a financial  
127 obligation as defined under applicable state law in relation to  
128 the offering of such services.

129 (i) "Health care facility" includes hospitals,  
130 psychiatric hospitals, chemical dependency hospitals, skilled  
131 nursing facilities, end stage renal disease (ESRD) facilities,

132 including freestanding hemodialysis units, intermediate care  
133 facilities, ambulatory surgical facilities, intermediate care  
134 facilities for the mentally retarded, home health agencies,  
135 psychiatric residential treatment facilities, pediatric skilled  
136 nursing facilities, long-term care hospitals, comprehensive  
137 medical rehabilitation facilities, including facilities owned or  
138 operated by the state or a political subdivision or  
139 instrumentality of the state, but does not include Christian  
140 Science sanatoriums operated or listed and certified by the First  
141 Church of Christ, Scientist, Boston, Massachusetts. This  
142 definition shall not apply to facilities for the private practice,  
143 either independently or by incorporated medical groups, of  
144 physicians, dentists or health care professionals except where  
145 such facilities are an integral part of an institutional health  
146 service. The various health care facilities listed in this  
147 paragraph shall be defined as follows:

148           (i) "Hospital" means an institution which is  
149 primarily engaged in providing to inpatients, by or under the  
150 supervision of physicians, diagnostic services and therapeutic  
151 services for medical diagnosis, treatment and care of injured,  
152 disabled or sick persons, or rehabilitation services for the  
153 rehabilitation of injured, disabled or sick persons. Such term  
154 does not include psychiatric hospitals.

155           (ii) "Psychiatric hospital" means an institution  
156 which is primarily engaged in providing to inpatients, by or under  
157 the supervision of a physician, psychiatric services for the  
158 diagnosis and treatment of mentally ill persons.

159           (iii) "Chemical dependency hospital" means an  
160 institution which is primarily engaged in providing to inpatients,  
161 by or under the supervision of a physician, medical and related  
162 services for the diagnosis and treatment of chemical dependency  
163 such as alcohol and drug abuse.

164 (iv) "Skilled nursing facility" means an  
165 institution or a distinct part of an institution which is  
166 primarily engaged in providing to inpatients skilled nursing care  
167 and related services for patients who require medical or nursing  
168 care or rehabilitation services for the rehabilitation of injured,  
169 disabled or sick persons.

170 (v) "End stage renal disease (ESRD) facilities"  
171 means kidney disease treatment centers, which includes  
172 freestanding hemodialysis units and limited care facilities. The  
173 term "limited care facility" generally refers to an  
174 off-hospital-premises facility, regardless of whether it is  
175 provider or nonprovider operated, which is engaged primarily in  
176 furnishing maintenance hemodialysis services to stabilized  
177 patients.

178 (vi) "Intermediate care facility" means an  
179 institution which provides, on a regular basis, health-related  
180 care and services to individuals who do not require the degree of  
181 care and treatment which a hospital or skilled nursing facility is  
182 designed to provide, but who, because of their mental or physical  
183 condition, require health-related care and services (above the  
184 level of room and board).

185 (vii) "Ambulatory surgical facility" means a  
186 facility primarily organized or established for the purpose of  
187 performing surgery for outpatients and is a separate identifiable  
188 legal entity from any other health care facility. Such term does  
189 not include the offices of private physicians or dentists, whether  
190 for individual or group practice, and does not include any  
191 abortion facility as defined in Section 41-75-1(e).

192 (viii) "Intermediate care facility for the  
193 mentally retarded" means an intermediate care facility that  
194 provides health or rehabilitative services in a planned program of  
195 activities to the mentally retarded, also including, but not  
196 limited to, cerebral palsy and other conditions covered by the

197 Federal Developmentally Disabled Assistance and Bill of Rights  
198 Act, Public Law 94-103.

199 (ix) "Home health agency" means a public or  
200 privately owned agency or organization, or a subdivision of such  
201 an agency or organization, properly authorized to conduct business  
202 in Mississippi, which is primarily engaged in providing to  
203 individuals at the written direction of a licensed physician, in  
204 the individual's place of residence, skilled nursing services  
205 provided by or under the supervision of a registered nurse  
206 licensed to practice in Mississippi, and one or more of the  
207 following services or items:

- 208 1. Physical, occupational or speech therapy;
- 209 2. Medical social services;
- 210 3. Part-time or intermittent services of a  
211 home health aide;
- 212 4. Other services as approved by the  
213 licensing agency for home health agencies;
- 214 5. Medical supplies, other than drugs and  
215 biologicals, and the use of medical appliances; or
- 216 6. Medical services provided by an intern or  
217 resident-in-training at a hospital under a teaching program of  
218 such hospital.

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

225 This subparagraph (ix) shall not apply to health care  
226 facilities which had contracts for the above services with a home  
227 health agency on January 1, 1990.

228 (x) "Psychiatric residential treatment facility"  
229 means any nonhospital establishment with permanent licensed

230 facilities which provides a twenty-four-hour program of care by  
231 qualified therapists, including, but not limited to, duly licensed  
232 mental health professionals, psychiatrists, psychologists,  
233 psychotherapists and licensed certified social workers, for  
234 emotionally disturbed children and adolescents referred to such  
235 facility by a court, local school district or by the Department of  
236 Human Services, who are not in an acute phase of illness requiring  
237 the services of a psychiatric hospital, and are in need of such  
238 restorative treatment services. For purposes of this paragraph,  
239 the term "emotionally disturbed" means a condition exhibiting one  
240 or more of the following characteristics over a long period of  
241 time and to a marked degree, which adversely affects educational  
242 performance:

- 243                   1. An inability to learn which cannot be  
244 explained by intellectual, sensory or health factors;
- 245                   2. An inability to build or maintain  
246 satisfactory relationships with peers and teachers;
- 247                   3. Inappropriate types of behavior or  
248 feelings under normal circumstances;
- 249                   4. A general pervasive mood of unhappiness or  
250 depression; or
- 251                   5. A tendency to develop physical symptoms or  
252 fears associated with personal or school problems. An  
253 establishment furnishing primarily domiciliary care is not within  
254 this definition.

255                   (xi) "Pediatric skilled nursing facility" means an  
256 institution or a distinct part of an institution that is primarily  
257 engaged in providing to inpatients skilled nursing care and  
258 related services for persons under twenty-one (21) years of age  
259 who require medical or nursing care or rehabilitation services for  
260 the rehabilitation of injured, disabled or sick persons.

261                   (xii) "Long-term care hospital" means a  
262 freestanding, Medicare-certified hospital that has an average



263 length of inpatient stay greater than twenty-five (25) days, which  
264 is primarily engaged in providing chronic or long-term medical  
265 care to patients who do not require more than three (3) hours of  
266 rehabilitation or comprehensive rehabilitation per day, and has a  
267 transfer agreement with an acute care medical center and a  
268 comprehensive medical rehabilitation facility. Long-term care  
269 hospitals shall not use rehabilitation, comprehensive medical  
270 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
271 nursing home, skilled nursing facility, or sub-acute care facility  
272 in association with its name.

273 (xiii) "Comprehensive medical rehabilitation  
274 facility" means a hospital or hospital unit that is licensed  
275 and/or certified as a comprehensive medical rehabilitation  
276 facility which provides specialized programs that are accredited  
277 by the Commission on Accreditation of Rehabilitation Facilities  
278 and supervised by a physician board certified or board eligible in  
279 Physiatry or other doctor of medicine or osteopathy with at least  
280 two (2) years of training in the medical direction of a  
281 comprehensive rehabilitation program that:

282 1. Includes evaluation and treatment of  
283 individuals with physical disabilities;

284 2. Emphasizes education and training of  
285 individuals with disabilities;

286 3. Incorporates at least the following core  
287 disciplines:

288 (i) Physical Therapy;

289 (ii) Occupational Therapy;

290 (iii) Speech and Language Therapy;

291 (iv) Rehabilitation Nursing; and

292 4. Incorporates at least three (3) of the  
293 following disciplines:

294 (i) Psychology;

295 (ii) Audiology;

- 296 (iii) Respiratory Therapy;  
297 (iv) Therapeutic Recreation;  
298 (v) Orthotics;  
299 (vi) Prosthetics;  
300 (vii) Special Education;  
301 (viii) Vocational Rehabilitation;  
302 (ix) Psychotherapy;  
303 (x) Social Work;  
304 (xi) Rehabilitation Engineering.

305 These specialized programs include, but are not limited to:  
306 spinal cord injury programs, head injury programs and infant and  
307 early childhood development programs.

308 (j) "Health maintenance organization" or "HMO" means a  
309 public or private organization organized under the laws of this  
310 state or the federal government which:

311 (i) Provides or otherwise makes available to  
312 enrolled participants health care services, including  
313 substantially the following basic health care services: usual  
314 physician services, hospitalization, laboratory, x-ray, emergency  
315 and preventive services, and out-of-area coverage;

316 (ii) Is compensated (except for copayments) for  
317 the provision of the basic health care services listed in  
318 subparagraph (i) of this paragraph to enrolled participants on a  
319 predetermined basis; and

320 (iii) Provides physician services primarily:

321 1. Directly through physicians who are either  
322 employees or partners of such organization; or

323 2. Through arrangements with individual  
324 physicians or one or more groups of physicians (organized on a  
325 group practice or individual practice basis).

326 (k) "Health service area" means a geographic area of  
327 the state designated in the State Health Plan as the area to be  
328 used in planning for specified health facilities and services and

329 to be used when considering certificate of need applications to  
330 provide health facilities and services.

