

By: Representative Hines

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1191

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE CERTIFICATES
3 OF NEED TO A REGIONAL MEDICAL CENTER IN WASHINGTON COUNTY FOR THE
4 CONSTRUCTION OR CONVERSION OF PSYCHIATRIC RESIDENTIAL TREATMENT
5 FACILITY BEDS AND CHILD/ADOLESCENT PSYCHIATRIC BEDS IN WASHINGTON
6 COUNTY; TO REVOKE CERTAIN PREVIOUSLY ISSUED CERTIFICATES OF NEED
7 THAT AUTHORIZED THOSE BEDS IN WARREN COUNTY; AND FOR RELATED
8 PURPOSES.

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

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

12 41-7-191. (1) No person shall engage in any of the
13 following activities without obtaining the required certificate of
14 need:

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

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

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

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

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

- 53 (i) Open heart surgery services;
- 54 (ii) Cardiac catheterization services;
- 55 (iii) Comprehensive inpatient rehabilitation
56 services;
- 57 (iv) Licensed psychiatric services;
- 58 (v) Licensed chemical dependency services;
- 59 (vi) Radiation therapy services;
- 60 (vii) Diagnostic imaging services of an invasive
61 nature, i.e. invasive digital angiography;
- 62 (viii) Nursing home care as defined in
63 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

64 (ix) Home health services;
65 (x) Swing-bed services;
66 (xi) Ambulatory surgical services;
67 (xii) Magnetic resonance imaging services;
68 (xiii) [Deleted]
69 (xiv) Long-term care hospital services;
70 (xv) Positron Emission Tomography (PET) services;
71 (e) The relocation of one or more health services from
72 one physical facility or site to another physical facility or
73 site, unless such relocation, which does not involve a capital
74 expenditure by or on behalf of a health care facility, (i) is to a
75 physical facility or site within five thousand two hundred eighty
76 (5,280) feet from the main entrance of the health care facility
77 where the health care service is located, or (ii) is the result of
78 an order of a court of appropriate jurisdiction or a result of
79 pending litigation in such court, or by order of the State
80 Department of Health, or by order of any other agency or legal
81 entity of the state, the federal government, or any political
82 subdivision of either, whose order is also approved by the State
83 Department of Health;
84 (f) The acquisition or otherwise control of any major
85 medical equipment for the provision of medical services; provided,
86 however, (i) the acquisition of any major medical equipment used
87 only for research purposes, and (ii) the acquisition of major
88 medical equipment to replace medical equipment for which a
89 facility is already providing medical services and for which the
90 State Department of Health has been notified before the date of
91 such acquisition shall be exempt from this paragraph; an
92 acquisition for less than fair market value must be reviewed, if
93 the acquisition at fair market value would be subject to review;
94 (g) Changes of ownership of existing health care
95 facilities in which a notice of intent is not filed with the State
96 Department of Health at least thirty (30) days prior to the date

97 such change of ownership occurs, or a change in services or bed
98 capacity as prescribed in paragraph (c) or (d) of this subsection
99 as a result of the change of ownership; an acquisition for less
100 than fair market value must be reviewed, if the acquisition at
101 fair market value would be subject to review;

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

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

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

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

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

128 (m) Reopening a health care facility that has ceased to
129 operate for a period of sixty (60) months or more, which reopening

130 requires a certificate of need for the establishment of a new
131 health care facility.

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

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

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

156 (c) The department may issue a certificate of need for
157 the addition to or expansion of any skilled nursing facility that
158 is part of an existing continuing care retirement community
159 located in Madison County, provided that the recipient of the
160 certificate of need agrees in writing that the skilled nursing
161 facility will not at any time participate in the Medicaid program
162 (Section 43-13-101 et seq.) or admit or keep any patients in the

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

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

193 (e) The State Department of Health may issue a
194 certificate of need for the construction of a nursing facility or
195 the conversion of beds to nursing facility beds at a personal care

196 facility for the elderly in Lowndes County that is owned and
197 operated by a Mississippi nonprofit corporation, not to exceed
198 sixty (60) beds. From and after July 1, 1999, there shall be no
199 prohibition or restrictions on participation in the Medicaid
200 program (Section 43-13-101 et seq.) for the beds in the nursing
201 facility that were authorized under this paragraph (e).

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

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

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

226 (i) The department may issue a certificate of need for
227 the new construction of a skilled nursing facility in Leake
228 County, provided that the recipient of the certificate of need

229 agrees in writing that the skilled nursing facility will not at
230 any time participate in the Medicaid program (Section 43-13-101 et
231 seq.) or admit or keep any patients in the skilled nursing
232 facility who are participating in the Medicaid program. This
233 written agreement by the recipient of the certificate of need
234 shall be fully binding on any subsequent owner of the skilled
235 nursing facility, if the ownership of the facility is transferred
236 at any time after the issuance of the certificate of need.

