

By: Representatives Baker (74th), Smith
(59th)

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1113

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPEALER ON AND REINSTATE IN THE HEALTH CARE
3 CERTIFICATE OF NEED LAW THE PROVISION THAT AUTHORIZES THE NEW
4 CONSTRUCTION OF A NURSING FACILITY WITHOUT THE ISSUANCE OF A
5 CERTIFICATE OF NEED, IF THE FACILITY IS PART OF A CONTINUING CARE
6 RETIREMENT COMMUNITY THAT CONTAINS INDEPENDENT LIVING
7 ACCOMMODATIONS, PERSONAL CARE BEDS AND THE NURSING FACILITY BEDS
8 ON A SINGLE SITE, AND THE FACILITY DOES NOT PARTICIPATE IN THE
9 MEDICAID PROGRAM; AND FOR RELATED PURPOSES.

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

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

13 41-7-191. (1) No person shall engage in any of the
14 following activities without obtaining the required certificate of
15 need:

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

20 (b) The relocation of a health care facility or portion
21 thereof, or major medical equipment, unless such relocation of a
22 health care facility or portion thereof, or major medical
23 equipment, which does not involve a capital expenditure by or on
24 behalf of a health care facility, is within five thousand two
25 hundred eighty (5,280) feet from the main entrance of the health
26 care facility;

27 (c) Any change in the existing bed complement of any
28 health care facility through the addition or conversion of any
29 beds or the alteration, modernizing or refurbishing of any unit or
30 department in which the beds may be located; however, if a health

31 care facility has voluntarily delicensed some of its existing bed
32 complement, it may later relicense some or all of its delicensed
33 beds without the necessity of having to acquire a certificate of
34 need. The State Department of Health shall maintain a record of
35 the delicensing health care facility and its voluntarily
36 delicensed beds and continue counting those beds as part of the
37 state's total bed count for health care planning purposes. If a
38 health care facility that has voluntarily delicensed some of its
39 beds later desires to relicense some or all of its voluntarily
40 delicensed beds, it shall notify the State Department of Health of
41 its intent to increase the number of its licensed beds. The State
42 Department of Health shall survey the health care facility within
43 thirty (30) days of that notice and, if appropriate, issue the
44 health care facility a new license reflecting the new contingent
45 of beds. However, in no event may a health care facility that has
46 voluntarily delicensed some of its beds be reissued a license to
47 operate beds in excess of its bed count before the voluntary
48 delicensure of some of its beds without seeking certificate of
49 need approval;

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

- 54 (i) Open heart surgery services;
- 55 (ii) Cardiac catheterization services;
- 56 (iii) Comprehensive inpatient rehabilitation
57 services;
- 58 (iv) Licensed psychiatric services;
- 59 (v) Licensed chemical dependency services;
- 60 (vi) Radiation therapy services;
- 61 (vii) Diagnostic imaging services of an invasive
62 nature, i.e. invasive digital angiography;

63 (viii) Nursing home care as defined in
64 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
65 (ix) Home health services;
66 (x) Swing-bed services;
67 (xi) Ambulatory surgical services;
68 (xii) Magnetic resonance imaging services;
69 (xiii) [Deleted]
70 (xiv) Long-term care hospital services;
71 (xv) Positron Emission Tomography (PET) services;
72 (e) The relocation of one or more health services from
73 one physical facility or site to another physical facility or
74 site, unless such relocation, which does not involve a capital
75 expenditure by or on behalf of a health care facility, (i) is to a
76 physical facility or site within five thousand two hundred eighty
77 (5,280) feet from the main entrance of the health care facility
78 where the health care service is located, or (ii) is the result of
79 an order of a court of appropriate jurisdiction or a result of
80 pending litigation in such court, or by order of the State
81 Department of Health, or by order of any other agency or legal
82 entity of the state, the federal government, or any political
83 subdivision of either, whose order is also approved by the State
84 Department of Health;
85 (f) The acquisition or otherwise control of any major
86 medical equipment for the provision of medical services; provided,
87 however, (i) the acquisition of any major medical equipment used
88 only for research purposes, and (ii) the acquisition of major
89 medical equipment to replace medical equipment for which a
90 facility is already providing medical services and for which the
91 State Department of Health has been notified before the date of
92 such acquisition shall be exempt from this paragraph; an
93 acquisition for less than fair market value must be reviewed, if
94 the acquisition at fair market value would be subject to review;

95 (g) Changes of ownership of existing health care
96 facilities in which a notice of intent is not filed with the State
97 Department of Health at least thirty (30) days prior to the date
98 such change of ownership occurs, or a change in services or bed
99 capacity as prescribed in paragraph (c) or (d) of this subsection
100 as a result of the change of ownership; an acquisition for less
101 than fair market value must be reviewed, if the acquisition at
102 fair market value would be subject to review;

103 (h) The change of ownership of any health care facility
104 defined in subparagraphs (iv), (vi) and (viii) of Section
105 41-7-173(h), in which a notice of intent as described in paragraph
106 (g) has not been filed and if the Executive Director, Division of
107 Medicaid, Office of the Governor, has not certified in writing
108 that there will be no increase in allowable costs to Medicaid from
109 revaluation of the assets or from increased interest and
110 depreciation as a result of the proposed change of ownership;

111 (i) Any activity described in paragraphs (a) through
112 (h) if undertaken by any person if that same activity would
113 require certificate of need approval if undertaken by a health
114 care facility;

115 (j) Any capital expenditure or deferred capital
116 expenditure by or on behalf of a health care facility not covered
117 by paragraphs (a) through (h);

118 (k) The contracting of a health care facility as
119 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
120 to establish a home office, subunit, or branch office in the space
121 operated as a health care facility through a formal arrangement
122 with an existing health care facility as defined in subparagraph
123 (ix) of Section 41-7-173(h);

124 (l) The replacement or relocation of a health care
125 facility designated as a critical access hospital shall be exempt
126 from this Section 41-7-191(1) so long as the critical access

127 hospital complies with all applicable federal law and regulations
128 regarding such replacement or relocation;

129 (m) Reopening a health care facility that has ceased to
130 operate for a period of sixty (60) months or more, which reopening
131 requires a certificate of need for the establishment of a new
132 health care facility.

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

140 (a) The department may issue a certificate of need to
141 any person proposing the new construction of any health care
142 facility defined in subparagraphs (iv) and (vi) of Section
143 41-7-173(h) as part of a life care retirement facility, in any
144 county bordering on the Gulf of Mexico in which is located a
145 National Aeronautics and Space Administration facility, not to
146 exceed forty (40) beds. From and after July 1, 1999, there shall
147 be no prohibition or restrictions on participation in the Medicaid
148 program (Section 43-13-101 et seq.) for the beds in the health
149 care facility that were authorized under this paragraph (a).

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

157 (c) The department may issue a certificate of need for
158 the addition to or expansion of any skilled nursing facility that
159 is part of an existing continuing care retirement community

160 located in Madison County, provided that the recipient of the
161 certificate of need agrees in writing that the skilled nursing
162 facility will not at any time participate in the Medicaid program
163 (Section 43-13-101 et seq.) or admit or keep any patients in the
164 skilled nursing facility who are participating in the Medicaid
165 program. This written agreement by the recipient of the
166 certificate of need shall be fully binding on any subsequent owner
167 of the skilled nursing facility, if the ownership of the facility
168 is transferred at any time after the issuance of the certificate
169 of need. Agreement that the skilled nursing facility will not
170 participate in the Medicaid program shall be a condition of the
171 issuance of a certificate of need to any person under this
172 paragraph (c), and if such skilled nursing facility at any time
173 after the issuance of the certificate of need, regardless of the
174 ownership of the facility, participates in the Medicaid program or
175 admits or keeps any patients in the facility who are participating
176 in the Medicaid program, the State Department of Health shall
177 revoke the certificate of need, if it is still outstanding, and
178 shall deny or revoke the license of the skilled nursing facility,
179 at the time that the department determines, after a hearing
180 complying with due process, that the facility has failed to comply
181 with any of the conditions upon which the certificate of need was
182 issued, as provided in this paragraph and in the written agreement
183 by the recipient of the certificate of need. The total number of
184 beds that may be authorized under the authority of this paragraph
185 (c) shall not exceed sixty (60) beds.