331 \* \* \*

332 (l) "Institutional health services" shall mean clinical  
333 health services provided in or through health care facilities and  
334 shall include the entities in or through which such services are  
335 provided.

336 (m) "Major medical equipment" means medical equipment  
337 designed for providing medical or any health-related service  
338 subject to licensure under this chapter or any clinical health  
339 service listed in Section 41-7-191(1)(d) as requiring a  
340 certificate of need. However, this definition shall not be  
341 applicable to clinical laboratories if they are determined by the  
342 State Department of Health to be independent of any physician's  
343 office, hospital or other health care facility or otherwise not so  
344 defined by federal or state law, or rules and regulations  
345 promulgated thereunder.

346 (n) "Nonclinical expenditures" means any expenditure  
347 for:

348 (i) Repairs, renovations, alterations and  
349 improvements to the physical plant of a health facility that do  
350 not result in a change in beds, a change in a listed clinical  
351 health service, or the addition of major medical equipment, and do  
352 not constitute the replacement or relocation of a health facility,  
353 or

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

- 357 1. Administrative offices;  
358 2. Energy conservation;  
359 3. Heating and/or air conditioning systems;  
360 4. Management information systems;  
361 5. Medical offices;

- 362                                   6. Parking facilities;  
363                                   7. Telecommunications or telephone systems;  
364 or  
365                                   8. Ventilation systems.

366           (o) "State Department of Health" shall mean the state  
367 agency created under Section 41-3-15, which shall be considered to  
368 be the State Health Planning and Development Agency, as defined in  
369 paragraph (u) of this section.

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

374           (q) "Person" means an individual, a trust or estate,  
375 partnership, corporation (including associations, joint stock  
376 companies and insurance companies), the state or a political  
377 subdivision or instrumentality of the state.

378           (r) "Provider" shall mean any person who is a provider  
379 or representative of a provider of health care services requiring  
380 a certificate of need under Section 41-7-171 et seq., or who has  
381 any financial or indirect interest in any provider of services.

382           (s) "Secretary" means the Secretary of Health and Human  
383 Services, and any officer or employee of the Department of Health  
384 and Human Services to whom the authority involved has been  
385 delegated.

386           (t) "State Health Plan" means the sole and official  
387 statewide health plan for Mississippi which identifies priority  
388 state health needs and establishes standards and criteria for  
389 health-related activities which require certificate of need review  
390 in compliance with Section 41-7-191.

391           (u) "State Health Planning and Development Agency"  
392 means the agency of state government designated to perform health  
393 planning and resource development programs for the State of  
394 Mississippi.

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

397           41-7-191. (1) No person shall engage in any of the  
398 following activities without obtaining the required certificate of  
399 need:

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

404           (b) The relocation of a health care facility or portion  
405 thereof, or major medical equipment, unless such relocation of a  
406 health care facility or portion thereof, or major medical  
407 equipment, which does not involve a capital expenditure by or on  
408 behalf of a health care facility, is within five thousand two  
409 hundred eighty (5,280) feet from the main entrance of the health  
410 care facility;

411           (c) Any change in the existing bed complement of any  
412 health care facility through the addition or conversion of any  
413 beds or the alteration, modernizing or refurbishing of any unit or  
414 department in which the beds may be located; however, if a health  
415 care facility has voluntarily delicensed some of its existing bed  
416 complement, it may later relicense some or all of its delicensed  
417 beds without the necessity of having to acquire a certificate of  
418 need. The State Department of Health shall maintain a record of  
419 the delicensing health care facility and its voluntarily  
420 delicensed beds and continue counting those beds as part of the  
421 state's total bed count for health care planning purposes. If a  
422 health care facility that has voluntarily delicensed some of its  
423 beds later desires to relicense some or all of its voluntarily  
424 delicensed beds, it shall notify the State Department of Health of  
425 its intent to increase the number of its licensed beds. The State  
426 Department of Health shall survey the health care facility within  
427 thirty (30) days of that notice and, if appropriate, issue the

428 health care facility a new license reflecting the new contingent  
429 of beds. However, in no event may a health care facility that has  
430 voluntarily delicensed some of its beds be reissued a license to  
431 operate beds in excess of its bed count before the voluntary  
432 delicensure of some of its beds without seeking certificate of  
433 need approval;

434 (d) Offering of the following clinical health services  
435 if those services have not been provided on a regular basis by the  
436 proposed provider of such services within the period of twelve  
437 (12) months prior to the time such services would be offered:

438 (i) Open heart surgery services;

439 (ii) Cardiac catheterization services;

440 (iii) Comprehensive inpatient rehabilitation  
441 services;

442 (iv) Licensed psychiatric services;

443 (v) Licensed chemical dependency services;

444 (vi) Radiation therapy services;

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

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

449 (ix) Home health services;

450 (x) Swing-bed services;

451 (xi) Ambulatory surgical services;

452 (xii) Magnetic resonance imaging services;

453 (xiii) [Deleted]

454 (xiv) Long-term care hospital services;

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

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

457 (e) The relocation of one or more clinical health  
458 services from one physical facility or site to another physical  
459 facility or site, unless such relocation, which does not involve a  
460 capital expenditure by or on behalf of a health care facility, (i)

461 is to a physical facility or site within five thousand two hundred  
462 eighty (5,280) feet from the main entrance of the health care  
463 facility where the health care service is located, or (ii) is the  
464 result of an order of a court of appropriate jurisdiction or a  
465 result of pending litigation in such court, or by order of the  
466 State Department of Health, or by order of any other agency or  
467 legal entity of the state, the federal government, or any  
468 political subdivision of either, whose order is also approved by  
469 the State Department of Health;

470 (f) The acquisition or otherwise control of any major  
471 medical equipment for the provision of medical services, including  
472 the conversion of mobile services to fixed site services;  
473 provided, however, (i) the acquisition of any major medical  
474 equipment used only for research purposes, and (ii) the  
475 acquisition of major medical equipment to replace medical  
476 equipment for which a facility is already providing medical  
477 services and for which the State Department of Health has been  
478 notified before the date of such acquisition shall be exempt from  
479 this paragraph; an acquisition for less than fair market value  
480 must be reviewed, if the acquisition at fair market value would be  
481 subject to review;

482 (g) Changes of ownership of existing health care  
483 facilities in which a notice of intent is not filed with the State  
484 Department of Health at least thirty (30) days prior to the date  
485 such change of ownership occurs, or a change in services or bed  
486 capacity as prescribed in paragraph (c) or (d) of this subsection  
487 as a result of the change of ownership; an acquisition for less  
488 than fair market value must be reviewed, if the acquisition at  
489 fair market value would be subject to review;

490 (h) The change of ownership of any health care facility  
491 defined in subparagraphs (iv), (vi) and (viii) of Section  
492 41-7-173(i), in which a notice of intent as described in paragraph  
493 (g) has not been filed and if the Executive Director, Division of

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

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

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

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

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

516           (m) Reopening a health care facility that has ceased to  
517 operate for a period of sixty (60) months or more, which reopening  
518 requires a certificate of need for the establishment of a new  
519 health care facility.

520           (2) The State Department of Health shall not grant approval  
521 for or issue a certificate of need to any person proposing the new  
522 construction of, addition to, or expansion of any health care  
523 facility defined in subparagraphs (iv) (skilled nursing facility)  
524 and (vi) (intermediate care facility) of Section 41-7-173(i) or  
525 the conversion of vacant hospital beds to provide skilled or  
526 intermediate nursing home care, except as hereinafter authorized:



527           (a) The department may issue a certificate of need to  
528 any person proposing the new construction of any health care  
529 facility defined in subparagraphs (iv) and (vi) of Section  
530 41-7-173(i) as part of a life care retirement facility, in any  
531 county bordering on the Gulf of Mexico in which is located a  
532 National Aeronautics and Space Administration facility, not to  
533 exceed forty (40) beds. From and after July 1, 1999, there shall  
534 be no prohibition or restrictions on participation in the Medicaid  
535 program (Section 43-13-101 et seq.) for the beds in the health  
536 care facility that were authorized under this paragraph (a).

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

544           (c) The department may issue a certificate of need for  
545 the addition to or expansion of any skilled nursing facility that  
546 is part of an existing continuing care retirement community  
547 located in Madison County, provided that the recipient of the  
548 certificate of need agrees in writing that the skilled nursing  
549 facility will not at any time participate in the Medicaid program  
550 (Section 43-13-101 et seq.) or admit or keep any patients in the  
551 skilled nursing facility who are participating in the Medicaid  
552 program. This written agreement by the recipient of the  
553 certificate of need shall be fully binding on any subsequent owner  
554 of the skilled nursing facility, if the ownership of the facility  
555 is transferred at any time after the issuance of the certificate  
556 of need. Agreement that the skilled nursing facility will not  
557 participate in the Medicaid program shall be a condition of the  
558 issuance of a certificate of need to any person under this  
559 paragraph (c), and if such skilled nursing facility at any time

560 after the issuance of the certificate of need, regardless of the  
561 ownership of the facility, participates in the Medicaid program or  
562 admits or keeps any patients in the facility who are participating  
563 in the Medicaid program, the State Department of Health shall  
564 revoke the certificate of need, if it is still outstanding, and  
565 shall deny or revoke the license of the skilled nursing facility,  
566 at the time that the department determines, after a hearing  
567 complying with due process, that the facility has failed to comply  
568 with any of the conditions upon which the certificate of need was  
569 issued, as provided in this paragraph and in the written agreement  
570 by the recipient of the certificate of need. The total number of  
571 beds that may be authorized under the authority of this paragraph  
572 (c) shall not exceed sixty (60) beds.