237 Agreement that the skilled nursing facility will not participate
238 in the Medicaid program shall be a condition of the issuance of a
239 certificate of need to any person under this paragraph (i), and if
240 such skilled nursing facility at any time after the issuance of
241 the certificate of need, regardless of the ownership of the
242 facility, participates in the Medicaid program or admits or keeps
243 any patients in the facility who are participating in the Medicaid
244 program, the State Department of Health shall revoke the
245 certificate of need, if it is still outstanding, and shall deny or
246 revoke the license of the skilled nursing facility, at the time
247 that the department determines, after a hearing complying with due
248 process, that the facility has failed to comply with any of the
249 conditions upon which the certificate of need was issued, as
250 provided in this paragraph and in the written agreement by the
251 recipient of the certificate of need. The provision of Section
252 43-7-193(1) regarding substantial compliance of the projection of
253 need as reported in the current State Health Plan is waived for
254 the purposes of this paragraph. The total number of nursing
255 facility beds that may be authorized by any certificate of need
256 issued under this paragraph (i) shall not exceed sixty (60) beds.
257 If the skilled nursing facility authorized by the certificate of
258 need issued under this paragraph is not constructed and fully
259 operational within eighteen (18) months after July 1, 1994, the
260 State Department of Health, after a hearing complying with due
261 process, shall revoke the certificate of need, if it is still

262 outstanding, and shall not issue a license for the skilled nursing
263 facility at any time after the expiration of the eighteen-month
264 period.

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

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

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

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

316 (m) The State Department of Health may issue a
317 certificate of need to a county-owned hospital in the Second
318 Judicial District of Panola County for the conversion of not more
319 than seventy-two (72) hospital beds to nursing facility beds,
320 provided that the recipient of the certificate of need agrees in
321 writing that none of the beds at the nursing facility will be
322 certified for participation in the Medicaid program (Section
323 43-13-101 et seq.), and that no claim will be submitted for
324 Medicaid reimbursement in the nursing facility in any day or for
325 any patient in the nursing facility. This written agreement by
326 the recipient of the certificate of need shall be a condition of
327 the issuance of the certificate of need under this paragraph, and

328 the agreement shall be fully binding on any subsequent owner of
329 the nursing facility if the ownership of the nursing facility is
330 transferred at any time after the issuance of the certificate of
331 need. After this written agreement is executed, the Division of
332 Medicaid and the State Department of Health shall not certify any
333 of the beds in the nursing facility for participation in the
334 Medicaid program. If the nursing facility violates the terms of
335 the written agreement by admitting or keeping in the nursing
336 facility on a regular or continuing basis any patients who are
337 participating in the Medicaid program, the State Department of
338 Health shall revoke the license of the nursing facility, at the
339 time that the department determines, after a hearing complying
340 with due process, that the nursing facility has violated the
341 condition upon which the certificate of need was issued, as
342 provided in this paragraph and in the written agreement. If the
343 certificate of need authorized under this paragraph is not issued
344 within twelve (12) months after July 1, 2001, the department shall
345 deny the application for the certificate of need and shall not
346 issue the certificate of need at any time after the twelve-month
347 period, unless the issuance is contested. If the certificate of
348 need is issued and substantial construction of the nursing
349 facility beds has not commenced within eighteen (18) months after
350 July 1, 2001, the State Department of Health, after a hearing
351 complying with due process, shall revoke the certificate of need
352 if it is still outstanding, and the department shall not issue a
353 license for the nursing facility at any time after the
354 eighteen-month period. Provided, however, that if the issuance of
355 the certificate of need is contested, the department shall require
356 substantial construction of the nursing facility beds within six
357 (6) months after final adjudication on the issuance of the
358 certificate of need.