186 (d) The State Department of Health may issue a
187 certificate of need to any hospital located in DeSoto County for
188 the new construction of a skilled nursing facility, not to exceed
189 one hundred twenty (120) beds, in DeSoto County. From and after
190 July 1, 1999, there shall be no prohibition or restrictions on
191 participation in the Medicaid program (Section 43-13-101 et seq.)

192 for the beds in the nursing facility that were authorized under
193 this paragraph (d).

194 (e) The State Department of Health may issue a
195 certificate of need for the construction of a nursing facility or
196 the conversion of beds to nursing facility beds at a personal care
197 facility for the elderly in Lowndes County that is owned and
198 operated by a Mississippi nonprofit corporation, not to exceed
199 sixty (60) beds. From and after July 1, 1999, there shall be no
200 prohibition or restrictions on participation in the Medicaid
201 program (Section 43-13-101 et seq.) for the beds in the nursing
202 facility that were authorized under this paragraph (e).

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

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

219 (h) The State Department of Health may issue a
220 certificate of need for the construction or expansion of nursing
221 facility beds or the conversion of other beds to nursing facility
222 beds in either Hancock, Harrison or Jackson County, not to exceed
223 sixty (60) beds. From and after July 1, 1999, there shall be no
224 prohibition or restrictions on participation in the Medicaid

225 program (Section 43-13-101 et seq.) for the beds in the facility
226 that were authorized under this paragraph (h).

227 (i) The department may issue a certificate of need for
228 the new construction of a skilled nursing facility in Leake
229 County, provided that the recipient of the certificate of need
230 agrees in writing that the skilled nursing facility will not at
231 any time participate in the Medicaid program (Section 43-13-101 et
232 seq.) or admit or keep any patients in the skilled nursing
233 facility who are participating in the Medicaid program. This
234 written agreement by the recipient of the certificate of need
235 shall be fully binding on any subsequent owner of the skilled
236 nursing facility, if the ownership of the facility is transferred
237 at any time after the issuance of the certificate of need.
238 Agreement that the skilled nursing facility will not participate
239 in the Medicaid program shall be a condition of the issuance of a
240 certificate of need to any person under this paragraph (i), and if
241 such skilled nursing facility at any time after the issuance of
242 the certificate of need, regardless of the ownership of the
243 facility, participates in the Medicaid program or admits or keeps
244 any patients in the facility who are participating in the Medicaid
245 program, the State Department of Health shall revoke the
246 certificate of need, if it is still outstanding, and shall deny or
247 revoke the license of the skilled nursing facility, at the time
248 that the department determines, after a hearing complying with due
249 process, that the facility has failed to comply with any of the
250 conditions upon which the certificate of need was issued, as
251 provided in this paragraph and in the written agreement by the
252 recipient of the certificate of need. The provision of Section
253 43-7-193(1) regarding substantial compliance of the projection of
254 need as reported in the current State Health Plan is waived for
255 the purposes of this paragraph. The total number of nursing
256 facility beds that may be authorized by any certificate of need
257 issued under this paragraph (i) shall not exceed sixty (60) beds.

258 If the skilled nursing facility authorized by the certificate of
259 need issued under this paragraph is not constructed and fully
260 operational within eighteen (18) months after July 1, 1994, the
261 State Department of Health, after a hearing complying with due
262 process, shall revoke the certificate of need, if it is still
263 outstanding, and shall not issue a license for the skilled nursing
264 facility at any time after the expiration of the eighteen-month
265 period.

266 (j) The department may issue certificates of need to
267 allow any existing freestanding long-term care facility in
268 Tishomingo County and Hancock County that on July 1, 1995, is
269 licensed with fewer than sixty (60) beds. For the purposes of
270 this paragraph (j), the provision of Section 41-7-193(1) requiring
271 substantial compliance with the projection of need as reported in
272 the current State Health Plan is waived. From and after July 1,
273 1999, there shall be no prohibition or restrictions on
274 participation in the Medicaid program (Section 43-13-101 et seq.)
275 for the beds in the long-term care facilities that were authorized
276 under this paragraph (j).

277 (k) The department may issue a certificate of need for
278 the construction of a nursing facility at a continuing care
279 retirement community in Lowndes County. The total number of beds
280 that may be authorized under the authority of this paragraph (k)
281 shall not exceed sixty (60) beds. From and after July 1, 2001,
282 the prohibition on the facility participating in the Medicaid
283 program (Section 43-13-101 et seq.) that was a condition of
284 issuance of the certificate of need under this paragraph (k) shall
285 be revised as follows: The nursing facility may participate in
286 the Medicaid program from and after July 1, 2001, if the owner of
287 the facility on July 1, 2001, agrees in writing that no more than
288 thirty (30) of the beds at the facility will be certified for
289 participation in the Medicaid program, and that no claim will be
290 submitted for Medicaid reimbursement for more than thirty (30)

291 patients in the facility in any month or for any patient in the
292 facility who is in a bed that is not Medicaid-certified. This
293 written agreement by the owner of the facility shall be a
294 condition of licensure of the facility, and the agreement shall be
295 fully binding on any subsequent owner of the facility if the
296 ownership of the facility is transferred at any time after July 1,
297 2001. After this written agreement is executed, the Division of
298 Medicaid and the State Department of Health shall not certify more
299 than thirty (30) of the beds in the facility for participation in
300 the Medicaid program. If the facility violates the terms of the
301 written agreement by admitting or keeping in the facility on a
302 regular or continuing basis more than thirty (30) patients who are
303 participating in the Medicaid program, the State Department of
304 Health shall revoke the license of the facility, at the time that
305 the department determines, after a hearing complying with due
306 process, that the facility has violated the written agreement.

307 (1) Provided that funds are specifically appropriated
308 therefor by the Legislature, the department may issue a
309 certificate of need to a rehabilitation hospital in Hinds County
310 for the construction of a sixty-bed long-term care nursing
311 facility dedicated to the care and treatment of persons with
312 severe disabilities including persons with spinal cord and
313 closed-head injuries and ventilator-dependent patients. The
314 provision of Section 41-7-193(1) regarding substantial compliance
315 with projection of need as reported in the current State Health
316 Plan is hereby waived for the purpose of this paragraph.