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

581 (e) The State Department of Health may issue a  
582 certificate of need for the construction of a nursing facility or  
583 the conversion of beds to nursing facility beds at a personal care  
584 facility for the elderly in Lowndes County that is owned and  
585 operated by a Mississippi nonprofit corporation, not to exceed  
586 sixty (60) beds. From and after July 1, 1999, there shall be no  
587 prohibition or restrictions on participation in the Medicaid  
588 program (Section 43-13-101 et seq.) for the beds in the nursing  
589 facility that were authorized under this paragraph (e).

590 (f) The State Department of Health may issue a  
591 certificate of need for conversion of a county hospital facility  
592 in Itawamba County to a nursing facility, not to exceed sixty (60)

593 beds, including any necessary construction, renovation or  
594 expansion. From and after July 1, 1999, there shall be no  
595 prohibition or restrictions on participation in the Medicaid  
596 program (Section 43-13-101 et seq.) for the beds in the nursing  
597 facility that were authorized under this paragraph (f).

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

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

614 (i) The department may issue a certificate of need for  
615 the new construction of a skilled nursing facility in Leake  
616 County, provided that the recipient of the certificate of need  
617 agrees in writing that the skilled nursing facility will not at  
618 any time participate in the Medicaid program (Section 43-13-101 et  
619 seq.) or admit or keep any patients in the skilled nursing  
620 facility who are participating in the Medicaid program. This  
621 written agreement by the recipient of the certificate of need  
622 shall be fully binding on any subsequent owner of the skilled  
623 nursing facility, if the ownership of the facility is transferred  
624 at any time after the issuance of the certificate of need.  
625 Agreement that the skilled nursing facility will not participate

626 in the Medicaid program shall be a condition of the issuance of a  
627 certificate of need to any person under this paragraph (i), and if  
628 such skilled nursing facility at any time after the issuance of  
629 the certificate of need, regardless of the ownership of the  
630 facility, participates in the Medicaid program or admits or keeps  
631 any patients in the facility who are participating in the Medicaid  
632 program, the State Department of Health shall revoke the  
633 certificate of need, if it is still outstanding, and shall deny or  
634 revoke the license of the skilled nursing facility, at the time  
635 that the department determines, after a hearing complying with due  
636 process, that the facility has failed to comply with any of the  
637 conditions upon which the certificate of need was issued, as  
638 provided in this paragraph and in the written agreement by the  
639 recipient of the certificate of need. The provision of Section  
640 43-7-193(1) regarding substantial compliance of the projection of  
641 need as reported in the current State Health Plan is waived for  
642 the purposes of this paragraph. The total number of nursing  
643 facility beds that may be authorized by any certificate of need  
644 issued under this paragraph (i) shall not exceed sixty (60) beds.  
645 If the skilled nursing facility authorized by the certificate of  
646 need issued under this paragraph is not constructed and fully  
647 operational within eighteen (18) months after July 1, 1994, the  
648 State Department of Health, after a hearing complying with due  
649 process, shall revoke the certificate of need, if it is still  
650 outstanding, and shall not issue a license for the skilled nursing  
651 facility at any time after the expiration of the eighteen-month  
652 period.

653 (j) The department may issue certificates of need to  
654 allow any existing freestanding long-term care facility in  
655 Tishomingo County and Hancock County that on July 1, 1995, is  
656 licensed with fewer than sixty (60) beds. For the purposes of  
657 this paragraph (j), the provision of Section 41-7-193(1) requiring  
658 substantial compliance with the projection of need as reported in

659 the current State Health Plan is waived. From and after July 1,  
660 1999, there shall be no prohibition or restrictions on  
661 participation in the Medicaid program (Section 43-13-101 et seq.)  
662 for the beds in the long-term care facilities that were authorized  
663 under this paragraph (j).

664 (k) The department may issue a certificate of need for  
665 the construction of a nursing facility at a continuing care  
666 retirement community in Lowndes County. The total number of beds  
667 that may be authorized under the authority of this paragraph (k)  
668 shall not exceed sixty (60) beds. From and after July 1, 2001,  
669 the prohibition on the facility participating in the Medicaid  
670 program (Section 43-13-101 et seq.) that was a condition of  
671 issuance of the certificate of need under this paragraph (k) shall  
672 be revised as follows: The nursing facility may participate in  
673 the Medicaid program from and after July 1, 2001, if the owner of  
674 the facility on July 1, 2001, agrees in writing that no more than  
675 thirty (30) of the beds at the facility will be certified for  
676 participation in the Medicaid program, and that no claim will be  
677 submitted for Medicaid reimbursement for more than thirty (30)  
678 patients in the facility in any month or for any patient in the  
679 facility who is in a bed that is not Medicaid-certified. This  
680 written agreement by the owner of the facility shall be a  
681 condition of licensure of the facility, and the agreement shall be  
682 fully binding on any subsequent owner of the facility if the  
683 ownership of the facility is transferred at any time after July 1,  
684 2001. After this written agreement is executed, the Division of  
685 Medicaid and the State Department of Health shall not certify more  
686 than thirty (30) of the beds in the facility for participation in  
687 the Medicaid program. If the facility violates the terms of the  
688 written agreement by admitting or keeping in the facility on a  
689 regular or continuing basis more than thirty (30) patients who are  
690 participating in the Medicaid program, the State Department of  
691 Health shall revoke the license of the facility, at the time that

692 the department determines, after a hearing complying with due  
693 process, that the facility has violated the written agreement.

694 (l) Provided that funds are specifically appropriated  
695 therefor by the Legislature, the department may issue a  
696 certificate of need to a rehabilitation hospital in Hinds County  
697 for the construction of a sixty-bed long-term care nursing  
698 facility dedicated to the care and treatment of persons with  
699 severe disabilities including persons with spinal cord and  
700 closed-head injuries and ventilator-dependent patients. The  
701 provision of Section 41-7-193(1) regarding substantial compliance  
702 with projection of need as reported in the current State Health  
703 Plan is hereby waived for the purpose of this paragraph.

704 (m) The State Department of Health may issue a  
705 certificate of need to a county-owned hospital in the Second  
706 Judicial District of Panola County for the conversion of not more  
707 than seventy-two (72) hospital beds to nursing facility beds,  
708 provided that the recipient of the certificate of need agrees in  
709 writing that none of the beds at the nursing facility will be  
710 certified for participation in the Medicaid program (Section  
711 43-13-101 et seq.), and that no claim will be submitted for  
712 Medicaid reimbursement in the nursing facility in any day or for  
713 any patient in the nursing facility. This written agreement by  
714 the recipient of the certificate of need shall be a condition of  
715 the issuance of the certificate of need under this paragraph, and  
716 the agreement shall be fully binding on any subsequent owner of  
717 the nursing facility if the ownership of the nursing facility is  
718 transferred at any time after the issuance of the certificate of  
719 need. After this written agreement is executed, the Division of  
720 Medicaid and the State Department of Health shall not certify any  
721 of the beds in the nursing facility for participation in the  
722 Medicaid program. If the nursing facility violates the terms of  
723 the written agreement by admitting or keeping in the nursing  
724 facility on a regular or continuing basis any patients who are

725 participating in the Medicaid program, the State Department of  
726 Health shall revoke the license of the nursing facility, at the  
727 time that the department determines, after a hearing complying  
728 with due process, that the nursing facility has violated the  
729 condition upon which the certificate of need was issued, as  
730 provided in this paragraph and in the written agreement. If the  
731 certificate of need authorized under this paragraph is not issued  
732 within twelve (12) months after July 1, 2001, the department shall  
733 deny the application for the certificate of need and shall not  
734 issue the certificate of need at any time after the twelve-month  
735 period, unless the issuance is contested. If the certificate of  
736 need is issued and substantial construction of the nursing  
737 facility beds has not commenced within eighteen (18) months after  
738 July 1, 2001, the State Department of Health, after a hearing  
739 complying with due process, shall revoke the certificate of need  
740 if it is still outstanding, and the department shall not issue a  
741 license for the nursing facility at any time after the  
742 eighteen-month period. Provided, however, that if the issuance of  
743 the certificate of need is contested, the department shall require  
744 substantial construction of the nursing facility beds within six  
745 (6) months after final adjudication on the issuance of the  
746 certificate of need.