359 (n) The department may issue a certificate of need for
360 the new construction, addition or conversion of skilled nursing

361 facility beds in Madison County, provided that the recipient of
362 the certificate of need agrees in writing that the skilled nursing
363 facility will not at any time participate in the Medicaid program
364 (Section 43-13-101 et seq.) or admit or keep any patients in the
365 skilled nursing facility who are participating in the Medicaid
366 program. This written agreement by the recipient of the
367 certificate of need shall be fully binding on any subsequent owner
368 of the skilled nursing facility, if the ownership of the facility
369 is transferred at any time after the issuance of the certificate
370 of need. Agreement that the skilled nursing facility will not
371 participate in the Medicaid program shall be a condition of the
372 issuance of a certificate of need to any person under this
373 paragraph (n), and if such skilled nursing facility at any time
374 after the issuance of the certificate of need, regardless of the
375 ownership of the facility, participates in the Medicaid program or
376 admits or keeps any patients in the facility who are participating
377 in the Medicaid program, the State Department of Health shall
378 revoke the certificate of need, if it is still outstanding, and
379 shall deny or revoke the license of the skilled nursing facility,
380 at the time that the department determines, after a hearing
381 complying with due process, that the facility has failed to comply
382 with any of the conditions upon which the certificate of need was
383 issued, as provided in this paragraph and in the written agreement
384 by the recipient of the certificate of need. The total number of
385 nursing facility beds that may be authorized by any certificate of
386 need issued under this paragraph (n) shall not exceed sixty (60)
387 beds. If the certificate of need authorized under this paragraph
388 is not issued within twelve (12) months after July 1, 1998, the
389 department shall deny the application for the certificate of need
390 and shall not issue the certificate of need at any time after the
391 twelve-month period, unless the issuance is contested. If the
392 certificate of need is issued and substantial construction of the
393 nursing facility beds has not commenced within eighteen (18)

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

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

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

447 (p) The department may issue a certificate of need for
448 the construction of a municipally owned nursing facility within
449 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
450 beds, provided that the recipient of the certificate of need
451 agrees in writing that the skilled nursing facility will not at
452 any time participate in the Medicaid program (Section 43-13-101 et
453 seq.) or admit or keep any patients in the skilled nursing
454 facility who are participating in the Medicaid program. This
455 written agreement by the recipient of the certificate of need
456 shall be fully binding on any subsequent owner of the skilled
457 nursing facility, if the ownership of the facility is transferred
458 at any time after the issuance of the certificate of need.
459 Agreement that the skilled nursing facility will not participate

460 in the Medicaid program shall be a condition of the issuance of a
461 certificate of need to any person under this paragraph (p), and if
462 such skilled nursing facility at any time after the issuance of
463 the certificate of need, regardless of the ownership of the
464 facility, participates in the Medicaid program or admits or keeps
465 any patients in the facility who are participating in the Medicaid
466 program, the State Department of Health shall revoke the
467 certificate of need, if it is still outstanding, and shall deny or
468 revoke the license of the skilled nursing facility, at the time
469 that the department determines, after a hearing complying with due
470 process, that the facility has failed to comply with any of the
471 conditions upon which the certificate of need was issued, as
472 provided in this paragraph and in the written agreement by the
473 recipient of the certificate of need. The provision of Section
474 43-7-193(1) regarding substantial compliance of the projection of
475 need as reported in the current State Health Plan is waived for
476 the purposes of this paragraph. If the certificate of need
477 authorized under this paragraph is not issued within twelve (12)
478 months after July 1, 1998, the department shall deny the
479 application for the certificate of need and shall not issue the
480 certificate of need at any time after the twelve-month period,
481 unless the issuance is contested. If the certificate of need is
482 issued and substantial construction of the nursing facility beds
483 has not commenced within eighteen (18) months after July 1, 1998,
484 the State Department of Health, after a hearing complying with due
485 process, shall revoke the certificate of need if it is still
486 outstanding, and the department shall not issue a license for the
487 nursing facility at any time after the eighteen-month period.
488 Provided, however, that if the issuance of the certificate of need
489 is contested, the department shall require substantial
490 construction of the nursing facility beds within six (6) months
491 after final adjudication on the issuance of the certificate of
492 need.

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

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

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

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

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

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

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

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

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

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

615 (iii) The State Department of Health, in
616 consultation with the Department of Mental Health and the Division
617 of Medicaid, shall develop and prescribe the staffing levels,
618 space requirements and other standards and requirements that must
619 be met with regard to the nursing facility beds authorized under
620 this paragraph (r) to provide care exclusively to patients with
621 Alzheimer's disease.

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

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

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

657 (49) patients in the Harrison County facility in any month, or for
658 any patient in either facility who is in a bed that is not
659 Medicaid-certified. This written agreement by the owner of the
660 nursing facilities shall be a condition of the issuance of the
661 certificates of need under this paragraph (t), and the agreement
662 shall be fully binding on any later owner or owners of either
663 facility if the ownership of either facility is transferred at any
664 time after the certificates of need are issued. After this
665 written agreement is executed, the Division of Medicaid and the
666 State Department of Health shall not certify more than fifty (50)
667 of the beds at the Hancock County facility or more than forty-nine
668 (49) of the beds at the Harrison County facility for participation
669 in the Medicaid program. If the Hancock County facility violates
670 the terms of the written agreement by admitting or keeping in the
671 facility on a regular or continuing basis more than fifty (50)
672 patients who are participating in the Medicaid program, or if the
673 Harrison County facility violates the terms of the written
674 agreement by admitting or keeping in the facility on a regular or
675 continuing basis more than forty-nine (49) patients who are
676 participating in the Medicaid program, the State Department of
677 Health shall revoke the license of the facility that is in
678 violation of the agreement, at the time that the department
679 determines, after a hearing complying with due process, that the
680 facility has violated the agreement.

