

By: Representative Holland

To: Public Health and Human
Services; Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1102

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

348 (iii) Provides physician services primarily:

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

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

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

359 * * *

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

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

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

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

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

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

392 or

- 393 8. Ventilation systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

472 (vi) Radiation therapy services;

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

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

477 (ix) Home health services;

478 (x) Swing-bed services;

479 (xi) Ambulatory surgical services;

480 (xii) Magnetic resonance imaging services;

481 (xiii) [Deleted]

482 (xiv) Long-term care hospital services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

867 agrees in writing that the skilled nursing facility will not at
868 any time participate in the Medicaid program (Section 43-13-101 et
869 seq.) or admit or keep any patients in the skilled nursing
870 facility who are participating in the Medicaid program. This
871 written agreement by the recipient of the certificate of need
872 shall be fully binding on any subsequent owner of the skilled
873 nursing facility, if the ownership of the facility is transferred
874 at any time after the issuance of the certificate of need.
875 Agreement that the skilled nursing facility will not participate
876 in the Medicaid program shall be a condition of the issuance of a
877 certificate of need to any person under this paragraph (p), and if
878 the skilled nursing facility at any time after the issuance of the
879 certificate of need, regardless of the ownership of the facility,
880 participates in the Medicaid program or admits or keeps any
881 patients in the facility who are participating in the Medicaid
882 program, the State Department of Health shall revoke the
883 certificate of need, if it is still outstanding, and shall deny or
884 revoke the license of the skilled nursing facility, at the time
885 that the department determines, after a hearing complying with due
886 process, that the facility has failed to comply with any of the
887 conditions upon which the certificate of need was issued, as
888 provided in this paragraph and in the written agreement by the
889 recipient of the certificate of need. The provision of Section
890 43-7-193(1) regarding substantial compliance of the projection of
891 need as reported in the current State Health Plan is waived for
892 the purposes of this paragraph. If the certificate of need
893 authorized under this paragraph is not issued within twelve (12)
894 months after July 1, 1998, the department shall deny the
895 application for the certificate of need and shall not issue the
896 certificate of need at any time after the twelve-month period,
897 unless the issuance is contested. If the certificate of need is
898 issued and substantial construction of the nursing facility beds
899 has not commenced within eighteen (18) months after July 1, 1998,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1413 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1682 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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