747           (n) The department may issue a certificate of need for  
748 the new construction, addition or conversion of skilled nursing  
749 facility beds in Madison County, provided that the recipient of  
750 the certificate of need agrees in writing that the skilled nursing  
751 facility will not at any time participate in the Medicaid program  
752 (Section 43-13-101 et seq.) or admit or keep any patients in the  
753 skilled nursing facility who are participating in the Medicaid  
754 program. This written agreement by the recipient of the  
755 certificate of need shall be fully binding on any subsequent owner  
756 of the skilled nursing facility, if the ownership of the facility  
757 is transferred at any time after the issuance of the certificate

758 of need. Agreement that the skilled nursing facility will not  
759 participate in the Medicaid program shall be a condition of the  
760 issuance of a certificate of need to any person under this  
761 paragraph (n), and if such skilled nursing facility at any time  
762 after the issuance of the certificate of need, regardless of the  
763 ownership of the facility, participates in the Medicaid program or  
764 admits or keeps any patients in the facility who are participating  
765 in the Medicaid program, the State Department of Health shall  
766 revoke the certificate of need, if it is still outstanding, and  
767 shall deny or revoke the license of the skilled nursing facility,  
768 at the time that the department determines, after a hearing  
769 complying with due process, that the facility has failed to comply  
770 with any of the conditions upon which the certificate of need was  
771 issued, as provided in this paragraph and in the written agreement  
772 by the recipient of the certificate of need. The total number of  
773 nursing facility beds that may be authorized by any certificate of  
774 need issued under this paragraph (n) shall not exceed sixty (60)  
775 beds. If the certificate of need authorized under this paragraph  
776 is not issued within twelve (12) months after July 1, 1998, the  
777 department shall deny the application for the certificate of need  
778 and shall not issue the certificate of need at any time after the  
779 twelve-month period, unless the issuance is contested. If the  
780 certificate of need is issued and substantial construction of the  
781 nursing facility beds has not commenced within eighteen (18)  
782 months after the effective date of July 1, 1998, the State  
783 Department of Health, after a hearing complying with due process,  
784 shall revoke the certificate of need if it is still outstanding,  
785 and the department shall not issue a license for the nursing  
786 facility at any time after the eighteen-month period. Provided,  
787 however, that if the issuance of the certificate of need is  
788 contested, the department shall require substantial construction  
789 of the nursing facility beds within six (6) months after final  
790 adjudication on the issuance of the certificate of need.



791           (o) The department may issue a certificate of need for  
792 the new construction, addition or conversion of skilled nursing  
793 facility beds in Leake County, provided that the recipient of the  
794 certificate of need agrees in writing that the skilled nursing  
795 facility will not at any time participate in the Medicaid program  
796 (Section 43-13-101 et seq.) or admit or keep any patients in the  
797 skilled nursing facility who are participating in the Medicaid  
798 program. This written agreement by the recipient of the  
799 certificate of need shall be fully binding on any subsequent owner  
800 of the skilled nursing facility, if the ownership of the facility  
801 is transferred at any time after the issuance of the certificate  
802 of need. Agreement that the skilled nursing facility will not  
803 participate in the Medicaid program shall be a condition of the  
804 issuance of a certificate of need to any person under this  
805 paragraph (o), and if such skilled nursing facility at any time  
806 after the issuance of the certificate of need, regardless of the  
807 ownership of the facility, participates in the Medicaid program or  
808 admits or keeps any patients in the facility who are participating  
809 in the Medicaid program, the State Department of Health shall  
810 revoke the certificate of need, if it is still outstanding, and  
811 shall deny or revoke the license of the skilled nursing facility,  
812 at the time that the department determines, after a hearing  
813 complying with due process, that the facility has failed to comply  
814 with any of the conditions upon which the certificate of need was  
815 issued, as provided in this paragraph and in the written agreement  
816 by the recipient of the certificate of need. The total number of  
817 nursing facility beds that may be authorized by any certificate of  
818 need issued under this paragraph (o) shall not exceed sixty (60)  
819 beds. If the certificate of need authorized under this paragraph  
820 is not issued within twelve (12) months after July 1, 2001, the  
821 department shall deny the application for the certificate of need  
822 and shall not issue the certificate of need at any time after the  
823 twelve-month period, unless the issuance is contested. If the

824 certificate of need is issued and substantial construction of the  
825 nursing facility beds has not commenced within eighteen (18)  
826 months after the effective date of July 1, 2001, the State  
827 Department of Health, after a hearing complying with due process,  
828 shall revoke the certificate of need if it is still outstanding,  
829 and the department shall not issue a license for the nursing  
830 facility at any time after the eighteen-month period. Provided,  
831 however, that if the issuance of the certificate of need is  
832 contested, the department shall require substantial construction  
833 of the nursing facility beds within six (6) months after final  
834 adjudication on the issuance of the certificate of need.

835           (p) The department may issue a certificate of need for  
836 the construction of a municipally owned nursing facility within  
837 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
838 beds, provided that the recipient of the certificate of need  
839 agrees in writing that the skilled nursing facility will not at  
840 any time participate in the Medicaid program (Section 43-13-101 et  
841 seq.) or admit or keep any patients in the skilled nursing  
842 facility who are participating in the Medicaid program. This  
843 written agreement by the recipient of the certificate of need  
844 shall be fully binding on any subsequent owner of the skilled  
845 nursing facility, if the ownership of the facility is transferred  
846 at any time after the issuance of the certificate of need.  
847 Agreement that the skilled nursing facility will not participate  
848 in the Medicaid program shall be a condition of the issuance of a  
849 certificate of need to any person under this paragraph (p), and if  
850 such skilled nursing facility at any time after the issuance of  
851 the certificate of need, regardless of the ownership of the  
852 facility, participates in the Medicaid program or admits or keeps  
853 any patients in the facility who are participating in the Medicaid  
854 program, the State Department of Health shall revoke the  
855 certificate of need, if it is still outstanding, and shall deny or  
856 revoke the license of the skilled nursing facility, at the time

857 that the department determines, after a hearing complying with due  
858 process, that the facility has failed to comply with any of the  
859 conditions upon which the certificate of need was issued, as  
860 provided in this paragraph and in the written agreement by the  
861 recipient of the certificate of need. The provision of Section  
862 43-7-193(1) regarding substantial compliance of the projection of  
863 need as reported in the current State Health Plan is waived for  
864 the purposes of this paragraph. If the certificate of need  
865 authorized under this paragraph is not issued within twelve (12)  
866 months after July 1, 1998, the department shall deny the  
867 application for the certificate of need and shall not issue the  
868 certificate of need at any time after the twelve-month period,  
869 unless the issuance is contested. If the certificate of need is  
870 issued and substantial construction of the nursing facility beds  
871 has not commenced within eighteen (18) months after July 1, 1998,  
872 the State Department of Health, after a hearing complying with due  
873 process, shall revoke the certificate of need if it is still  
874 outstanding, and the department shall not issue a license for the  
875 nursing facility at any time after the eighteen-month period.  
876 Provided, however, that if the issuance of the certificate of need  
877 is contested, the department shall require substantial  
878 construction of the nursing facility beds within six (6) months  
879 after final adjudication on the issuance of the certificate of  
880 need.

881 (q) (i) Beginning on July 1, 1999, the State  
882 Department of Health shall issue certificates of need during each  
883 of the next four (4) fiscal years for the construction or  
884 expansion of nursing facility beds or the conversion of other beds  
885 to nursing facility beds in each county in the state having a need  
886 for fifty (50) or more additional nursing facility beds, as shown  
887 in the fiscal year 1999 State Health Plan, in the manner provided  
888 in this paragraph (q). The total number of nursing facility beds

889 that may be authorized by any certificate of need authorized under  
890 this paragraph (q) shall not exceed sixty (60) beds.

891 (ii) Subject to the provisions of subparagraph  
892 (v), during each of the next four (4) fiscal years, the department  
893 shall issue six (6) certificates of need for new nursing facility  
894 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
895 (1) certificate of need shall be issued for new nursing facility  
896 beds in the county in each of the four (4) Long-Term Care Planning  
897 Districts designated in the fiscal year 1999 State Health Plan  
898 that has the highest need in the district for those beds; and two  
899 (2) certificates of need shall be issued for new nursing facility  
900 beds in the two (2) counties from the state at large that have the  
901 highest need in the state for those beds, when considering the  
902 need on a statewide basis and without regard to the Long-Term Care  
903 Planning Districts in which the counties are located. During  
904 fiscal year 2003, one (1) certificate of need shall be issued for  
905 new nursing facility beds in any county having a need for fifty  
906 (50) or more additional nursing facility beds, as shown in the  
907 fiscal year 1999 State Health Plan, that has not received a  
908 certificate of need under this paragraph (q) during the three (3)  
909 previous fiscal years. During fiscal year 2000, in addition to  
910 the six (6) certificates of need authorized in this subparagraph,  
911 the department also shall issue a certificate of need for new  
912 nursing facility beds in Amite County and a certificate of need  
913 for new nursing facility beds in Carroll County.

914 (iii) Subject to the provisions of subparagraph  
915 (v), the certificate of need issued under subparagraph (ii) for  
916 nursing facility beds in each Long-Term Care Planning District  
917 during each fiscal year shall first be available for nursing  
918 facility beds in the county in the district having the highest  
919 need for those beds, as shown in the fiscal year 1999 State Health  
920 Plan. If there are no applications for a certificate of need for  
921 nursing facility beds in the county having the highest need for

922 those beds by the date specified by the department, then the  
923 certificate of need shall be available for nursing facility beds  
924 in other counties in the district in descending order of the need  
925 for those beds, from the county with the second highest need to  
926 the county with the lowest need, until an application is received  
927 for nursing facility beds in an eligible county in the district.

928 (iv) Subject to the provisions of subparagraph  
929 (v), the certificate of need issued under subparagraph (ii) for  
930 nursing facility beds in the two (2) counties from the state at  
931 large during each fiscal year shall first be available for nursing  
932 facility beds in the two (2) counties that have the highest need  
933 in the state for those beds, as shown in the fiscal year 1999  
934 State Health Plan, when considering the need on a statewide basis  
935 and without regard to the Long-Term Care Planning Districts in  
936 which the counties are located. If there are no applications for  
937 a certificate of need for nursing facility beds in either of the  
938 two (2) counties having the highest need for those beds on a  
939 statewide basis by the date specified by the department, then the  
940 certificate of need shall be available for nursing facility beds  
941 in other counties from the state at large in descending order of  
942 the need for those beds on a statewide basis, from the county with  
943 the second highest need to the county with the lowest need, until  
944 an application is received for nursing facility beds in an  
945 eligible county from the state at large.