681 (3) The State Department of Health may grant approval for
682 and issue certificates of need to any person proposing the new
683 construction of, addition to, conversion of beds of or expansion
684 of any health care facility defined in subparagraph (x)
685 (psychiatric residential treatment facility) of Section
686 41-7-173(h). The total number of beds which may be authorized by
687 such certificates of need shall not exceed three hundred
688 thirty-four (334) beds for the entire state.

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

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

722 than thirty (30) of the beds in the psychiatric residential
723 treatment facility for participation in the Medicaid program for
724 the use of any patients other than those who are participating
725 only in the Medicaid program of another state. If the psychiatric
726 residential treatment facility violates the terms of the written
727 agreement by admitting or keeping in the facility on a regular or
728 continuing basis more than thirty (30) patients who are
729 participating in the Mississippi Medicaid program, the State
730 Department of Health shall revoke the license of the facility, at
731 the time that the department determines, after a hearing complying
732 with due process, that the facility has violated the condition
733 upon which the certificate of need was issued, as provided in this
734 paragraph and in the written agreement.

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

738 (c) Of the total number of beds authorized under this
739 subsection, the department shall issue a certificate of need to a
740 hospital currently operating Medicaid-certified acute psychiatric
741 beds for adolescents in DeSoto County, for the establishment of a
742 forty-bed psychiatric residential treatment facility in DeSoto
743 County, provided that the hospital agrees in writing (i) that the
744 hospital shall give priority for the use of those forty (40) beds
745 to Mississippi residents who are presently being treated in
746 out-of-state facilities, and (ii) that no more than fifteen (15)
747 of the beds at the psychiatric residential treatment facility will
748 be certified for participation in the Medicaid program (Section
749 43-13-101 et seq.), and that no claim will be submitted for
750 Medicaid reimbursement for more than fifteen (15) patients in the
751 psychiatric residential treatment facility in any day or for any
752 patient in the psychiatric residential treatment facility who is
753 in a bed that is not Medicaid-certified. This written agreement
754 by the recipient of the certificate of need shall be a condition

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

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

781 (e) Of the total number of beds authorized under this
782 subsection (3) the department shall issue a certificate of need to
783 a privately-owned, nonprofit psychiatric residential treatment
784 facility in Hinds County for an eight-bed expansion of the
785 facility, provided that the facility agrees in writing that the
786 facility shall give priority for the use of those eight (8) beds

787 to Mississippi residents who are presently being treated in
788 out-of-state facilities.

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

816 (g) Of the total number of beds authorized under this
817 subsection, from and after July 1, 2007, the department may issue
818 a certificate or certificates of need to a regional medical center
819 in Washington County for the construction or expansion of

820 psychiatric residential treatment facility beds or the conversion
821 of other beds to psychiatric residential treatment facility beds
822 in Washington County, not to exceed sixty (60) psychiatric
823 residential treatment facility beds. For purposes of this
824 paragraph, the provisions of Section 41-7-193(1) requiring
825 substantial compliance with the projection of need as reported in
826 the current State Health Plan are waived. There shall be no
827 prohibition or restrictions on participation in the Medicaid
828 program (Section 43-13-101 et seq.) for the person receiving the
829 certificate of need authorized under this paragraph or for the
830 beds converted under the authority of that certificate of need.

831 (4) (a) From and after July 1, 1993, the department shall
832 not issue a certificate of need to any person for the new
833 construction of any hospital, psychiatric hospital or chemical
834 dependency hospital that will contain any child/adolescent
835 psychiatric or child/adolescent chemical dependency beds, or for
836 the conversion of any other health care facility to a hospital,
837 psychiatric hospital or chemical dependency hospital that will
838 contain any child/adolescent psychiatric or child/adolescent
839 chemical dependency beds, or for the addition of any
840 child/adolescent psychiatric or child/adolescent chemical
841 dependency beds in any hospital, psychiatric hospital or chemical
842 dependency hospital, or for the conversion of any beds of another
843 category in any hospital, psychiatric hospital or chemical
844 dependency hospital to child/adolescent psychiatric or
845 child/adolescent chemical dependency beds, except as hereinafter
846 authorized:

847 (i) The department may issue certificates of need
848 to any person for any purpose described in this subsection,
849 provided that the hospital, psychiatric hospital or chemical
850 dependency hospital does not participate in the Medicaid program
851 (Section 43-13-101 et seq.) at the time of the application for the
852 certificate of need and the owner of the hospital, psychiatric

853 hospital or chemical dependency hospital agrees in writing that
854 the hospital, psychiatric hospital or chemical dependency hospital
855 will not at any time participate in the Medicaid program or admit
856 or keep any patients who are participating in the Medicaid program
857 in the hospital, psychiatric hospital or chemical dependency
858 hospital. This written agreement by the recipient of the
859 certificate of need shall be fully binding on any subsequent owner
860 of the hospital, psychiatric hospital or chemical dependency
861 hospital, if the ownership of the facility is transferred at any
862 time after the issuance of the certificate of need. Agreement
863 that the hospital, psychiatric hospital or chemical dependency
864 hospital will not participate in the Medicaid program shall be a
865 condition of the issuance of a certificate of need to any person
866 under this subparagraph * * * (i), and if such hospital,
867 psychiatric hospital or chemical dependency hospital at any time
868 after the issuance of the certificate of need, regardless of the
869 ownership of the facility, participates in the Medicaid program or
870 admits or keeps any patients in the hospital, psychiatric hospital
871 or chemical dependency hospital who are participating in the
872 Medicaid program, the State Department of Health shall revoke the
873 certificate of need, if it is still outstanding, and shall deny or
874 revoke the license of the hospital, psychiatric hospital or
875 chemical dependency hospital, at the time that the department
876 determines, after a hearing complying with due process, that the
877 hospital, psychiatric hospital or chemical dependency hospital has
878 failed to comply with any of the conditions upon which the
879 certificate of need was issued, as provided in this subparagraph
880 (i) and in the written agreement by the recipient of the
881 certificate of need.

882 (ii) The department may issue a certificate of
883 need for the conversion of existing beds in a county hospital in
884 Choctaw County from acute care beds to child/adolescent chemical
885 dependency beds. For purposes of this subparagraph (ii), the

886 provisions of Section 41-7-193(1) requiring substantial compliance
887 with the projection of need as reported in the current State
888 Health Plan is waived. The total number of beds that may be
889 authorized under authority of this subparagraph shall not exceed
890 twenty (20) beds. There shall be no prohibition or restrictions
891 on participation in the Medicaid program (Section 43-13-101 et
892 seq.) for the hospital receiving the certificate of need
893 authorized under this subparagraph * * * or for the beds converted
894 pursuant to the authority of that certificate of need.

895 (iii) The department may issue a certificate or
896 certificates of need for the construction or expansion of
897 child/adolescent psychiatric beds or the conversion of other beds
898 to child/adolescent psychiatric beds in Warren County. For
899 purposes of this subparagraph (iii), the provisions of Section
900 41-7-193(1) requiring substantial compliance with the projection
901 of need as reported in the current State Health Plan are waived.
902 The total number of beds that may be authorized under the
903 authority of this subparagraph shall not exceed twenty (20) beds.
904 There shall be no prohibition or restrictions on participation in
905 the Medicaid program (Section 43-13-101 et seq.) for the person
906 receiving the certificate of need authorized under this
907 subparagraph * * * or for the beds converted pursuant to the
908 authority of that certificate of need.

909 * * *

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

913 (iv) The department shall issue a certificate of
914 need to the Region 7 Mental Health/Retardation Commission for the
915 construction or expansion of child/adolescent psychiatric beds or
916 the conversion of other beds to child/adolescent psychiatric beds
917 in any of the counties served by the commission. For purposes of
918 this subparagraph (iv), the provisions of Section 41-7-193(1)

919 requiring substantial compliance with the projection of need as
920 reported in the current State Health Plan is waived. The total
921 number of beds that may be authorized under the authority of this
922 subparagraph shall not exceed twenty (20) beds. There shall be no
923 prohibition or restrictions on participation in the Medicaid
924 program (Section 43-13-101 et seq.) for the person receiving the
925 certificate of need authorized under this subparagraph * * * or
926 for the beds converted pursuant to the authority of that
927 certificate of need.

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

952 hearing complying with due process, that the hospital has failed
953 to comply with any of the conditions upon which the certificate of
954 need was issued, as provided in this subparagraph and in the
955 written agreement by the recipient of the certificate of need.

