

By: Senator(s) Brown

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2362

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE NUMBER OF MEDICAID REIMBURSABLE NURSING FACILITY  
3 BEDS AUTHORIZED UNDER A CERTIFICATE OF NEED GRANTED TO A  
4 CONTINUING CARE RETIREMENT COMMUNITY IN COLUMBUS (LOWNDES COUNTY),  
5 MISSISSIPPI; AND FOR RELATED PURPOSES.

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

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

9 41-7-191. (1) No person shall engage in any of the  
10 following activities without obtaining the required certificate of  
11 need:

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

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

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

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

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

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

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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

68 (e) The relocation of one or more health services from

69 one physical facility or site to another physical facility or

70 site, unless such relocation, which does not involve a capital

71 expenditure by or on behalf of a health care facility, (i) is to a

72 physical facility or site within five thousand two hundred eighty

73 (5,280) feet from the main entrance of the health care facility

74 where the health care service is located, or (ii) is the result of

75 an order of a court of appropriate jurisdiction or a result of

76 pending litigation in such court, or by order of the State

77 Department of Health, or by order of any other agency or legal

78 entity of the state, the federal government, or any political

79 subdivision of either, whose order is also approved by the State

80 Department of Health;

81 (f) The acquisition or otherwise control of any major

82 medical equipment for the provision of medical services; provided,

83 however, (i) the acquisition of any major medical equipment used

84 only for research purposes, and (ii) the acquisition of major

85 medical equipment to replace medical equipment for which a

86 facility is already providing medical services and for which the

87 State Department of Health has been notified before the date of

88 such acquisition shall be exempt from this paragraph; an

89 acquisition for less than fair market value must be reviewed, if

90 the acquisition at fair market value would be subject to review;

91 (g) Changes of ownership of existing health care

92 facilities in which a notice of intent is not filed with the State

93 Department of Health at least thirty (30) days prior to the date

94 such change of ownership occurs, or a change in services or bed

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

99 (h) The change of ownership of any health care facility  
100 defined in subparagraphs (iv), (vi) and (viii) of Section  
101 41-7-173(h), in which a notice of intent as described in paragraph  
102 (g) has not been filed and if the Executive Director, Division of  
103 Medicaid, Office of the Governor, has not certified in writing  
104 that there will be no increase in allowable costs to Medicaid from  
105 revaluation of the assets or from increased interest and  
106 depreciation as a result of the proposed change of ownership;

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

111 (j) Any capital expenditure or deferred capital  
112 expenditure by or on behalf of a health care facility not covered  
113 by paragraphs (a) through (h);

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

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

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

127 requires a certificate of need for the establishment of a new  
128 health care facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

262 (j) The department may issue certificates of need to  
263 allow any existing freestanding long-term care facility in  
264 Tishomingo County and Hancock County that on July 1, 1995, is  
265 licensed with fewer than sixty (60) beds. For the purposes of  
266 this paragraph (j), the provision of Section 41-7-193(1) requiring  
267 substantial compliance with the projection of need as reported in  
268 the current State Health Plan is waived. From and after July 1,  
269 2007, there shall be no prohibition or restrictions on  
270 participation in the Medicaid program (Section 43-13-101 et seq.)  
271 for the beds in the long-term care facilities that were authorized  
272 under this paragraph (j).

273 (k) The department may issue a certificate of need for  
274 the construction of a nursing facility at a continuing care  
275 retirement community in Lowndes County. The total number of beds  
276 that may be authorized under the authority of this paragraph (k)  
277 shall not exceed sixty (60) beds. From and after July 1, 2001,  
278 the prohibition on the facility participating in the Medicaid  
279 program (Section 43-13-101 et seq.) that was a condition of  
280 issuance of the certificate of need under this paragraph (k) shall  
281 no longer be in effect, and the nursing facility may participate  
282 in the Medicaid program for all sixty (60) beds. \* \* \*

283 (l) Provided that funds are specifically appropriated  
284 therefor by the Legislature, the department may issue a  
285 certificate of need to a rehabilitation hospital in Hinds County  
286 for the construction of a sixty-bed long-term care nursing  
287 facility dedicated to the care and treatment of persons with  
288 severe disabilities including persons with spinal cord and  
289 closed-head injuries and ventilator-dependent patients. The  
290 provision of Section 41-7-193(1) regarding substantial compliance

291 with projection of need as reported in the current State Health  
292 Plan is hereby waived for the purpose of this paragraph.