946 (v) If a certificate of need is authorized to be  
947 issued under this paragraph (q) for nursing facility beds in a  
948 county on the basis of the need in the Long-Term Care Planning  
949 District during any fiscal year of the four-year period, a  
950 certificate of need shall not also be available under this  
951 paragraph (q) for additional nursing facility beds in that county  
952 on the basis of the need in the state at large, and that county  
953 shall be excluded in determining which counties have the highest  
954 need for nursing facility beds in the state at large for that

955 fiscal year. After a certificate of need has been issued under  
956 this paragraph (q) for nursing facility beds in a county during  
957 any fiscal year of the four-year period, a certificate of need  
958 shall not be available again under this paragraph (q) for  
959 additional nursing facility beds in that county during the  
960 four-year period, and that county shall be excluded in determining  
961 which counties have the highest need for nursing facility beds in  
962 succeeding fiscal years.

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

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

974                   2. The county-owned hospital's qualifications  
975 for the certificate of need, as shown in its application and as  
976 determined by the department, are at least equal to the  
977 qualifications of the other applicants for the certificate of  
978 need.

979                   (r) (i) Beginning on July 1, 1999, the State  
980 Department of Health shall issue certificates of need during each  
981 of the next two (2) fiscal years for the construction or expansion  
982 of nursing facility beds or the conversion of other beds to  
983 nursing facility beds in each of the four (4) Long-Term Care  
984 Planning Districts designated in the fiscal year 1999 State Health  
985 Plan, to provide care exclusively to patients with Alzheimer's  
986 disease.

987                   (ii) Not more than twenty (20) beds may be  
988 authorized by any certificate of need issued under this paragraph  
989 (r), and not more than a total of sixty (60) beds may be  
990 authorized in any Long-Term Care Planning District by all  
991 certificates of need issued under this paragraph (r). However,  
992 the total number of beds that may be authorized by all  
993 certificates of need issued under this paragraph (r) during any  
994 fiscal year shall not exceed one hundred twenty (120) beds, and  
995 the total number of beds that may be authorized in any Long-Term  
996 Care Planning District during any fiscal year shall not exceed  
997 forty (40) beds. Of the certificates of need that are issued for  
998 each Long-Term Care Planning District during the next two (2)  
999 fiscal years, at least one (1) shall be issued for beds in the  
1000 northern part of the district, at least one (1) shall be issued  
1001 for beds in the central part of the district, and at least one (1)  
1002 shall be issued for beds in the southern part of the district.

1003                   (iii) The State Department of Health, in  
1004 consultation with the Department of Mental Health and the Division  
1005 of Medicaid, shall develop and prescribe the staffing levels,  
1006 space requirements and other standards and requirements that must  
1007 be met with regard to the nursing facility beds authorized under  
1008 this paragraph (r) to provide care exclusively to patients with  
1009 Alzheimer's disease.

1010                   (s) The State Department of Health may issue a  
1011 certificate of need to a nonprofit skilled nursing facility using  
1012 the Green House model of skilled nursing care and located in Yazoo  
1013 City, Yazoo County, Mississippi, for the construction, expansion  
1014 or conversion of not more than nineteen (19) nursing facility  
1015 beds. For purposes of this paragraph (s), the provisions of  
1016 Section 41-7-193(1) requiring substantial compliance with the  
1017 projection of need as reported in the current State Health Plan  
1018 and the provisions of Section 41-7-197 requiring a formal  
1019 certificate of need hearing process are waived. There shall be no

1020 prohibition or restrictions on participation in the Medicaid  
1021 program for the person receiving the certificate of need  
1022 authorized under this paragraph (s).

1023           (t) The State Department of Health shall issue  
1024 certificates of need to the owner of a nursing facility in  
1025 operation at the time of Hurricane Katrina in Hancock County that  
1026 was not operational on December 31, 2005, because of damage  
1027 sustained from Hurricane Katrina to authorize the following: (i)  
1028 the construction of a new nursing facility in Harrison County;  
1029 (ii) the relocation of forty-nine (49) nursing facility beds from  
1030 the Hancock County facility to the new Harrison County facility;  
1031 (iii) the establishment of not more than twenty (20) non-Medicaid  
1032 nursing facility beds at the Hancock County facility; and (iv) the  
1033 establishment of not more than twenty (20) non-Medicaid beds at  
1034 the new Harrison County facility. The certificates of need that  
1035 authorize the non-Medicaid nursing facility beds under  
1036 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
1037 subject to the following conditions: The owner of the Hancock  
1038 County facility and the new Harrison County facility must agree in  
1039 writing that no more than fifty (50) of the beds at the Hancock  
1040 County facility and no more than forty-nine (49) of the beds at  
1041 the Harrison County facility will be certified for participation  
1042 in the Medicaid program, and that no claim will be submitted for  
1043 Medicaid reimbursement for more than fifty (50) patients in the  
1044 Hancock County facility in any month, or for more than forty-nine  
1045 (49) patients in the Harrison County facility in any month, or for  
1046 any patient in either facility who is in a bed that is not  
1047 Medicaid-certified. This written agreement by the owner of the  
1048 nursing facilities shall be a condition of the issuance of the  
1049 certificates of need under this paragraph (t), and the agreement  
1050 shall be fully binding on any later owner or owners of either  
1051 facility if the ownership of either facility is transferred at any  
1052 time after the certificates of need are issued. After this



1053 written agreement is executed, the Division of Medicaid and the  
1054 State Department of Health shall not certify more than fifty (50)  
1055 of the beds at the Hancock County facility or more than forty-nine  
1056 (49) of the beds at the Harrison County facility for participation  
1057 in the Medicaid program. If the Hancock County facility violates  
1058 the terms of the written agreement by admitting or keeping in the  
1059 facility on a regular or continuing basis more than fifty (50)  
1060 patients who are participating in the Medicaid program, or if the  
1061 Harrison County facility violates the terms of the written  
1062 agreement by admitting or keeping in the facility on a regular or  
1063 continuing basis more than forty-nine (49) patients who are  
1064 participating in the Medicaid program, the State Department of  
1065 Health shall revoke the license of the facility that is in  
1066 violation of the agreement, at the time that the department  
1067 determines, after a hearing complying with due process, that the  
1068 facility has violated the agreement.

1069 (3) The State Department of Health may grant approval for  
1070 and issue certificates of need to any person proposing the new  
1071 construction of, addition to, conversion of beds of or expansion  
1072 of any health care facility defined in subparagraph (x)  
1073 (psychiatric residential treatment facility) of Section  
1074 41-7-173(i). The total number of beds which may be authorized by  
1075 such certificates of need shall not exceed three hundred  
1076 thirty-four (334) beds for the entire state.

1077 (a) Of the total number of beds authorized under this  
1078 subsection, the department shall issue a certificate of need to a  
1079 privately-owned psychiatric residential treatment facility in  
1080 Simpson County for the conversion of sixteen (16) intermediate  
1081 care facility for the mentally retarded (ICF-MR) beds to  
1082 psychiatric residential treatment facility beds, provided that  
1083 facility agrees in writing that the facility shall give priority  
1084 for the use of those sixteen (16) beds to Mississippi residents  
1085 who are presently being treated in out-of-state facilities.

1086           (b) Of the total number of beds authorized under this  
1087 subsection, the department may issue a certificate or certificates  
1088 of need for the construction or expansion of psychiatric  
1089 residential treatment facility beds or the conversion of other  
1090 beds to psychiatric residential treatment facility beds in Warren  
1091 County, not to exceed sixty (60) psychiatric residential treatment  
1092 facility beds, provided that the facility agrees in writing that  
1093 no more than thirty (30) of the beds at the psychiatric  
1094 residential treatment facility will be certified for participation  
1095 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1096 any patients other than those who are participating only in the  
1097 Medicaid program of another state, and that no claim will be  
1098 submitted to the Division of Medicaid for Medicaid reimbursement  
1099 for more than thirty (30) patients in the psychiatric residential  
1100 treatment facility in any day or for any patient in the  
1101 psychiatric residential treatment facility who is in a bed that is  
1102 not Medicaid-certified. This written agreement by the recipient  
1103 of the certificate of need shall be a condition of the issuance of  
1104 the certificate of need under this paragraph, and the agreement  
1105 shall be fully binding on any subsequent owner of the psychiatric  
1106 residential treatment facility if the ownership of the facility is  
1107 transferred at any time after the issuance of the certificate of  
1108 need. After this written agreement is executed, the Division of  
1109 Medicaid and the State Department of Health shall not certify more  
1110 than thirty (30) of the beds in the psychiatric residential  
1111 treatment facility for participation in the Medicaid program for  
1112 the use of any patients other than those who are participating  
1113 only in the Medicaid program of another state. If the psychiatric  
1114 residential treatment facility violates the terms of the written  
1115 agreement by admitting or keeping in the facility on a regular or  
1116 continuing basis more than thirty (30) patients who are  
1117 participating in the Mississippi Medicaid program, the State  
1118 Department of Health shall revoke the license of the facility, at

1119 the time that the department determines, after a hearing complying  
1120 with due process, that the facility has violated the condition  
1121 upon which the certificate of need was issued, as provided in this  
1122 paragraph and in the written agreement.

1123 The State Department of Health, on or before July 1, 2002,  
1124 shall transfer the certificate of need authorized under the  
1125 authority of this paragraph (b), or reissue the certificate of  
1126 need if it has expired, to River Region Health System.