317 (m) The State Department of Health may issue a
318 certificate of need to a county-owned hospital in the Second
319 Judicial District of Panola County for the conversion of not more
320 than seventy-two (72) hospital beds to nursing facility beds,
321 provided that the recipient of the certificate of need agrees in
322 writing that none of the beds at the nursing facility will be
323 certified for participation in the Medicaid program (Section

324 43-13-101 et seq.), and that no claim will be submitted for
325 Medicaid reimbursement in the nursing facility in any day or for
326 any patient in the nursing facility. This written agreement by
327 the recipient of the certificate of need shall be a condition of
328 the issuance of the certificate of need under this paragraph, and
329 the agreement shall be fully binding on any subsequent owner of
330 the nursing facility if the ownership of the nursing facility is
331 transferred at any time after the issuance of the certificate of
332 need. After this written agreement is executed, the Division of
333 Medicaid and the State Department of Health shall not certify any
334 of the beds in the nursing facility for participation in the
335 Medicaid program. If the nursing facility violates the terms of
336 the written agreement by admitting or keeping in the nursing
337 facility on a regular or continuing basis any patients who are
338 participating in the Medicaid program, the State Department of
339 Health shall revoke the license of the nursing facility, at the
340 time that the department determines, after a hearing complying
341 with due process, that the nursing facility has violated the
342 condition upon which the certificate of need was issued, as
343 provided in this paragraph and in the written agreement. If the
344 certificate of need authorized under this paragraph is not issued
345 within twelve (12) months after July 1, 2001, the department shall
346 deny the application for the certificate of need and shall not
347 issue the certificate of need at any time after the twelve-month
348 period, unless the issuance is contested. If the certificate of
349 need is issued and substantial construction of the nursing
350 facility beds has not commenced within eighteen (18) months after
351 July 1, 2001, the State Department of Health, after a hearing
352 complying with due process, shall revoke the certificate of need
353 if it is still outstanding, and the department shall not issue a
354 license for the nursing facility at any time after the
355 eighteen-month period. Provided, however, that if the issuance of
356 the certificate of need is contested, the department shall require

357 substantial construction of the nursing facility beds within six
358 (6) months after final adjudication on the issuance of the
359 certificate of need.

360 (n) The department may issue a certificate of need for
361 the new construction, addition or conversion of skilled nursing
362 facility beds in Madison County, provided that the recipient of
363 the certificate of need agrees in writing that the skilled nursing
364 facility will not at any time participate in the Medicaid program
365 (Section 43-13-101 et seq.) or admit or keep any patients in the
366 skilled nursing facility who are participating in the Medicaid
367 program. This written agreement by the recipient of the
368 certificate of need shall be fully binding on any subsequent owner
369 of the skilled nursing facility, if the ownership of the facility
370 is transferred at any time after the issuance of the certificate
371 of need. Agreement that the skilled nursing facility will not
372 participate in the Medicaid program shall be a condition of the
373 issuance of a certificate of need to any person under this
374 paragraph (n), and if such skilled nursing facility at any time
375 after the issuance of the certificate of need, regardless of the
376 ownership of the facility, participates in the Medicaid program or
377 admits or keeps any patients in the facility who are participating
378 in the Medicaid program, the State Department of Health shall
379 revoke the certificate of need, if it is still outstanding, and
380 shall deny or revoke the license of the skilled nursing facility,
381 at the time that the department determines, after a hearing
382 complying with due process, that the facility has failed to comply
383 with any of the conditions upon which the certificate of need was
384 issued, as provided in this paragraph and in the written agreement
385 by the recipient of the certificate of need. The total number of
386 nursing facility beds that may be authorized by any certificate of
387 need issued under this paragraph (n) shall not exceed sixty (60)
388 beds. If the certificate of need authorized under this paragraph
389 is not issued within twelve (12) months after July 1, 1998, the

390 department shall deny the application for the certificate of need
391 and shall not issue the certificate of need at any time after the
392 twelve-month period, unless the issuance is contested. If the
393 certificate of need is issued and substantial construction of the
394 nursing facility beds has not commenced within eighteen (18)
395 months after the effective date of July 1, 1998, the State
396 Department of Health, after a hearing complying with due process,
397 shall revoke the certificate of need if it is still outstanding,
398 and the department shall not issue a license for the nursing
399 facility at any time after the eighteen-month period. Provided,
400 however, that if the issuance of the certificate of need is
401 contested, the department shall require substantial construction
402 of the nursing facility beds within six (6) months after final
403 adjudication on the issuance of the certificate of need.

404 (o) The department may issue a certificate of need for
405 the new construction, addition or conversion of skilled nursing
406 facility beds in Leake County, provided that the recipient of the
407 certificate of need agrees in writing that the skilled nursing
408 facility will not at any time participate in the Medicaid program
409 (Section 43-13-101 et seq.) or admit or keep any patients in the
410 skilled nursing facility who are participating in the Medicaid
411 program. This written agreement by the recipient of the
412 certificate of need shall be fully binding on any subsequent owner
413 of the skilled nursing facility, if the ownership of the facility
414 is transferred at any time after the issuance of the certificate
415 of need. Agreement that the skilled nursing facility will not
416 participate in the Medicaid program shall be a condition of the
417 issuance of a certificate of need to any person under this
418 paragraph (o), and if such skilled nursing facility at any time
419 after the issuance of the certificate of need, regardless of the
420 ownership of the facility, participates in the Medicaid program or
421 admits or keeps any patients in the facility who are participating
422 in the Medicaid program, the State Department of Health shall

423 revoke the certificate of need, if it is still outstanding, and
424 shall deny or revoke the license of the skilled nursing facility,
425 at the time that the department determines, after a hearing
426 complying with due process, that the facility has failed to comply
427 with any of the conditions upon which the certificate of need was
428 issued, as provided in this paragraph and in the written agreement
429 by the recipient of the certificate of need. The total number of
430 nursing facility beds that may be authorized by any certificate of
431 need issued under this paragraph (o) shall not exceed sixty (60)
432 beds. If the certificate of need authorized under this paragraph
433 is not issued within twelve (12) months after July 1, 2001, the
434 department shall deny the application for the certificate of need
435 and shall not issue the certificate of need at any time after the
436 twelve-month period, unless the issuance is contested. If the
437 certificate of need is issued and substantial construction of the
438 nursing facility beds has not commenced within eighteen (18)
439 months after the effective date of July 1, 2001, the State
440 Department of Health, after a hearing complying with due process,
441 shall revoke the certificate of need if it is still outstanding,
442 and the department shall not issue a license for the nursing
443 facility at any time after the eighteen-month period. Provided,
444 however, that if the issuance of the certificate of need is
445 contested, the department shall require substantial construction
446 of the nursing facility beds within six (6) months after final
447 adjudication on the issuance of the certificate of need.

448 (p) The department may issue a certificate of need for
449 the construction of a municipally owned nursing facility within
450 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
451 beds, provided that the recipient of the certificate of need
452 agrees in writing that the skilled nursing facility will not at
453 any time participate in the Medicaid program (Section 43-13-101 et
454 seq.) or admit or keep any patients in the skilled nursing
455 facility who are participating in the Medicaid program. This

456 written agreement by the recipient of the certificate of need
457 shall be fully binding on any subsequent owner of the skilled
458 nursing facility, if the ownership of the facility is transferred
459 at any time after the issuance of the certificate of need.

460 Agreement that the skilled nursing facility will not participate
461 in the Medicaid program shall be a condition of the issuance of a
462 certificate of need to any person under this paragraph (p), and if
463 such skilled nursing facility at any time after the issuance of
464 the certificate of need, regardless of the ownership of the
465 facility, participates in the Medicaid program or admits or keeps
466 any patients in the facility who are participating in the Medicaid
467 program, the State Department of Health shall revoke the
468 certificate of need, if it is still outstanding, and shall deny or
469 revoke the license of the skilled nursing facility, at the time
470 that the department determines, after a hearing complying with due
471 process, that the facility has failed to comply with any of the
472 conditions upon which the certificate of need was issued, as
473 provided in this paragraph and in the written agreement by the
474 recipient of the certificate of need. The provision of Section
475 43-7-193(1) regarding substantial compliance of the projection of
476 need as reported in the current State Health Plan is waived for
477 the purposes of this paragraph. If the certificate of need
478 authorized under this paragraph is not issued within twelve (12)
479 months after July 1, 1998, the department shall deny the
480 application for the certificate of need and shall not issue the
481 certificate of need at any time after the twelve-month period,
482 unless the issuance is contested. If the certificate of need is
483 issued and substantial construction of the nursing facility beds
484 has not commenced within eighteen (18) months after July 1, 1998,
485 the State Department of Health, after a hearing complying with due
486 process, shall revoke the certificate of need if it is still
487 outstanding, and the department shall not issue a license for the
488 nursing facility at any time after the eighteen-month period.