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

970 (vii) From and after July 1, 2007, the department
971 may issue a certificate or certificates of need to a regional
972 medical center in Washington County for the construction or
973 expansion of child/adolescent psychiatric beds or the conversion
974 of other beds to child/adolescent psychiatric beds in Washington
975 County, not to exceed twenty (20) beds. For purposes of this
976 subparagraph (vii), the provisions of Section 41-7-193(1)
977 requiring substantial compliance with the projection of need as
978 reported in the current State Health Plan are waived. There shall
979 be no prohibition or restrictions on participation in the Medicaid
980 program (Section 43-13-101 et seq.) for the person receiving the
981 certificate of need authorized under this subparagraph or for the
982 beds converted under the authority of that certificate of need.

983 (b) From and after July 1, 1990, no hospital,
984 psychiatric hospital or chemical dependency hospital shall be

985 authorized to add any child/adolescent psychiatric or
986 child/adolescent chemical dependency beds or convert any beds of
987 another category to child/adolescent psychiatric or
988 child/adolescent chemical dependency beds without a certificate of
989 need under the authority of subsection (1)(c) of this section.

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

993 (6) The State Department of Health shall issue a certificate
994 of need to a Mississippi corporation qualified to manage a
995 long-term care hospital as defined in Section 41-7-173(h)(xii) in
996 Harrison County, not to exceed eighty (80) beds, including any
997 necessary renovation or construction required for licensure and
998 certification, provided that the recipient of the certificate of
999 need agrees in writing that the long-term care hospital will not
1000 at any time participate in the Medicaid program (Section 43-13-101
1001 et seq.) or admit or keep any patients in the long-term care
1002 hospital who are participating in the Medicaid program. This
1003 written agreement by the recipient of the certificate of need
1004 shall be fully binding on any subsequent owner of the long-term
1005 care hospital, if the ownership of the facility is transferred at
1006 any time after the issuance of the certificate of need. Agreement
1007 that the long-term care hospital will not participate in the
1008 Medicaid program shall be a condition of the issuance of a
1009 certificate of need to any person under this subsection (6), and
1010 if such long-term care hospital at any time after the issuance of
1011 the certificate of need, regardless of the ownership of the
1012 facility, participates in the Medicaid program or admits or keeps
1013 any patients in the facility who are participating in the Medicaid
1014 program, the State Department of Health shall revoke the
1015 certificate of need, if it is still outstanding, and shall deny or
1016 revoke the license of the long-term care hospital, at the time
1017 that the department determines, after a hearing complying with due

1018 process, that the facility has failed to comply with any of the
1019 conditions upon which the certificate of need was issued, as
1020 provided in this subsection and in the written agreement by the
1021 recipient of the certificate of need. For purposes of this
1022 subsection, the provision of Section 41-7-193(1) requiring
1023 substantial compliance with the projection of need as reported in
1024 the current State Health Plan is hereby waived.

1025 (7) The State Department of Health may issue a certificate
1026 of need to any hospital in the state to utilize a portion of its
1027 beds for the "swing-bed" concept. Any such hospital must be in
1028 conformance with the federal regulations regarding such swing-bed
1029 concept at the time it submits its application for a certificate
1030 of need to the State Department of Health, except that such
1031 hospital may have more licensed beds or a higher average daily
1032 census (ADC) than the maximum number specified in federal
1033 regulations for participation in the swing-bed program. Any
1034 hospital meeting all federal requirements for participation in the
1035 swing-bed program which receives such certificate of need shall
1036 render services provided under the swing-bed concept to any
1037 patient eligible for Medicare (Title XVIII of the Social Security
1038 Act) who is certified by a physician to be in need of such
1039 services, and no such hospital shall permit any patient who is
1040 eligible for both Medicaid and Medicare or eligible only for
1041 Medicaid to stay in the swing beds of the hospital for more than
1042 thirty (30) days per admission unless the hospital receives prior
1043 approval for such patient from the Division of Medicaid, Office of
1044 the Governor. Any hospital having more licensed beds or a higher
1045 average daily census (ADC) than the maximum number specified in
1046 federal regulations for participation in the swing-bed program
1047 which receives such certificate of need shall develop a procedure
1048 to insure that before a patient is allowed to stay in the swing
1049 beds of the hospital, there are no vacant nursing home beds
1050 available for that patient located within a fifty-mile radius of

1051 the hospital. When any such hospital has a patient staying in the
1052 swing beds of the hospital and the hospital receives notice from a
1053 nursing home located within such radius that there is a vacant bed
1054 available for that patient, the hospital shall transfer the
1055 patient to the nursing home within a reasonable time after receipt
1056 of the notice. Any hospital which is subject to the requirements
1057 of the two (2) preceding sentences of this subsection may be
1058 suspended from participation in the swing-bed program for a
1059 reasonable period of time by the State Department of Health if the
1060 department, after a hearing complying with due process, determines
1061 that the hospital has failed to comply with any of those
1062 requirements.