293 (m) The State Department of Health may issue a  
294 certificate of need to a county-owned hospital in the Second  
295 Judicial District of Panola County for the conversion of not more  
296 than seventy-two (72) hospital beds to nursing facility beds,  
297 provided that the recipient of the certificate of need agrees in  
298 writing that none of the beds at the nursing facility will be  
299 certified for participation in the Medicaid program (Section  
300 43-13-101 et seq.), and that no claim will be submitted for  
301 Medicaid reimbursement in the nursing facility in any day or for  
302 any patient in the nursing facility. This written agreement by  
303 the recipient of the certificate of need shall be a condition of  
304 the issuance of the certificate of need under this paragraph, and  
305 the agreement shall be fully binding on any subsequent owner of  
306 the nursing facility if the ownership of the nursing facility is  
307 transferred at any time after the issuance of the certificate of  
308 need. After this written agreement is executed, the Division of  
309 Medicaid and the State Department of Health shall not certify any  
310 of the beds in the nursing facility for participation in the  
311 Medicaid program. If the nursing facility violates the terms of  
312 the written agreement by admitting or keeping in the nursing  
313 facility on a regular or continuing basis any patients who are  
314 participating in the Medicaid program, the State Department of  
315 Health shall revoke the license of the nursing facility, at the  
316 time that the department determines, after a hearing complying  
317 with due process, that the nursing facility has violated the  
318 condition upon which the certificate of need was issued, as  
319 provided in this paragraph and in the written agreement. If the  
320 certificate of need authorized under this paragraph is not issued  
321 within twelve (12) months after July 1, 2001, the department shall  
322 deny the application for the certificate of need and shall not  
323 issue the certificate of need at any time after the twelve-month

324 period, unless the issuance is contested. If the certificate of  
325 need is issued and substantial construction of the nursing  
326 facility beds has not commenced within eighteen (18) months after  
327 July 1, 2001, the State Department of Health, after a hearing  
328 complying with due process, shall revoke the certificate of need  
329 if it is still outstanding, and the department shall not issue a  
330 license for the nursing facility at any time after the  
331 eighteen-month period. Provided, however, that if the issuance of  
332 the certificate of need is contested, the department shall require  
333 substantial construction of the nursing facility beds within six  
334 (6) months after final adjudication on the issuance of the  
335 certificate of need.

336 (n) The department may issue a certificate of need for  
337 the new construction, addition or conversion of skilled nursing  
338 facility beds in Madison County, provided that the recipient of  
339 the certificate of need agrees in writing that the skilled nursing  
340 facility will not at any time participate in the Medicaid program  
341 (Section 43-13-101 et seq.) or admit or keep any patients in the  
342 skilled nursing facility who are participating in the Medicaid  
343 program. This written agreement by the recipient of the  
344 certificate of need shall be fully binding on any subsequent owner  
345 of the skilled nursing facility, if the ownership of the facility  
346 is transferred at any time after the issuance of the certificate  
347 of need. Agreement that the skilled nursing facility will not  
348 participate in the Medicaid program shall be a condition of the  
349 issuance of a certificate of need to any person under this  
350 paragraph (n), and if such skilled nursing facility at any time  
351 after the issuance of the certificate of need, regardless of the  
352 ownership of the facility, participates in the Medicaid program or  
353 admits or keeps any patients in the facility who are participating  
354 in the Medicaid program, the State Department of Health shall  
355 revoke the certificate of need, if it is still outstanding, and  
356 shall deny or revoke the license of the skilled nursing facility,