489 Provided, however, that if the issuance of the certificate of need
490 is contested, the department shall require substantial
491 construction of the nursing facility beds within six (6) months
492 after final adjudication on the issuance of the certificate of
493 need.

494 (q) (i) Beginning on July 1, 1999, the State
495 Department of Health shall issue certificates of need during each
496 of the next four (4) fiscal years for the construction or
497 expansion of nursing facility beds or the conversion of other beds
498 to nursing facility beds in each county in the state having a need
499 for fifty (50) or more additional nursing facility beds, as shown
500 in the fiscal year 1999 State Health Plan, in the manner provided
501 in this paragraph (q). The total number of nursing facility beds
502 that may be authorized by any certificate of need authorized under
503 this paragraph (q) shall not exceed sixty (60) beds.

504 (ii) Subject to the provisions of subparagraph
505 (v), during each of the next four (4) fiscal years, the department
506 shall issue six (6) certificates of need for new nursing facility
507 beds, as follows: During fiscal years 2000, 2001 and 2002, one
508 (1) certificate of need shall be issued for new nursing facility
509 beds in the county in each of the four (4) Long-Term Care Planning
510 Districts designated in the fiscal year 1999 State Health Plan
511 that has the highest need in the district for those beds; and two
512 (2) certificates of need shall be issued for new nursing facility
513 beds in the two (2) counties from the state at large that have the
514 highest need in the state for those beds, when considering the
515 need on a statewide basis and without regard to the Long-Term Care
516 Planning Districts in which the counties are located. During
517 fiscal year 2003, one (1) certificate of need shall be issued for
518 new nursing facility beds in any county having a need for fifty
519 (50) or more additional nursing facility beds, as shown in the
520 fiscal year 1999 State Health Plan, that has not received a
521 certificate of need under this paragraph (q) during the three (3)

522 previous fiscal years. During fiscal year 2000, in addition to
523 the six (6) certificates of need authorized in this subparagraph,
524 the department also shall issue a certificate of need for new
525 nursing facility beds in Amite County and a certificate of need
526 for new nursing facility beds in Carroll County.

527 (iii) Subject to the provisions of subparagraph
528 (v), the certificate of need issued under subparagraph (ii) for
529 nursing facility beds in each Long-Term Care Planning District
530 during each fiscal year shall first be available for nursing
531 facility beds in the county in the district having the highest
532 need for those beds, as shown in the fiscal year 1999 State Health
533 Plan. If there are no applications for a certificate of need for
534 nursing facility beds in the county having the highest need for
535 those beds by the date specified by the department, then the
536 certificate of need shall be available for nursing facility beds
537 in other counties in the district in descending order of the need
538 for those beds, from the county with the second highest need to
539 the county with the lowest need, until an application is received
540 for nursing facility beds in an eligible county in the district.

541 (iv) Subject to the provisions of subparagraph
542 (v), the certificate of need issued under subparagraph (ii) for
543 nursing facility beds in the two (2) counties from the state at
544 large during each fiscal year shall first be available for nursing
545 facility beds in the two (2) counties that have the highest need
546 in the state for those beds, as shown in the fiscal year 1999
547 State Health Plan, when considering the need on a statewide basis
548 and without regard to the Long-Term Care Planning Districts in
549 which the counties are located. If there are no applications for
550 a certificate of need for nursing facility beds in either of the
551 two (2) counties having the highest need for those beds on a
552 statewide basis by the date specified by the department, then the
553 certificate of need shall be available for nursing facility beds
554 in other counties from the state at large in descending order of

555 the need for those beds on a statewide basis, from the county with
556 the second highest need to the county with the lowest need, until
557 an application is received for nursing facility beds in an
558 eligible county from the state at large.

559 (v) If a certificate of need is authorized to be
560 issued under this paragraph (q) for nursing facility beds in a
561 county on the basis of the need in the Long-Term Care Planning
562 District during any fiscal year of the four-year period, a
563 certificate of need shall not also be available under this
564 paragraph (q) for additional nursing facility beds in that county
565 on the basis of the need in the state at large, and that county
566 shall be excluded in determining which counties have the highest
567 need for nursing facility beds in the state at large for that
568 fiscal year. After a certificate of need has been issued under
569 this paragraph (q) for nursing facility beds in a county during
570 any fiscal year of the four-year period, a certificate of need
571 shall not be available again under this paragraph (q) for
572 additional nursing facility beds in that county during the
573 four-year period, and that county shall be excluded in determining
574 which counties have the highest need for nursing facility beds in
575 succeeding fiscal years.

576 (vi) If more than one (1) application is made for
577 a certificate of need for nursing home facility beds available
578 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
579 County, and one (1) of the applicants is a county-owned hospital
580 located in the county where the nursing facility beds are
581 available, the department shall give priority to the county-owned
582 hospital in granting the certificate of need if the following
583 conditions are met:

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

587 2. The county-owned hospital's qualifications
588 for the certificate of need, as shown in its application and as
589 determined by the department, are at least equal to the
590 qualifications of the other applicants for the certificate of
591 need.

592 (r) (i) Beginning on July 1, 1999, the State
593 Department of Health shall issue certificates of need during each
594 of the next two (2) fiscal years for the construction or expansion
595 of nursing facility beds or the conversion of other beds to
596 nursing facility beds in each of the four (4) Long-Term Care
597 Planning Districts designated in the fiscal year 1999 State Health
598 Plan, to provide care exclusively to patients with Alzheimer's
599 disease.

600 (ii) Not more than twenty (20) beds may be
601 authorized by any certificate of need issued under this paragraph
602 (r), and not more than a total of sixty (60) beds may be
603 authorized in any Long-Term Care Planning District by all
604 certificates of need issued under this paragraph (r). However,
605 the total number of beds that may be authorized by all
606 certificates of need issued under this paragraph (r) during any
607 fiscal year shall not exceed one hundred twenty (120) beds, and
608 the total number of beds that may be authorized in any Long-Term
609 Care Planning District during any fiscal year shall not exceed
610 forty (40) beds. Of the certificates of need that are issued for
611 each Long-Term Care Planning District during the next two (2)
612 fiscal years, at least one (1) shall be issued for beds in the
613 northern part of the district, at least one (1) shall be issued
614 for beds in the central part of the district, and at least one (1)
615 shall be issued for beds in the southern part of the district.

616 (iii) The State Department of Health, in
617 consultation with the Department of Mental Health and the Division
618 of Medicaid, shall develop and prescribe the staffing levels,
619 space requirements and other standards and requirements that must

620 be met with regard to the nursing facility beds authorized under
621 this paragraph (r) to provide care exclusively to patients with
622 Alzheimer's disease.

623 (s) The State Department of Health may issue a
624 certificate of need to a nonprofit skilled nursing facility using
625 the Green House model of skilled nursing care and located in Yazoo
626 City, Yazoo County, Mississippi, for the construction, expansion
627 or conversion of not more than nineteen (19) nursing facility
628 beds. For purposes of this paragraph (s), the provisions of
629 Section 41-7-193(1) requiring substantial compliance with the
630 projection of need as reported in the current State Health Plan
631 and the provisions of Section 41-7-197 requiring a formal
632 certificate of need hearing process are waived. There shall be no
633 prohibition or restrictions on participation in the Medicaid
634 program for the person receiving the certificate of need
635 authorized under this paragraph (s).