1127 (c) Of the total number of beds authorized under this  
1128 subsection, the department shall issue a certificate of need to a  
1129 hospital currently operating Medicaid-certified acute psychiatric  
1130 beds for adolescents in DeSoto County, for the establishment of a  
1131 forty-bed psychiatric residential treatment facility in DeSoto  
1132 County, provided that the hospital agrees in writing (i) that the  
1133 hospital shall give priority for the use of those forty (40) beds  
1134 to Mississippi residents who are presently being treated in  
1135 out-of-state facilities, and (ii) that no more than fifteen (15)  
1136 of the beds at the psychiatric residential treatment facility will  
1137 be certified for participation in the Medicaid program (Section  
1138 43-13-101 et seq.), and that no claim will be submitted for  
1139 Medicaid reimbursement for more than fifteen (15) patients in the  
1140 psychiatric residential treatment facility in any day or for any  
1141 patient in the psychiatric residential treatment facility who is  
1142 in a bed that is not Medicaid-certified. This written agreement  
1143 by the recipient of the certificate of need shall be a condition  
1144 of the issuance of the certificate of need under this paragraph,  
1145 and the agreement shall be fully binding on any subsequent owner  
1146 of the psychiatric residential treatment facility if the ownership  
1147 of the facility is transferred at any time after the issuance of  
1148 the certificate of need. After this written agreement is  
1149 executed, the Division of Medicaid and the State Department of  
1150 Health shall not certify more than fifteen (15) of the beds in the  
1151 psychiatric residential treatment facility for participation in

1152 the Medicaid program. If the psychiatric residential treatment  
1153 facility violates the terms of the written agreement by admitting  
1154 or keeping in the facility on a regular or continuing basis more  
1155 than fifteen (15) patients who are participating in the Medicaid  
1156 program, the State Department of Health shall revoke the license  
1157 of the facility, at the time that the department determines, after  
1158 a hearing complying with due process, that the facility has  
1159 violated the condition upon which the certificate of need was  
1160 issued, as provided in this paragraph and in the written  
1161 agreement.

1162 (d) Of the total number of beds authorized under this  
1163 subsection, the department may issue a certificate or certificates  
1164 of need for the construction or expansion of psychiatric  
1165 residential treatment facility beds or the conversion of other  
1166 beds to psychiatric treatment facility beds, not to exceed thirty  
1167 (30) psychiatric residential treatment facility beds, in either  
1168 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1169 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1170 (e) Of the total number of beds authorized under this  
1171 subsection (3) the department shall issue a certificate of need to  
1172 a privately-owned, nonprofit psychiatric residential treatment  
1173 facility in Hinds County for an eight-bed expansion of the  
1174 facility, provided that the facility agrees in writing that the  
1175 facility shall give priority for the use of those eight (8) beds  
1176 to Mississippi residents who are presently being treated in  
1177 out-of-state facilities.

1178 (f) The department shall issue a certificate of need to  
1179 a one-hundred-thirty-four-bed specialty hospital located on  
1180 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1181 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1182 Mississippi, for the addition, construction or expansion of  
1183 child/adolescent psychiatric residential treatment facility beds  
1184 in Lauderdale County. As a condition of issuance of the

1185 certificate of need under this paragraph, the facility shall give  
1186 priority in admissions to the child/adolescent psychiatric  
1187 residential treatment facility beds authorized under this  
1188 paragraph to patients who otherwise would require out-of-state  
1189 placement. The Division of Medicaid, in conjunction with the  
1190 Department of Human Services, shall furnish the facility a list of  
1191 all out-of-state patients on a quarterly basis. Furthermore,  
1192 notice shall also be provided to the parent, custodial parent or  
1193 guardian of each out-of-state patient notifying them of the  
1194 priority status granted by this paragraph. For purposes of this  
1195 paragraph, the provisions of Section 41-7-193(1) requiring  
1196 substantial compliance with the projection of need as reported in  
1197 the current State Health Plan are waived. The total number of  
1198 child/adolescent psychiatric residential treatment facility beds  
1199 that may be authorized under the authority of this paragraph shall  
1200 be sixty (60) beds. There shall be no prohibition or restrictions  
1201 on participation in the Medicaid program (Section 43-13-101 et  
1202 seq.) for the person receiving the certificate of need authorized  
1203 under this paragraph or for the beds converted pursuant to the  
1204 authority of that certificate of need.

1205 (4) (a) From and after July 1, 1993, the department shall  
1206 not issue a certificate of need to any person for the new  
1207 construction of any hospital, psychiatric hospital or chemical  
1208 dependency hospital that will contain any child/adolescent  
1209 psychiatric or child/adolescent chemical dependency beds, or for  
1210 the conversion of any other health care facility to a hospital,  
1211 psychiatric hospital or chemical dependency hospital that will  
1212 contain any child/adolescent psychiatric or child/adolescent  
1213 chemical dependency beds, or for the addition of any  
1214 child/adolescent psychiatric or child/adolescent chemical  
1215 dependency beds in any hospital, psychiatric hospital or chemical  
1216 dependency hospital, or for the conversion of any beds of another  
1217 category in any hospital, psychiatric hospital or chemical

1218 dependency hospital to child/adolescent psychiatric or  
1219 child/adolescent chemical dependency beds, except as hereinafter  
1220 authorized:

1221           (i) The department may issue certificates of need  
1222 to any person for any purpose described in this subsection,  
1223 provided that the hospital, psychiatric hospital or chemical  
1224 dependency hospital does not participate in the Medicaid program  
1225 (Section 43-13-101 et seq.) at the time of the application for the  
1226 certificate of need and the owner of the hospital, psychiatric  
1227 hospital or chemical dependency hospital agrees in writing that  
1228 the hospital, psychiatric hospital or chemical dependency hospital  
1229 will not at any time participate in the Medicaid program or admit  
1230 or keep any patients who are participating in the Medicaid program  
1231 in the hospital, psychiatric hospital or chemical dependency  
1232 hospital. This written agreement by the recipient of the  
1233 certificate of need shall be fully binding on any subsequent owner  
1234 of the hospital, psychiatric hospital or chemical dependency  
1235 hospital, if the ownership of the facility is transferred at any  
1236 time after the issuance of the certificate of need. Agreement  
1237 that the hospital, psychiatric hospital or chemical dependency  
1238 hospital will not participate in the Medicaid program shall be a  
1239 condition of the issuance of a certificate of need to any person  
1240 under this subparagraph \* \* \* (i), and if such hospital,  
1241 psychiatric hospital or chemical dependency hospital at any time  
1242 after the issuance of the certificate of need, regardless of the  
1243 ownership of the facility, participates in the Medicaid program or  
1244 admits or keeps any patients in the hospital, psychiatric hospital  
1245 or chemical dependency hospital who are participating in the  
1246 Medicaid program, the State Department of Health shall revoke the  
1247 certificate of need, if it is still outstanding, and shall deny or  
1248 revoke the license of the hospital, psychiatric hospital or  
1249 chemical dependency hospital, at the time that the department  
1250 determines, after a hearing complying with due process, that the

1251 hospital, psychiatric hospital or chemical dependency hospital has  
1252 failed to comply with any of the conditions upon which the  
1253 certificate of need was issued, as provided in this subparagraph  
1254 (i) and in the written agreement by the recipient of the  
1255 certificate of need.

1256           (ii) The department may issue a certificate of  
1257 need for the conversion of existing beds in a county hospital in  
1258 Choctaw County from acute care beds to child/adolescent chemical  
1259 dependency beds. For purposes of this subparagraph (ii), the  
1260 provisions of Section 41-7-193(1) requiring substantial compliance  
1261 with the projection of need as reported in the current State  
1262 Health Plan is waived. The total number of beds that may be  
1263 authorized under authority of this subparagraph shall not exceed  
1264 twenty (20) beds. There shall be no prohibition or restrictions  
1265 on participation in the Medicaid program (Section 43-13-101 et  
1266 seq.) for the hospital receiving the certificate of need  
1267 authorized under this subparagraph \* \* \* or for the beds converted  
1268 pursuant to the authority of that certificate of need.

1269           (iii) The department may issue a certificate or  
1270 certificates of need for the construction or expansion of  
1271 child/adolescent psychiatric beds or the conversion of other beds  
1272 to child/adolescent psychiatric beds in Warren County. For  
1273 purposes of this subparagraph (iii), the provisions of Section  
1274 41-7-193(1) requiring substantial compliance with the projection  
1275 of need as reported in the current State Health Plan are waived.  
1276 The total number of beds that may be authorized under the  
1277 authority of this subparagraph shall not exceed twenty (20) beds.  
1278 There shall be no prohibition or restrictions on participation in  
1279 the Medicaid program (Section 43-13-101 et seq.) for the person  
1280 receiving the certificate of need authorized under this  
1281 subparagraph \* \* \* or for the beds converted pursuant to the  
1282 authority of that certificate of need.

1283           If by January 1, 2002, there has been no significant  
1284 commencement of construction of the beds authorized under this  
1285 subparagraph \* \* \* (iii), or no significant action taken to  
1286 convert existing beds to the beds authorized under this  
1287 subparagraph, then the certificate of need that was previously  
1288 issued under this subparagraph shall expire. If the previously  
1289 issued certificate of need expires, the department may accept  
1290 applications for issuance of another certificate of need for the  
1291 beds authorized under this subparagraph, and may issue a  
1292 certificate of need to authorize the construction, expansion or  
1293 conversion of the beds authorized under this subparagraph.