357 at the time that the department determines, after a hearing  
358 complying with due process, that the facility has failed to comply  
359 with any of the conditions upon which the certificate of need was  
360 issued, as provided in this paragraph and in the written agreement  
361 by the recipient of the certificate of need. The total number of  
362 nursing facility beds that may be authorized by any certificate of  
363 need issued under this paragraph (n) shall not exceed sixty (60)  
364 beds. If the certificate of need authorized under this paragraph  
365 is not issued within twelve (12) months after July 1, 1998, the  
366 department shall deny the application for the certificate of need  
367 and shall not issue the certificate of need at any time after the  
368 twelve-month period, unless the issuance is contested. If the  
369 certificate of need is issued and substantial construction of the  
370 nursing facility beds has not commenced within eighteen (18)  
371 months after the effective date of July 1, 1998, the State  
372 Department of Health, after a hearing complying with due process,  
373 shall revoke the certificate of need if it is still outstanding,  
374 and the department shall not issue a license for the nursing  
375 facility at any time after the eighteen-month period. Provided,  
376 however, that if the issuance of the certificate of need is  
377 contested, the department shall require substantial construction  
378 of the nursing facility beds within six (6) months after final  
379 adjudication on the issuance of the certificate of need.

380 (o) The department may issue a certificate of need for  
381 the new construction, addition or conversion of skilled nursing  
382 facility beds in Leake County, provided that the recipient of the  
383 certificate of need agrees in writing that the skilled nursing  
384 facility will not at any time participate in the Medicaid program  
385 (Section 43-13-101 et seq.) or admit or keep any patients in the  
386 skilled nursing facility who are participating in the Medicaid  
387 program. This written agreement by the recipient of the  
388 certificate of need shall be fully binding on any subsequent owner  
389 of the skilled nursing facility, if the ownership of the facility

390 is transferred at any time after the issuance of the certificate  
391 of need. Agreement that the skilled nursing facility will not  
392 participate in the Medicaid program shall be a condition of the  
393 issuance of a certificate of need to any person under this  
394 paragraph (o), and if such skilled nursing facility at any time  
395 after the issuance of the certificate of need, regardless of the  
396 ownership of the facility, participates in the Medicaid program or  
397 admits or keeps any patients in the facility who are participating  
398 in the Medicaid program, the State Department of Health shall  
399 revoke the certificate of need, if it is still outstanding, and  
400 shall deny or revoke the license of the skilled nursing facility,  
401 at the time that the department determines, after a hearing  
402 complying with due process, that the facility has failed to comply  
403 with any of the conditions upon which the certificate of need was  
404 issued, as provided in this paragraph and in the written agreement  
405 by the recipient of the certificate of need. The total number of  
406 nursing facility beds that may be authorized by any certificate of  
407 need issued under this paragraph (o) shall not exceed sixty (60)  
408 beds. If the certificate of need authorized under this paragraph  
409 is not issued within twelve (12) months after July 1, 2001, the  
410 department shall deny the application for the certificate of need  
411 and shall not issue the certificate of need at any time after the  
412 twelve-month period, unless the issuance is contested. If the  
413 certificate of need is issued and substantial construction of the  
414 nursing facility beds has not commenced within eighteen (18)  
415 months after the effective date of July 1, 2001, the State  
416 Department of Health, after a hearing complying with due process,  
417 shall revoke the certificate of need if it is still outstanding,  
418 and the department shall not issue a license for the nursing  
419 facility at any time after the eighteen-month period. Provided,  
420 however, that if the issuance of the certificate of need is  
421 contested, the department shall require substantial construction

422 of the nursing facility beds within six (6) months after final  
423 adjudication on the issuance of the certificate of need.