636 (t) The State Department of Health shall issue
637 certificates of need to the owner of a nursing facility in
638 operation at the time of Hurricane Katrina in Hancock County that
639 was not operational on December 31, 2005, because of damage
640 sustained from Hurricane Katrina to authorize the following: (i)
641 the construction of a new nursing facility in Harrison County;
642 (ii) the relocation of forty-nine (49) nursing facility beds from
643 the Hancock County facility to the new Harrison County facility;
644 (iii) the establishment of not more than twenty (20) non-Medicaid
645 nursing facility beds at the Hancock County facility; and (iv) the
646 establishment of not more than twenty (20) non-Medicaid beds at
647 the new Harrison County facility. The certificates of need that
648 authorize the non-Medicaid nursing facility beds under
649 subparagraphs (iii) and (iv) of this paragraph (t) shall be
650 subject to the following conditions: The owner of the Hancock
651 County facility and the new Harrison County facility must agree in
652 writing that no more than fifty (50) of the beds at the Hancock

653 County facility and no more than forty-nine (49) of the beds at
654 the Harrison County facility will be certified for participation
655 in the Medicaid program, and that no claim will be submitted for
656 Medicaid reimbursement for more than fifty (50) patients in the
657 Hancock County facility in any month, or for more than forty-nine
658 (49) patients in the Harrison County facility in any month, or for
659 any patient in either facility who is in a bed that is not
660 Medicaid-certified. This written agreement by the owner of the
661 nursing facilities shall be a condition of the issuance of the
662 certificates of need under this paragraph (t), and the agreement
663 shall be fully binding on any later owner or owners of either
664 facility if the ownership of either facility is transferred at any
665 time after the certificates of need are issued. After this
666 written agreement is executed, the Division of Medicaid and the
667 State Department of Health shall not certify more than fifty (50)
668 of the beds at the Hancock County facility or more than forty-nine
669 (49) of the beds at the Harrison County facility for participation
670 in the Medicaid program. If the Hancock County facility violates
671 the terms of the written agreement by admitting or keeping in the
672 facility on a regular or continuing basis more than fifty (50)
673 patients who are participating in the Medicaid program, or if the
674 Harrison County facility violates the terms of the written
675 agreement by admitting or keeping in the facility on a regular or
676 continuing basis more than forty-nine (49) patients who are
677 participating in the Medicaid program, the State Department of
678 Health shall revoke the license of the facility that is in
679 violation of the agreement, at the time that the department
680 determines, after a hearing complying with due process, that the
681 facility has violated the agreement.

682 (3) The State Department of Health may grant approval for
683 and issue certificates of need to any person proposing the new
684 construction of, addition to, conversion of beds of or expansion
685 of any health care facility defined in subparagraph (x)

686 (psychiatric residential treatment facility) of Section
687 41-7-173(h). The total number of beds which may be authorized by
688 such certificates of need shall not exceed three hundred
689 thirty-four (334) beds for the entire state.

690 (a) Of the total number of beds authorized under this
691 subsection, the department shall issue a certificate of need to a
692 privately-owned psychiatric residential treatment facility in
693 Simpson County for the conversion of sixteen (16) intermediate
694 care facility for the mentally retarded (ICF-MR) beds to
695 psychiatric residential treatment facility beds, provided that
696 facility agrees in writing that the facility shall give priority
697 for the use of those sixteen (16) beds to Mississippi residents
698 who are presently being treated in out-of-state facilities.

699 (b) Of the total number of beds authorized under this
700 subsection, the department may issue a certificate or certificates
701 of need for the construction or expansion of psychiatric
702 residential treatment facility beds or the conversion of other
703 beds to psychiatric residential treatment facility beds in Warren
704 County, not to exceed sixty (60) psychiatric residential treatment
705 facility beds, provided that the facility agrees in writing that
706 no more than thirty (30) of the beds at the psychiatric
707 residential treatment facility will be certified for participation
708 in the Medicaid program (Section 43-13-101 et seq.) for the use of
709 any patients other than those who are participating only in the
710 Medicaid program of another state, and that no claim will be
711 submitted to the Division of Medicaid for Medicaid reimbursement
712 for more than thirty (30) patients in the psychiatric residential
713 treatment facility in any day or for any patient in the
714 psychiatric residential treatment facility who is in a bed that is
715 not Medicaid-certified. This written agreement by the recipient
716 of the certificate of need shall be a condition of the issuance of
717 the certificate of need under this paragraph, and the agreement
718 shall be fully binding on any subsequent owner of the psychiatric

719 residential treatment facility if the ownership of the facility is
720 transferred at any time after the issuance of the certificate of
721 need. After this written agreement is executed, the Division of
722 Medicaid and the State Department of Health shall not certify more
723 than thirty (30) of the beds in the psychiatric residential
724 treatment facility for participation in the Medicaid program for
725 the use of any patients other than those who are participating
726 only in the Medicaid program of another state. If the psychiatric
727 residential treatment facility violates the terms of the written
728 agreement by admitting or keeping in the facility on a regular or
729 continuing basis more than thirty (30) patients who are
730 participating in the Mississippi Medicaid program, the State
731 Department of Health shall revoke the license of the facility, at
732 the time that the department determines, after a hearing complying
733 with due process, that the facility has violated the condition
734 upon which the certificate of need was issued, as provided in this
735 paragraph and in the written agreement.

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

740 (c) Of the total number of beds authorized under this
741 subsection, the department shall issue a certificate of need to a
742 hospital currently operating Medicaid-certified acute psychiatric
743 beds for adolescents in DeSoto County, for the establishment of a
744 forty-bed psychiatric residential treatment facility in DeSoto
745 County, provided that the hospital agrees in writing (i) that the
746 hospital shall give priority for the use of those forty (40) beds
747 to Mississippi residents who are presently being treated in
748 out-of-state facilities, and (ii) that no more than fifteen (15)
749 of the beds at the psychiatric residential treatment facility will
750 be certified for participation in the Medicaid program (Section
751 43-13-101 et seq.), and that no claim will be submitted for

752 Medicaid reimbursement for more than fifteen (15) patients in the
753 psychiatric residential treatment facility in any day or for any
754 patient in the psychiatric residential treatment facility who is
755 in a bed that is not Medicaid-certified. This written agreement
756 by the recipient of the certificate of need shall be a condition
757 of the issuance of the certificate of need under this paragraph,
758 and the agreement shall be fully binding on any subsequent owner
759 of the psychiatric residential treatment facility if the ownership
760 of the facility is transferred at any time after the issuance of
761 the certificate of need. After this written agreement is
762 executed, the Division of Medicaid and the State Department of
763 Health shall not certify more than fifteen (15) of the beds in the
764 psychiatric residential treatment facility for participation in
765 the Medicaid program. If the psychiatric residential treatment
766 facility violates the terms of the written agreement by admitting
767 or keeping in the facility on a regular or continuing basis more
768 than fifteen (15) patients who are participating in the Medicaid
769 program, the State Department of Health shall revoke the license
770 of the facility, at the time that the department determines, after
771 a hearing complying with due process, that the facility has
772 violated the condition upon which the certificate of need was
773 issued, as provided in this paragraph and in the written
774 agreement.