1063 (8) The Department of Health shall not grant approval for or
1064 issue a certificate of need to any person proposing the new
1065 construction of, addition to or expansion of a health care
1066 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1067 except as hereinafter provided: The department may issue a
1068 certificate of need to a nonprofit corporation located in Madison
1069 County, Mississippi, for the construction, expansion or conversion
1070 of not more than twenty (20) beds in a community living program
1071 for developmentally disabled adults in a facility as defined in
1072 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1073 subsection (8), the provisions of Section 41-7-193(1) requiring
1074 substantial compliance with the projection of need as reported in
1075 the current State Health Plan and the provisions of Section
1076 41-7-197 requiring a formal certificate of need hearing process
1077 are waived. There shall be no prohibition or restrictions on
1078 participation in the Medicaid program for the person receiving the
1079 certificate of need authorized under this subsection (8).

1080 (9) The Department of Health shall not grant approval for or
1081 issue a certificate of need to any person proposing the
1082 establishment of, or expansion of the currently approved territory
1083 of, or the contracting to establish a home office, subunit or

1084 branch office within the space operated as a health care facility
1085 as defined in Section 41-7-173(h)(i) through (viii) by a health
1086 care facility as defined in subparagraph (ix) of Section
1087 41-7-173(h).

1088 (10) Health care facilities owned and/or operated by the
1089 state or its agencies are exempt from the restraints in this
1090 section against issuance of a certificate of need if such addition
1091 or expansion consists of repairing or renovation necessary to
1092 comply with the state licensure law. This exception shall not
1093 apply to the new construction of any building by such state
1094 facility. This exception shall not apply to any health care
1095 facilities owned and/or operated by counties, municipalities,
1096 districts, unincorporated areas, other defined persons, or any
1097 combination thereof.

1098 (11) The new construction, renovation or expansion of or
1099 addition to any health care facility defined in subparagraph (ii)
1100 (psychiatric hospital), subparagraph (iv) (skilled nursing
1101 facility), subparagraph (vi) (intermediate care facility),
1102 subparagraph (viii) (intermediate care facility for the mentally
1103 retarded) and subparagraph (x) (psychiatric residential treatment
1104 facility) of Section 41-7-173(h) which is owned by the State of
1105 Mississippi and under the direction and control of the State
1106 Department of Mental Health, and the addition of new beds or the
1107 conversion of beds from one category to another in any such
1108 defined health care facility which is owned by the State of
1109 Mississippi and under the direction and control of the State
1110 Department of Mental Health, shall not require the issuance of a
1111 certificate of need under Section 41-7-171 et seq.,
1112 notwithstanding any provision in Section 41-7-171 et seq. to the
1113 contrary.

1114 (12) The new construction, renovation or expansion of or
1115 addition to any veterans homes or domiciliaries for eligible
1116 veterans of the State of Mississippi as authorized under Section

1117 35-1-19 shall not require the issuance of a certificate of need,
1118 notwithstanding any provision in Section 41-7-171 et seq. to the
1119 contrary.

1120 (13) The new construction of a nursing facility or nursing
1121 facility beds or the conversion of other beds to nursing facility
1122 beds shall not require the issuance of a certificate of need,
1123 notwithstanding any provision in Section 41-7-171 et seq. to the
1124 contrary, if the conditions of this subsection are met.

1125 (a) Before any construction or conversion may be
1126 undertaken without a certificate of need, the owner of the nursing
1127 facility, in the case of an existing facility, or the applicant to
1128 construct a nursing facility, in the case of new construction,
1129 first must file a written notice of intent and sign a written
1130 agreement with the State Department of Health that the entire
1131 nursing facility will not at any time participate in or have any
1132 beds certified for participation in the Medicaid program (Section
1133 43-13-101 et seq.), will not admit or keep any patients in the
1134 nursing facility who are participating in the Medicaid program,
1135 and will not submit any claim for Medicaid reimbursement for any
1136 patient in the facility. This written agreement by the owner or
1137 applicant shall be a condition of exercising the authority under
1138 this subsection without a certificate of need, and the agreement
1139 shall be fully binding on any subsequent owner of the nursing
1140 facility if the ownership of the facility is transferred at any
1141 time after the agreement is signed. After the written agreement
1142 is signed, the Division of Medicaid and the State Department of
1143 Health shall not certify any beds in the nursing facility for
1144 participation in the Medicaid program. If the nursing facility
1145 violates the terms of the written agreement by participating in
1146 the Medicaid program, having any beds certified for participation
1147 in the Medicaid program, admitting or keeping any patient in the
1148 facility who is participating in the Medicaid program, or
1149 submitting any claim for Medicaid reimbursement for any patient in

1150 the facility, the State Department of Health shall revoke the
1151 license of the nursing facility at the time that the department
1152 determines, after a hearing complying with due process, that the
1153 facility has violated the terms of the written agreement.