1294                   (iv) The department shall issue a certificate of  
1295 need to the Region 7 Mental Health/Retardation Commission for the  
1296 construction or expansion of child/adolescent psychiatric beds or  
1297 the conversion of other beds to child/adolescent psychiatric beds  
1298 in any of the counties served by the commission. For purposes of  
1299 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1300 requiring substantial compliance with the projection of need as  
1301 reported in the current State Health Plan is waived. The total  
1302 number of beds that may be authorized under the authority of this  
1303 subparagraph shall not exceed twenty (20) beds. There shall be no  
1304 prohibition or restrictions on participation in the Medicaid  
1305 program (Section 43-13-101 et seq.) for the person receiving the  
1306 certificate of need authorized under this subparagraph \* \* \* or  
1307 for the beds converted pursuant to the authority of that  
1308 certificate of need.

1309                   (v) The department may issue a certificate of need  
1310 to any county hospital located in Leflore County for the  
1311 construction or expansion of adult psychiatric beds or the  
1312 conversion of other beds to adult psychiatric beds, not to exceed  
1313 twenty (20) beds, provided that the recipient of the certificate  
1314 of need agrees in writing that the adult psychiatric beds will not  
1315 at any time be certified for participation in the Medicaid program



1316 and that the hospital will not admit or keep any patients who are  
1317 participating in the Medicaid program in any of such adult  
1318 psychiatric beds. This written agreement by the recipient of the  
1319 certificate of need shall be fully binding on any subsequent owner  
1320 of the hospital if the ownership of the hospital is transferred at  
1321 any time after the issuance of the certificate of need. Agreement  
1322 that the adult psychiatric beds will not be certified for  
1323 participation in the Medicaid program shall be a condition of the  
1324 issuance of a certificate of need to any person under this  
1325 subparagraph \* \* \* (v), and if such hospital at any time after the  
1326 issuance of the certificate of need, regardless of the ownership  
1327 of the hospital, has any of such adult psychiatric beds certified  
1328 for participation in the Medicaid program or admits or keeps any  
1329 Medicaid patients in such adult psychiatric beds, the State  
1330 Department of Health shall revoke the certificate of need, if it  
1331 is still outstanding, and shall deny or revoke the license of the  
1332 hospital at the time that the department determines, after a  
1333 hearing complying with due process, that the hospital has failed  
1334 to comply with any of the conditions upon which the certificate of  
1335 need was issued, as provided in this subparagraph and in the  
1336 written agreement by the recipient of the certificate of need.

1337                   (vi) The department may issue a certificate or  
1338 certificates of need for the expansion of child psychiatric beds  
1339 or the conversion of other beds to child psychiatric beds at the  
1340 University of Mississippi Medical Center. For purposes of this  
1341 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
1342 requiring substantial compliance with the projection of need as  
1343 reported in the current State Health Plan is waived. The total  
1344 number of beds that may be authorized under the authority of this  
1345 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
1346 shall be no prohibition or restrictions on participation in the  
1347 Medicaid program (Section 43-13-101 et seq.) for the hospital  
1348 receiving the certificate of need authorized under this

1349 subparagraph \* \* \* or for the beds converted pursuant to the  
1350 authority of that certificate of need.

1351 (b) From and after July 1, 1990, no hospital,  
1352 psychiatric hospital or chemical dependency hospital shall be  
1353 authorized to add any child/adolescent psychiatric or  
1354 child/adolescent chemical dependency beds or convert any beds of  
1355 another category to child/adolescent psychiatric or  
1356 child/adolescent chemical dependency beds without a certificate of  
1357 need under the authority of subsection (1)(c) of this section.

1358 (5) The department may issue a certificate of need to a  
1359 county hospital in Winston County for the conversion of fifteen  
1360 (15) acute care beds to geriatric psychiatric care beds.

1361 (6) The State Department of Health shall issue a certificate  
1362 of need to a Mississippi corporation qualified to manage a  
1363 long-term care hospital as defined in Section 41-7-173(i)(xii) in  
1364 Harrison County, not to exceed eighty (80) beds, including any  
1365 necessary renovation or construction required for licensure and  
1366 certification, provided that the recipient of the certificate of  
1367 need agrees in writing that the long-term care hospital will not  
1368 at any time participate in the Medicaid program (Section 43-13-101  
1369 et seq.) or admit or keep any patients in the long-term care  
1370 hospital who are participating in the Medicaid program. This  
1371 written agreement by the recipient of the certificate of need  
1372 shall be fully binding on any subsequent owner of the long-term  
1373 care hospital, if the ownership of the facility is transferred at  
1374 any time after the issuance of the certificate of need. Agreement  
1375 that the long-term care hospital will not participate in the  
1376 Medicaid program shall be a condition of the issuance of a  
1377 certificate of need to any person under this subsection (6), and  
1378 if such long-term care hospital at any time after the issuance of  
1379 the certificate of need, regardless of the ownership of the  
1380 facility, participates in the Medicaid program or admits or keeps  
1381 any patients in the facility who are participating in the Medicaid

1382 program, the State Department of Health shall revoke the  
1383 certificate of need, if it is still outstanding, and shall deny or  
1384 revoke the license of the long-term care hospital, at the time  
1385 that the department determines, after a hearing complying with due  
1386 process, that the facility has failed to comply with any of the  
1387 conditions upon which the certificate of need was issued, as  
1388 provided in this subsection and in the written agreement by the  
1389 recipient of the certificate of need. For purposes of this  
1390 subsection, the provision of Section 41-7-193(1) requiring  
1391 substantial compliance with the projection of need as reported in  
1392 the current State Health Plan is hereby waived.

1393 (7) The State Department of Health may issue a certificate  
1394 of need to any hospital in the state to utilize a portion of its  
1395 beds for the "swing-bed" concept. Any such hospital must be in  
1396 conformance with the federal regulations regarding such swing-bed  
1397 concept at the time it submits its application for a certificate  
1398 of need to the State Department of Health, except that such  
1399 hospital may have more licensed beds or a higher average daily  
1400 census (ADC) than the maximum number specified in federal  
1401 regulations for participation in the swing-bed program. Any  
1402 hospital meeting all federal requirements for participation in the  
1403 swing-bed program which receives such certificate of need shall  
1404 render services provided under the swing-bed concept to any  
1405 patient eligible for Medicare (Title XVIII of the Social Security  
1406 Act) who is certified by a physician to be in need of such  
1407 services, and no such hospital shall permit any patient who is  
1408 eligible for both Medicaid and Medicare or eligible only for  
1409 Medicaid to stay in the swing beds of the hospital for more than  
1410 thirty (30) days per admission unless the hospital receives prior  
1411 approval for such patient from the Division of Medicaid, Office of  
1412 the Governor. Any hospital having more licensed beds or a higher  
1413 average daily census (ADC) than the maximum number specified in  
1414 federal regulations for participation in the swing-bed program

1415 which receives such certificate of need shall develop a procedure  
1416 to insure that before a patient is allowed to stay in the swing  
1417 beds of the hospital, there are no vacant nursing home beds  
1418 available for that patient located within a fifty-mile radius of  
1419 the hospital. When any such hospital has a patient staying in the  
1420 swing beds of the hospital and the hospital receives notice from a  
1421 nursing home located within such radius that there is a vacant bed  
1422 available for that patient, the hospital shall transfer the  
1423 patient to the nursing home within a reasonable time after receipt  
1424 of the notice. Any hospital which is subject to the requirements  
1425 of the two (2) preceding sentences of this subsection may be  
1426 suspended from participation in the swing-bed program for a  
1427 reasonable period of time by the State Department of Health if the  
1428 department, after a hearing complying with due process, determines  
1429 that the hospital has failed to comply with any of those  
1430 requirements.

1431 (8) The Department of Health shall not grant approval for or  
1432 issue a certificate of need to any person proposing the new  
1433 construction of, addition to or expansion of a health care  
1434 facility as defined in subparagraph (viii) of Section 41-7-173(i),  
1435 except as hereinafter provided: The department may issue a  
1436 certificate of need to a nonprofit corporation located in Madison  
1437 County, Mississippi, for the construction, expansion or conversion  
1438 of not more than twenty (20) beds in a community living program  
1439 for developmentally disabled adults in a facility as defined in  
1440 subparagraph (viii) of Section 41-7-173(i). For purposes of this  
1441 subsection (8), the provisions of Section 41-7-193(1) requiring  
1442 substantial compliance with the projection of need as reported in  
1443 the current State Health Plan and the provisions of Section  
1444 41-7-197 requiring a formal certificate of need hearing process  
1445 are waived. There shall be no prohibition or restrictions on  
1446 participation in the Medicaid program for the person receiving the  
1447 certificate of need authorized under this subsection (8).

1448           (9) The Department of Health shall not grant approval for or  
1449 issue a certificate of need to any person proposing the  
1450 establishment of, or expansion of the currently approved territory  
1451 of, or the contracting to establish a home office, subunit or  
1452 branch office within the space operated as a health care facility  
1453 as defined in Section 41-7-173(i)(i) through (viii) by a health  
1454 care facility as defined in subparagraph (ix) of Section  
1455 41-7-173(i).

1456           (10) Health care facilities owned and/or operated by the  
1457 state or its agencies are exempt from the restraints in this  
1458 section against issuance of a certificate of need if such addition  
1459 or expansion consists of repairing or renovation necessary to  
1460 comply with the state licensure law. This exception shall not  
1461 apply to the new construction of any building by such state  
1462 facility. This exception shall not apply to any health care  
1463 facilities owned and/or operated by counties, municipalities,  
1464 districts, unincorporated areas, other defined persons, or any  
1465 combination thereof.