775 (d) Of the total number of beds authorized under this
776 subsection, the department may issue a certificate or certificates
777 of need for the construction or expansion of psychiatric
778 residential treatment facility beds or the conversion of other
779 beds to psychiatric treatment facility beds, not to exceed thirty
780 (30) psychiatric residential treatment facility beds, in either
781 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
782 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

783 (e) Of the total number of beds authorized under this
784 subsection (3) the department shall issue a certificate of need to

785 a privately-owned, nonprofit psychiatric residential treatment
786 facility in Hinds County for an eight-bed expansion of the
787 facility, provided that the facility agrees in writing that the
788 facility shall give priority for the use of those eight (8) beds
789 to Mississippi residents who are presently being treated in
790 out-of-state facilities.

791 (f) The department shall issue a certificate of need to
792 a one-hundred-thirty-four-bed specialty hospital located on
793 twenty-nine and forty-four one-hundredths (29.44) commercial acres
794 at 5900 Highway 39 North in Meridian (Lauderdale County),
795 Mississippi, for the addition, construction or expansion of
796 child/adolescent psychiatric residential treatment facility beds
797 in Lauderdale County. As a condition of issuance of the
798 certificate of need under this paragraph, the facility shall give
799 priority in admissions to the child/adolescent psychiatric
800 residential treatment facility beds authorized under this
801 paragraph to patients who otherwise would require out-of-state
802 placement. The Division of Medicaid, in conjunction with the
803 Department of Human Services, shall furnish the facility a list of
804 all out-of-state patients on a quarterly basis. Furthermore,
805 notice shall also be provided to the parent, custodial parent or
806 guardian of each out-of-state patient notifying them of the
807 priority status granted by this paragraph. For purposes of this
808 paragraph, the provisions of Section 41-7-193(1) requiring
809 substantial compliance with the projection of need as reported in
810 the current State Health Plan are waived. The total number of
811 child/adolescent psychiatric residential treatment facility beds
812 that may be authorized under the authority of this paragraph shall
813 be sixty (60) beds. There shall be no prohibition or restrictions
814 on participation in the Medicaid program (Section 43-13-101 et
815 seq.) for the person receiving the certificate of need authorized
816 under this paragraph or for the beds converted pursuant to the
817 authority of that certificate of need.

818 (4) (a) From and after July 1, 1993, the department shall
819 not issue a certificate of need to any person for the new
820 construction of any hospital, psychiatric hospital or chemical
821 dependency hospital that will contain any child/adolescent
822 psychiatric or child/adolescent chemical dependency beds, or for
823 the conversion of any other health care facility to a hospital,
824 psychiatric hospital or chemical dependency hospital that will
825 contain any child/adolescent psychiatric or child/adolescent
826 chemical dependency beds, or for the addition of any
827 child/adolescent psychiatric or child/adolescent chemical
828 dependency beds in any hospital, psychiatric hospital or chemical
829 dependency hospital, or for the conversion of any beds of another
830 category in any hospital, psychiatric hospital or chemical
831 dependency hospital to child/adolescent psychiatric or
832 child/adolescent chemical dependency beds, except as hereinafter
833 authorized:

834 (i) The department may issue certificates of need
835 to any person for any purpose described in this subsection,
836 provided that the hospital, psychiatric hospital or chemical
837 dependency hospital does not participate in the Medicaid program
838 (Section 43-13-101 et seq.) at the time of the application for the
839 certificate of need and the owner of the hospital, psychiatric
840 hospital or chemical dependency hospital agrees in writing that
841 the hospital, psychiatric hospital or chemical dependency hospital
842 will not at any time participate in the Medicaid program or admit
843 or keep any patients who are participating in the Medicaid program
844 in the hospital, psychiatric hospital or chemical dependency
845 hospital. This written agreement by the recipient of the
846 certificate of need shall be fully binding on any subsequent owner
847 of the hospital, psychiatric hospital or chemical dependency
848 hospital, if the ownership of the facility is transferred at any
849 time after the issuance of the certificate of need. Agreement
850 that the hospital, psychiatric hospital or chemical dependency

851 hospital will not participate in the Medicaid program shall be a
852 condition of the issuance of a certificate of need to any person
853 under this subparagraph * * * (i), and if such hospital,
854 psychiatric hospital or chemical dependency hospital at any time
855 after the issuance of the certificate of need, regardless of the
856 ownership of the facility, participates in the Medicaid program or
857 admits or keeps any patients in the hospital, psychiatric hospital
858 or chemical dependency hospital who are participating in the
859 Medicaid program, the State Department of Health shall revoke the
860 certificate of need, if it is still outstanding, and shall deny or
861 revoke the license of the hospital, psychiatric hospital or
862 chemical dependency hospital, at the time that the department
863 determines, after a hearing complying with due process, that the
864 hospital, psychiatric hospital or chemical dependency hospital has
865 failed to comply with any of the conditions upon which the
866 certificate of need was issued, as provided in this subparagraph
867 (i) and in the written agreement by the recipient of the
868 certificate of need.

869 (ii) The department may issue a certificate of
870 need for the conversion of existing beds in a county hospital in
871 Choctaw County from acute care beds to child/adolescent chemical
872 dependency beds. For purposes of this subparagraph (ii), the
873 provisions of Section 41-7-193(1) requiring substantial compliance
874 with the projection of need as reported in the current State
875 Health Plan is waived. The total number of beds that may be
876 authorized under authority of this subparagraph shall not exceed
877 twenty (20) beds. There shall be no prohibition or restrictions
878 on participation in the Medicaid program (Section 43-13-101 et
879 seq.) for the hospital receiving the certificate of need
880 authorized under this subparagraph * * * or for the beds converted
881 pursuant to the authority of that certificate of need.

882 (iii) The department may issue a certificate or
883 certificates of need for the construction or expansion of

884 child/adolescent psychiatric beds or the conversion of other beds
885 to child/adolescent psychiatric beds in Warren County. For
886 purposes of this subparagraph (iii), the provisions of Section
887 41-7-193(1) requiring substantial compliance with the projection
888 of need as reported in the current State Health Plan are waived.
889 The total number of beds that may be authorized under the
890 authority of this subparagraph shall not exceed twenty (20) beds.
891 There shall be no prohibition or restrictions on participation in
892 the Medicaid program (Section 43-13-101 et seq.) for the person
893 receiving the certificate of need authorized under this
894 subparagraph * * * or for the beds converted pursuant to the
895 authority of that certificate of need.

896 If by January 1, 2002, there has been no significant
897 commencement of construction of the beds authorized under this
898 subparagraph * * * (iii), or no significant action taken to
899 convert existing beds to the beds authorized under this
900 subparagraph, then the certificate of need that was previously
901 issued under this subparagraph shall expire. If the previously
902 issued certificate of need expires, the department may accept
903 applications for issuance of another certificate of need for the
904 beds authorized under this subparagraph, and may issue a
905 certificate of need to authorize the construction, expansion or
906 conversion of the beds authorized under this subparagraph.

907 (iv) The department shall issue a certificate of
908 need to the Region 7 Mental Health/Retardation Commission for the
909 construction or expansion of child/adolescent psychiatric beds or
910 the conversion of other beds to child/adolescent psychiatric beds
911 in any of the counties served by the commission. For purposes of
912 this subparagraph (iv), the provisions of Section 41-7-193(1)
913 requiring substantial compliance with the projection of need as
914 reported in the current State Health Plan is waived. The total
915 number of beds that may be authorized under the authority of this
916 subparagraph shall not exceed twenty (20) beds. There shall be no

917 prohibition or restrictions on participation in the Medicaid
918 program (Section 43-13-101 et seq.) for the person receiving the
919 certificate of need authorized under this subparagraph * * * or
920 for the beds converted pursuant to the authority of that
921 certificate of need.