1154 (b) For the purposes of this subsection, participation
1155 in the Medicaid program by a nursing facility includes Medicaid
1156 reimbursement of coinsurance and deductibles for recipients who
1157 are qualified Medicare beneficiaries and/or those who are dually
1158 eligible. Any nursing facility exercising the authority under
1159 this subsection may not bill or submit a claim to the Division of
1160 Medicaid for services to qualified Medicare beneficiaries and/or
1161 those who are dually eligible.

1162 (c) The new construction of a nursing facility or
1163 nursing facility beds or the conversion of other beds to nursing
1164 facility beds described in this section must be either a part of a
1165 completely new continuing care retirement community, as described
1166 in the latest edition of the Mississippi State Health Plan, or an
1167 addition to existing personal care and independent living
1168 components, and so that the completed project will be a continuing
1169 care retirement community, containing (i) independent living
1170 accommodations, (ii) personal care beds, and (iii) the nursing
1171 home facility beds. The three (3) components must be located on a
1172 single site and be operated as one (1) inseparable facility. The
1173 nursing facility component must contain a minimum of thirty (30)
1174 beds. Any nursing facility beds authorized by this section will
1175 not be counted against the bed need set forth in the State Health
1176 Plan, as identified in Section 41-7-171 et seq.

1177 This subsection (13) shall stand repealed from and after July
1178 1, 2005.

1179 (14) The State Department of Health shall issue a
1180 certificate of need to any hospital which is currently licensed
1181 for two hundred fifty (250) or more acute care beds and is located
1182 in any general hospital service area not having a comprehensive

1183 cancer center, for the establishment and equipping of such a
1184 center which provides facilities and services for outpatient
1185 radiation oncology therapy, outpatient medical oncology therapy,
1186 and appropriate support services including the provision of
1187 radiation therapy services. The provision of Section 41-7-193(1)
1188 regarding substantial compliance with the projection of need as
1189 reported in the current State Health Plan is waived for the
1190 purpose of this subsection.

1191 (15) The State Department of Health may authorize the
1192 transfer of hospital beds, not to exceed sixty (60) beds, from the
1193 North Panola Community Hospital to the South Panola Community
1194 Hospital. The authorization for the transfer of those beds shall
1195 be exempt from the certificate of need review process.

1196 (16) The State Department of Health shall issue any
1197 certificates of need necessary for Mississippi State University
1198 and a public or private health care provider to jointly acquire
1199 and operate a linear accelerator and a magnetic resonance imaging
1200 unit. Those certificates of need shall cover all capital
1201 expenditures related to the project between Mississippi State
1202 University and the health care provider, including, but not
1203 limited to, the acquisition of the linear accelerator, the
1204 magnetic resonance imaging unit and other radiological modalities;
1205 the offering of linear accelerator and magnetic resonance imaging
1206 services; and the cost of construction of facilities in which to
1207 locate these services. The linear accelerator and the magnetic
1208 resonance imaging unit shall be (a) located in the City of
1209 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1210 Mississippi State University and the public or private health care
1211 provider selected by Mississippi State University through a
1212 request for proposals (RFP) process in which Mississippi State
1213 University selects, and the Board of Trustees of State
1214 Institutions of Higher Learning approves, the health care provider
1215 that makes the best overall proposal; (c) available to Mississippi

1216 State University for research purposes two-thirds (2/3) of the
1217 time that the linear accelerator and magnetic resonance imaging
1218 unit are operational; and (d) available to the public or private
1219 health care provider selected by Mississippi State University and
1220 approved by the Board of Trustees of State Institutions of Higher
1221 Learning one-third (1/3) of the time for clinical, diagnostic and
1222 treatment purposes. For purposes of this subsection, the
1223 provisions of Section 41-7-193(1) requiring substantial compliance
1224 with the projection of need as reported in the current State
1225 Health Plan are waived.

1226 (17) Nothing in this section or in any other provision of
1227 Section 41-7-171 et seq. shall prevent any nursing facility from
1228 designating an appropriate number of existing beds in the facility
1229 as beds for providing care exclusively to patients with
1230 Alzheimer's disease.

1231 **SECTION 2.** This act shall take effect and be in force from
1232 and after July 1, 2007.