1466           (11) The new construction, renovation or expansion of or  
1467 addition to any health care facility defined in subparagraph (ii)  
1468 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1469 facility), subparagraph (vi) (intermediate care facility),  
1470 subparagraph (viii) (intermediate care facility for the mentally  
1471 retarded) and subparagraph (x) (psychiatric residential treatment  
1472 facility) of Section 41-7-173(i) which is owned by the State of  
1473 Mississippi and under the direction and control of the State  
1474 Department of Mental Health, and the addition of new beds or the  
1475 conversion of beds from one category to another in any such  
1476 defined health care facility which is owned by the State of  
1477 Mississippi and under the direction and control of the State  
1478 Department of Mental Health, shall not require the issuance of a  
1479 certificate of need under Section 41-7-171 et seq.,

1480 notwithstanding any provision in Section 41-7-171 et seq. to the  
1481 contrary.

1482 (12) The new construction, renovation or expansion of or  
1483 addition to any veterans homes or domiciliaries for eligible  
1484 veterans of the State of Mississippi as authorized under Section  
1485 35-1-19 shall not require the issuance of a certificate of need,  
1486 notwithstanding any provision in Section 41-7-171 et seq. to the  
1487 contrary.

1488 (13) The new construction of a nursing facility or nursing  
1489 facility beds or the conversion of other beds to nursing facility  
1490 beds shall not require the issuance of a certificate of need,  
1491 notwithstanding any provision in Section 41-7-171 et seq. to the  
1492 contrary, if the conditions of this subsection are met.

1493 (a) Before any construction or conversion may be  
1494 undertaken without a certificate of need, the owner of the nursing  
1495 facility, in the case of an existing facility, or the applicant to  
1496 construct a nursing facility, in the case of new construction,  
1497 first must file a written notice of intent and sign a written  
1498 agreement with the State Department of Health that the entire  
1499 nursing facility will not at any time participate in or have any  
1500 beds certified for participation in the Medicaid program (Section  
1501 43-13-101 et seq.), will not admit or keep any patients in the  
1502 nursing facility who are participating in the Medicaid program,  
1503 and will not submit any claim for Medicaid reimbursement for any  
1504 patient in the facility. This written agreement by the owner or  
1505 applicant shall be a condition of exercising the authority under  
1506 this subsection without a certificate of need, and the agreement  
1507 shall be fully binding on any subsequent owner of the nursing  
1508 facility if the ownership of the facility is transferred at any  
1509 time after the agreement is signed. After the written agreement  
1510 is signed, the Division of Medicaid and the State Department of  
1511 Health shall not certify any beds in the nursing facility for  
1512 participation in the Medicaid program. If the nursing facility

1513 violates the terms of the written agreement by participating in  
1514 the Medicaid program, having any beds certified for participation  
1515 in the Medicaid program, admitting or keeping any patient in the  
1516 facility who is participating in the Medicaid program, or  
1517 submitting any claim for Medicaid reimbursement for any patient in  
1518 the facility, the State Department of Health shall revoke the  
1519 license of the nursing facility at the time that the department  
1520 determines, after a hearing complying with due process, that the  
1521 facility has violated the terms of the written agreement.

1522           (b) For the purposes of this subsection, participation  
1523 in the Medicaid program by a nursing facility includes Medicaid  
1524 reimbursement of coinsurance and deductibles for recipients who  
1525 are qualified Medicare beneficiaries and/or those who are dually  
1526 eligible. Any nursing facility exercising the authority under  
1527 this subsection may not bill or submit a claim to the Division of  
1528 Medicaid for services to qualified Medicare beneficiaries and/or  
1529 those who are dually eligible.

1530           (c) The new construction of a nursing facility or  
1531 nursing facility beds or the conversion of other beds to nursing  
1532 facility beds described in this section must be either a part of a  
1533 completely new continuing care retirement community, as described  
1534 in the latest edition of the Mississippi State Health Plan, or an  
1535 addition to existing personal care and independent living  
1536 components, and so that the completed project will be a continuing  
1537 care retirement community, containing (i) independent living  
1538 accommodations, (ii) personal care beds, and (iii) the nursing  
1539 home facility beds. The three (3) components must be located on a  
1540 single site and be operated as one (1) inseparable facility. The  
1541 nursing facility component must contain a minimum of thirty (30)  
1542 beds. Any nursing facility beds authorized by this section will  
1543 not be counted against the bed need set forth in the State Health  
1544 Plan, as identified in Section 41-7-171 et seq.

1545           This subsection (13) shall stand repealed from and after July  
1546 1, 2005.

1547           (14) The State Department of Health shall issue a  
1548 certificate of need to any hospital which is currently licensed  
1549 for two hundred fifty (250) or more acute care beds and is located  
1550 in any general hospital service area not having a comprehensive  
1551 cancer center, for the establishment and equipping of such a  
1552 center which provides facilities and services for outpatient  
1553 radiation oncology therapy, outpatient medical oncology therapy,  
1554 and appropriate support services including the provision of  
1555 radiation therapy services. The provision of Section 41-7-193(1)  
1556 regarding substantial compliance with the projection of need as  
1557 reported in the current State Health Plan is waived for the  
1558 purpose of this subsection.

1559           (15) The State Department of Health may authorize the  
1560 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1561 North Panola Community Hospital to the South Panola Community  
1562 Hospital. The authorization for the transfer of those beds shall  
1563 be exempt from the certificate of need review process.

1564           (16) The State Department of Health shall issue any  
1565 certificates of need necessary for Mississippi State University  
1566 and a public or private health care provider to jointly acquire  
1567 and operate a linear accelerator and a magnetic resonance imaging  
1568 unit. Those certificates of need shall cover all capital  
1569 expenditures related to the project between Mississippi State  
1570 University and the health care provider, including, but not  
1571 limited to, the acquisition of the linear accelerator, the  
1572 magnetic resonance imaging unit and other radiological modalities;  
1573 the offering of linear accelerator and magnetic resonance imaging  
1574 services; and the cost of construction of facilities in which to  
1575 locate these services. The linear accelerator and the magnetic  
1576 resonance imaging unit shall be (a) located in the City of  
1577 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by



1578 Mississippi State University and the public or private health care  
1579 provider selected by Mississippi State University through a  
1580 request for proposals (RFP) process in which Mississippi State  
1581 University selects, and the Board of Trustees of State  
1582 Institutions of Higher Learning approves, the health care provider  
1583 that makes the best overall proposal; (c) available to Mississippi  
1584 State University for research purposes two-thirds (2/3) of the  
1585 time that the linear accelerator and magnetic resonance imaging  
1586 unit are operational; and (d) available to the public or private  
1587 health care provider selected by Mississippi State University and  
1588 approved by the Board of Trustees of State Institutions of Higher  
1589 Learning one-third (1/3) of the time for clinical, diagnostic and  
1590 treatment purposes. For purposes of this subsection, the  
1591 provisions of Section 41-7-193(1) requiring substantial compliance  
1592 with the projection of need as reported in the current State  
1593 Health Plan are waived.

1594 (17) Nothing in this section or in any other provision of  
1595 Section 41-7-171 et seq. shall prevent any nursing facility from  
1596 designating an appropriate number of existing beds in the facility  
1597 as beds for providing care exclusively to patients with  
1598 Alzheimer's disease.

1599 **SECTION 3.** Section 41-7-205, Mississippi Code of 1972, is  
1600 amended as follows:

1601 41-7-205. The State Department of Health shall provide an  
1602 expedited review for those projects which it determines to warrant  
1603 such action. All requests for such an expedited review by the  
1604 applicant must be made in writing to the State Department of  
1605 Health. The State Department of Health shall make a determination  
1606 as to whether expedited review is appropriate within fifteen (15)  
1607 days after receipt of a written request. The State Department of  
1608 Health shall render its decision concerning the issuance of a  
1609 certificate of need within ninety (90) days after the receipt of a

1610 completed application. A project is subject to expedited review  
1611 only if it meets one (1) of the following criteria:

1612 (a) A transfer or change of ownership of a health care  
1613 facility wherein the facility continues to operate under the same  
1614 category of license or permit as it possessed prior to the date of  
1615 the proposed change of ownership and none of the other activities  
1616 described in Section 41-7-191(1) take place in conjunction with  
1617 such transfer;

1618 (b) Replacement of equipment with used equipment of  
1619 similar capability if the equipment is included in the facility's  
1620 annual capital expenditure budget or plan;

1621 (c) A request for project cost overruns that exceed the  
1622 rate of inflation as determined by the State Department of Health;

1623 (d) A request for relocation of services or facilities  
1624 if the relocation of such services or facilities (i) involves a  
1625 capital expenditure by or on behalf of a health care facility, or  
1626 (ii) is more than one thousand three hundred twenty (1,320) feet  
1627 from the main entrance of the health care facility or the facility  
1628 where the service is located;

1629 (e) A request for a certificate of need to comply with  
1630 duly recognized fire, building, or life safety codes, or to comply  
1631 with state licensure standards or accreditation standards required  
1632 for reimbursements; and

1633 (f) A request for a certificate of need that is a  
1634 nonclinical expenditure exceeding the capital expenditure minimum  
1635 under Section 1 of this act.

1636 **SECTION 4.** This act shall take effect and be in force from  
1637 and after July 1, 2007.