922 (v) The department may issue a certificate of need
923 to any county hospital located in Leflore County for the
924 construction or expansion of adult psychiatric beds or the
925 conversion of other beds to adult psychiatric beds, not to exceed
926 twenty (20) beds, provided that the recipient of the certificate
927 of need agrees in writing that the adult psychiatric beds will not
928 at any time be certified for participation in the Medicaid program
929 and that the hospital will not admit or keep any patients who are
930 participating in the Medicaid program in any of such adult
931 psychiatric beds. This written agreement by the recipient of the
932 certificate of need shall be fully binding on any subsequent owner
933 of the hospital if the ownership of the hospital is transferred at
934 any time after the issuance of the certificate of need. Agreement
935 that the adult psychiatric beds will not be certified for
936 participation in the Medicaid program shall be a condition of the
937 issuance of a certificate of need to any person under this
938 subparagraph * * * (v), and if such hospital at any time after the
939 issuance of the certificate of need, regardless of the ownership
940 of the hospital, has any of such adult psychiatric beds certified
941 for participation in the Medicaid program or admits or keeps any
942 Medicaid patients in such adult psychiatric beds, the State
943 Department of Health shall revoke the certificate of need, if it
944 is still outstanding, and shall deny or revoke the license of the
945 hospital at the time that the department determines, after a
946 hearing complying with due process, that the hospital has failed
947 to comply with any of the conditions upon which the certificate of
948 need was issued, as provided in this subparagraph and in the
949 written agreement by the recipient of the certificate of need.

950 (vi) The department may issue a certificate or
951 certificates of need for the expansion of child psychiatric beds
952 or the conversion of other beds to child psychiatric beds at the
953 University of Mississippi Medical Center. For purposes of this
954 subparagraph * * * (vi), the provision of Section 41-7-193(1)
955 requiring substantial compliance with the projection of need as
956 reported in the current State Health Plan is waived. The total
957 number of beds that may be authorized under the authority of this
958 subparagraph * * * shall not exceed fifteen (15) beds. There
959 shall be no prohibition or restrictions on participation in the
960 Medicaid program (Section 43-13-101 et seq.) for the hospital
961 receiving the certificate of need authorized under this
962 subparagraph * * * or for the beds converted pursuant to the
963 authority of that certificate of need.

964 (b) From and after July 1, 1990, no hospital,
965 psychiatric hospital or chemical dependency hospital shall be
966 authorized to add any child/adolescent psychiatric or
967 child/adolescent chemical dependency beds or convert any beds of
968 another category to child/adolescent psychiatric or
969 child/adolescent chemical dependency beds without a certificate of
970 need under the authority of subsection (1)(c) of this section.

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

974 (6) The State Department of Health shall issue a certificate
975 of need to a Mississippi corporation qualified to manage a
976 long-term care hospital as defined in Section 41-7-173(h)(xii) in
977 Harrison County, not to exceed eighty (80) beds, including any
978 necessary renovation or construction required for licensure and
979 certification, provided that the recipient of the certificate of
980 need agrees in writing that the long-term care hospital will not
981 at any time participate in the Medicaid program (Section 43-13-101
982 et seq.) or admit or keep any patients in the long-term care

983 hospital who are participating in the Medicaid program. This
984 written agreement by the recipient of the certificate of need
985 shall be fully binding on any subsequent owner of the long-term
986 care hospital, if the ownership of the facility is transferred at
987 any time after the issuance of the certificate of need. Agreement
988 that the long-term care hospital will not participate in the
989 Medicaid program shall be a condition of the issuance of a
990 certificate of need to any person under this subsection (6), and
991 if such long-term care hospital at any time after the issuance of
992 the certificate of need, regardless of the ownership of the
993 facility, participates in the Medicaid program or admits or keeps
994 any patients in the facility who are participating in the Medicaid
995 program, the State Department of Health shall revoke the
996 certificate of need, if it is still outstanding, and shall deny or
997 revoke the license of the long-term care hospital, at the time
998 that the department determines, after a hearing complying with due
999 process, that the facility has failed to comply with any of the
1000 conditions upon which the certificate of need was issued, as
1001 provided in this subsection and in the written agreement by the
1002 recipient of the certificate of need. For purposes of this
1003 subsection, the provision of Section 41-7-193(1) requiring
1004 substantial compliance with the projection of need as reported in
1005 the current State Health Plan is hereby waived.

1006 (7) The State Department of Health may issue a certificate
1007 of need to any hospital in the state to utilize a portion of its
1008 beds for the "swing-bed" concept. Any such hospital must be in
1009 conformance with the federal regulations regarding such swing-bed
1010 concept at the time it submits its application for a certificate
1011 of need to the State Department of Health, except that such
1012 hospital may have more licensed beds or a higher average daily
1013 census (ADC) than the maximum number specified in federal
1014 regulations for participation in the swing-bed program. Any
1015 hospital meeting all federal requirements for participation in the

1016 swing-bed program which receives such certificate of need shall
1017 render services provided under the swing-bed concept to any
1018 patient eligible for Medicare (Title XVIII of the Social Security
1019 Act) who is certified by a physician to be in need of such
1020 services, and no such hospital shall permit any patient who is
1021 eligible for both Medicaid and Medicare or eligible only for
1022 Medicaid to stay in the swing beds of the hospital for more than
1023 thirty (30) days per admission unless the hospital receives prior
1024 approval for such patient from the Division of Medicaid, Office of
1025 the Governor. Any hospital having more licensed beds or a higher
1026 average daily census (ADC) than the maximum number specified in
1027 federal regulations for participation in the swing-bed program
1028 which receives such certificate of need shall develop a procedure
1029 to insure that before a patient is allowed to stay in the swing
1030 beds of the hospital, there are no vacant nursing home beds
1031 available for that patient located within a fifty-mile radius of
1032 the hospital. When any such hospital has a patient staying in the
1033 swing beds of the hospital and the hospital receives notice from a
1034 nursing home located within such radius that there is a vacant bed
1035 available for that patient, the hospital shall transfer the
1036 patient to the nursing home within a reasonable time after receipt
1037 of the notice. Any hospital which is subject to the requirements
1038 of the two (2) preceding sentences of this subsection may be
1039 suspended from participation in the swing-bed program for a
1040 reasonable period of time by the State Department of Health if the
1041 department, after a hearing complying with due process, determines
1042 that the hospital has failed to comply with any of those
1043 requirements.

1044 (8) The Department of Health shall not grant approval for or
1045 issue a certificate of need to any person proposing the new
1046 construction of, addition to or expansion of a health care
1047 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1048 except as hereinafter provided: The department may issue a

1049 certificate of need to a nonprofit corporation located in Madison
1050 County, Mississippi, for the construction, expansion or conversion
1051 of not more than twenty (20) beds in a community living program
1052 for developmentally disabled adults in a facility as defined in
1053 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1054 subsection (8), the provisions of Section 41-7-193(1) requiring
1055 substantial compliance with the projection of need as reported in
1056 the current State Health Plan and the provisions of Section
1057 41-7-197 requiring a formal certificate of need hearing process
1058 are waived. There shall be no prohibition or restrictions on
1059 participation in the Medicaid program for the person receiving the
1060 certificate of need authorized under this subsection (8).

1061 (9) The Department of Health shall not grant approval for or
1062 issue a certificate of need to any person proposing the
1063 establishment of, or expansion of the currently approved territory
1064 of, or the contracting to establish a home office, subunit or
1065 branch office within the space operated as a health care facility
1066 as defined in Section 41-7-173(h)(i) through (viii) by a health
1067 care facility as defined in subparagraph (ix) of Section
1068 41-7-173(h).