424 (p) The department may issue a certificate of need for  
425 the construction of a municipally owned nursing facility within  
426 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
427 beds, provided that the recipient of the certificate of need  
428 agrees in writing that the skilled nursing facility will not at  
429 any time participate in the Medicaid program (Section 43-13-101 et  
430 seq.) or admit or keep any patients in the skilled nursing  
431 facility who are participating in the Medicaid program. This  
432 written agreement by the recipient of the certificate of need  
433 shall be fully binding on any subsequent owner of the skilled  
434 nursing facility, if the ownership of the facility is transferred  
435 at any time after the issuance of the certificate of need.

436 Agreement that the skilled nursing facility will not participate  
437 in the Medicaid program shall be a condition of the issuance of a  
438 certificate of need to any person under this paragraph (p), and if  
439 such skilled nursing facility at any time after the issuance of  
440 the certificate of need, regardless of the ownership of the  
441 facility, participates in the Medicaid program or admits or keeps  
442 any patients in the facility who are participating in the Medicaid  
443 program, the State Department of Health shall revoke the  
444 certificate of need, if it is still outstanding, and shall deny or  
445 revoke the license of the skilled nursing facility, at the time  
446 that the department determines, after a hearing complying with due  
447 process, that the facility has failed to comply with any of the  
448 conditions upon which the certificate of need was issued, as  
449 provided in this paragraph and in the written agreement by the  
450 recipient of the certificate of need. The provision of Section  
451 43-7-193(1) regarding substantial compliance of the projection of  
452 need as reported in the current State Health Plan is waived for  
453 the purposes of this paragraph. If the certificate of need  
454 authorized under this paragraph is not issued within twelve (12)

455 months after July 1, 1998, the department shall deny the  
456 application for the certificate of need and shall not issue the  
457 certificate of need at any time after the twelve-month period,  
458 unless the issuance is contested. If the certificate of need is  
459 issued and substantial construction of the nursing facility beds  
460 has not commenced within eighteen (18) months after July 1, 1998,  
461 the State Department of Health, after a hearing complying with due  
462 process, shall revoke the certificate of need if it is still  
463 outstanding, and the department shall not issue a license for the  
464 nursing facility at any time after the eighteen-month period.  
465 Provided, however, that if the issuance of the certificate of need  
466 is contested, the department shall require substantial  
467 construction of the nursing facility beds within six (6) months  
468 after final adjudication on the issuance of the certificate of  
469 need.

470 (q) (i) Beginning on July 1, 1999, the State  
471 Department of Health shall issue certificates of need during each  
472 of the next four (4) fiscal years for the construction or  
473 expansion of nursing facility beds or the conversion of other beds  
474 to nursing facility beds in each county in the state having a need  
475 for fifty (50) or more additional nursing facility beds, as shown  
476 in the fiscal year 1999 State Health Plan, in the manner provided  
477 in this paragraph (q). The total number of nursing facility beds  
478 that may be authorized by any certificate of need authorized under  
479 this paragraph (q) shall not exceed sixty (60) beds.

480 (ii) Subject to the provisions of subparagraph  
481 (v), during each of the next four (4) fiscal years, the department  
482 shall issue six (6) certificates of need for new nursing facility  
483 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
484 (1) certificate of need shall be issued for new nursing facility  
485 beds in the county in each of the four (4) Long-Term Care Planning  
486 Districts designated in the fiscal year 1999 State Health Plan  
487 that has the highest need in the district for those beds; and two

488 (2) certificates of need shall be issued for new nursing facility  
489 beds in the two (2) counties from the state at large that have the  
490 highest need in the state for those beds, when considering the  
491 need on a statewide basis and without regard to the Long-Term Care  
492 Planning Districts in which the counties are located. During  
493 fiscal year 2003, one (1) certificate of need shall be issued for  
494 new nursing facility beds in any county having a need for fifty  
495 (50) or more additional nursing facility beds, as shown in the  
496 fiscal year 1999 State Health Plan, that has not received a  
497 certificate of need under this paragraph (q) during the three (3)  
498 previous fiscal years. During fiscal year 2000, in addition to  
499 the six (6) certificates of need authorized in this subparagraph,  
500 the department also shall issue a certificate of need for new  
501 nursing facility beds in Amite County and a certificate of need  
502 for new nursing facility beds in Carroll County.