1069 (10) Health care facilities owned and/or operated by the
1070 state or its agencies are exempt from the restraints in this
1071 section against issuance of a certificate of need if such addition
1072 or expansion consists of repairing or renovation necessary to
1073 comply with the state licensure law. This exception shall not
1074 apply to the new construction of any building by such state
1075 facility. This exception shall not apply to any health care
1076 facilities owned and/or operated by counties, municipalities,
1077 districts, unincorporated areas, other defined persons, or any
1078 combination thereof.

1079 (11) The new construction, renovation or expansion of or
1080 addition to any health care facility defined in subparagraph (ii)
1081 (psychiatric hospital), subparagraph (iv) (skilled nursing

1082 facility), subparagraph (vi) (intermediate care facility),
1083 subparagraph (viii) (intermediate care facility for the mentally
1084 retarded) and subparagraph (x) (psychiatric residential treatment
1085 facility) of Section 41-7-173(h) which is owned by the State of
1086 Mississippi and under the direction and control of the State
1087 Department of Mental Health, and the addition of new beds or the
1088 conversion of beds from one category to another in any such
1089 defined health care facility which is owned by the State of
1090 Mississippi and under the direction and control of the State
1091 Department of Mental Health, shall not require the issuance of a
1092 certificate of need under Section 41-7-171 et seq.,
1093 notwithstanding any provision in Section 41-7-171 et seq. to the
1094 contrary.

1095 (12) The new construction, renovation or expansion of or
1096 addition to any veterans homes or domiciliaries for eligible
1097 veterans of the State of Mississippi as authorized under Section
1098 35-1-19 shall not require the issuance of a certificate of need,
1099 notwithstanding any provision in Section 41-7-171 et seq. to the
1100 contrary.

1101 (13) The new construction of a nursing facility or nursing
1102 facility beds or the conversion of other beds to nursing facility
1103 beds shall not require the issuance of a certificate of need,
1104 notwithstanding any provision in Section 41-7-171 et seq. to the
1105 contrary, if the conditions of this subsection are met.

1106 (a) Before any construction or conversion may be
1107 undertaken without a certificate of need, the owner of the nursing
1108 facility, in the case of an existing facility, or the applicant to
1109 construct a nursing facility, in the case of new construction,
1110 first must file a written notice of intent and sign a written
1111 agreement with the State Department of Health that the entire
1112 nursing facility will not at any time participate in or have any
1113 beds certified for participation in the Medicaid program (Section
1114 43-13-101 et seq.), will not admit or keep any patients in the

1115 nursing facility who are participating in the Medicaid program,
1116 and will not submit any claim for Medicaid reimbursement for any
1117 patient in the facility. This written agreement by the owner or
1118 applicant shall be a condition of exercising the authority under
1119 this subsection without a certificate of need, and the agreement
1120 shall be fully binding on any subsequent owner of the nursing
1121 facility if the ownership of the facility is transferred at any
1122 time after the agreement is signed. After the written agreement
1123 is signed, the Division of Medicaid and the State Department of
1124 Health shall not certify any beds in the nursing facility for
1125 participation in the Medicaid program. If the nursing facility
1126 violates the terms of the written agreement by participating in
1127 the Medicaid program, having any beds certified for participation
1128 in the Medicaid program, admitting or keeping any patient in the
1129 facility who is participating in the Medicaid program, or
1130 submitting any claim for Medicaid reimbursement for any patient in
1131 the facility, the State Department of Health shall revoke the
1132 license of the nursing facility at the time that the department
1133 determines, after a hearing complying with due process, that the
1134 facility has violated the terms of the written agreement.

1135 (b) For the purposes of this subsection, participation
1136 in the Medicaid program by a nursing facility includes Medicaid
1137 reimbursement of coinsurance and deductibles for recipients who
1138 are qualified Medicare beneficiaries and/or those who are dually
1139 eligible. Any nursing facility exercising the authority under
1140 this subsection may not bill or submit a claim to the Division of
1141 Medicaid for services to qualified Medicare beneficiaries and/or
1142 those who are dually eligible.

1143 (c) The new construction of a nursing facility or
1144 nursing facility beds or the conversion of other beds to nursing
1145 facility beds described in this section must be either a part of a
1146 completely new continuing care retirement community, as described
1147 in the latest edition of the Mississippi State Health Plan, or an

1148 addition to existing personal care and independent living
1149 components, and so that the completed project will be a continuing
1150 care retirement community, containing (i) independent living
1151 accommodations, (ii) personal care beds, and (iii) the nursing
1152 home facility beds. The three (3) components must be located on a
1153 single site and be operated as one (1) inseparable facility. The
1154 nursing facility component must contain a minimum of thirty (30)
1155 beds. Any nursing facility beds authorized by this section will
1156 not be counted against the bed need set forth in the State Health
1157 Plan, as identified in Section 41-7-171 et seq.

1158 * * *

1159 (14) The State Department of Health shall issue a
1160 certificate of need to any hospital which is currently licensed
1161 for two hundred fifty (250) or more acute care beds and is located
1162 in any general hospital service area not having a comprehensive
1163 cancer center, for the establishment and equipping of such a
1164 center which provides facilities and services for outpatient
1165 radiation oncology therapy, outpatient medical oncology therapy,
1166 and appropriate support services including the provision of
1167 radiation therapy services. The provision of Section 41-7-193(1)
1168 regarding substantial compliance with the projection of need as
1169 reported in the current State Health Plan is waived for the
1170 purpose of this subsection.

1171 (15) The State Department of Health may authorize the
1172 transfer of hospital beds, not to exceed sixty (60) beds, from the
1173 North Panola Community Hospital to the South Panola Community
1174 Hospital. The authorization for the transfer of those beds shall
1175 be exempt from the certificate of need review process.

1176 (16) The State Department of Health shall issue any
1177 certificates of need necessary for Mississippi State University
1178 and a public or private health care provider to jointly acquire
1179 and operate a linear accelerator and a magnetic resonance imaging
1180 unit. Those certificates of need shall cover all capital

1181 expenditures related to the project between Mississippi State
1182 University and the health care provider, including, but not
1183 limited to, the acquisition of the linear accelerator, the
1184 magnetic resonance imaging unit and other radiological modalities;
1185 the offering of linear accelerator and magnetic resonance imaging
1186 services; and the cost of construction of facilities in which to
1187 locate these services. The linear accelerator and the magnetic
1188 resonance imaging unit shall be (a) located in the City of
1189 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1190 Mississippi State University and the public or private health care
1191 provider selected by Mississippi State University through a
1192 request for proposals (RFP) process in which Mississippi State
1193 University selects, and the Board of Trustees of State
1194 Institutions of Higher Learning approves, the health care provider
1195 that makes the best overall proposal; (c) available to Mississippi
1196 State University for research purposes two-thirds (2/3) of the
1197 time that the linear accelerator and magnetic resonance imaging
1198 unit are operational; and (d) available to the public or private
1199 health care provider selected by Mississippi State University and
1200 approved by the Board of Trustees of State Institutions of Higher
1201 Learning one-third (1/3) of the time for clinical, diagnostic and
1202 treatment purposes. For purposes of this subsection, the
1203 provisions of Section 41-7-193(1) requiring substantial compliance
1204 with the projection of need as reported in the current State
1205 Health Plan are waived.

1206 (17) Nothing in this section or in any other provision of
1207 Section 41-7-171 et seq. shall prevent any nursing facility from
1208 designating an appropriate number of existing beds in the facility
1209 as beds for providing care exclusively to patients with
1210 Alzheimer's disease.

1211 **SECTION 2.** This act shall take effect and be in force from
1212 and after its passage.