503 (iii) Subject to the provisions of subparagraph  
504 (v), the certificate of need issued under subparagraph (ii) for  
505 nursing facility beds in each Long-Term Care Planning District  
506 during each fiscal year shall first be available for nursing  
507 facility beds in the county in the district having the highest  
508 need for those beds, as shown in the fiscal year 1999 State Health  
509 Plan. If there are no applications for a certificate of need for  
510 nursing facility beds in the county having the highest need for  
511 those beds by the date specified by the department, then the  
512 certificate of need shall be available for nursing facility beds  
513 in other counties in the district in descending order of the need  
514 for those beds, from the county with the second highest need to  
515 the county with the lowest need, until an application is received  
516 for nursing facility beds in an eligible county in the district.

517 (iv) Subject to the provisions of subparagraph  
518 (v), the certificate of need issued under subparagraph (ii) for  
519 nursing facility beds in the two (2) counties from the state at  
520 large during each fiscal year shall first be available for nursing



521 facility beds in the two (2) counties that have the highest need  
522 in the state for those beds, as shown in the fiscal year 1999  
523 State Health Plan, when considering the need on a statewide basis  
524 and without regard to the Long-Term Care Planning Districts in  
525 which the counties are located. If there are no applications for  
526 a certificate of need for nursing facility beds in either of the  
527 two (2) counties having the highest need for those beds on a  
528 statewide basis by the date specified by the department, then the  
529 certificate of need shall be available for nursing facility beds  
530 in other counties from the state at large in descending order of  
531 the need for those beds on a statewide basis, from the county with  
532 the second highest need to the county with the lowest need, until  
533 an application is received for nursing facility beds in an  
534 eligible county from the state at large.

535 (v) If a certificate of need is authorized to be  
536 issued under this paragraph (q) for nursing facility beds in a  
537 county on the basis of the need in the Long-Term Care Planning  
538 District during any fiscal year of the four-year period, a  
539 certificate of need shall not also be available under this  
540 paragraph (q) for additional nursing facility beds in that county  
541 on the basis of the need in the state at large, and that county  
542 shall be excluded in determining which counties have the highest  
543 need for nursing facility beds in the state at large for that  
544 fiscal year. After a certificate of need has been issued under  
545 this paragraph (q) for nursing facility beds in a county during  
546 any fiscal year of the four-year period, a certificate of need  
547 shall not be available again under this paragraph (q) for  
548 additional nursing facility beds in that county during the  
549 four-year period, and that county shall be excluded in determining  
550 which counties have the highest need for nursing facility beds in  
551 succeeding fiscal years.

552 (vi) If more than one (1) application is made for  
553 a certificate of need for nursing home facility beds available

554 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
555 County, and one (1) of the applicants is a county-owned hospital  
556 located in the county where the nursing facility beds are  
557 available, the department shall give priority to the county-owned  
558 hospital in granting the certificate of need if the following  
559 conditions are met:

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

563                   2. The county-owned hospital's qualifications  
564 for the certificate of need, as shown in its application and as  
565 determined by the department, are at least equal to the  
566 qualifications of the other applicants for the certificate of  
567 need.

568                   (r) (i) Beginning on July 1, 1999, the State  
569 Department of Health shall issue certificates of need during each  
570 of the next two (2) fiscal years for the construction or expansion  
571 of nursing facility beds or the conversion of other beds to  
572 nursing facility beds in each of the four (4) Long-Term Care  
573 Planning Districts designated in the fiscal year 1999 State Health  
574 Plan, to provide care exclusively to patients with Alzheimer's  
575 disease.

576                   (ii) Not more than twenty (20) beds may be  
577 authorized by any certificate of need issued under this paragraph  
578 (r), and not more than a total of sixty (60) beds may be  
579 authorized in any Long-Term Care Planning District by all  
580 certificates of need issued under this paragraph (r). However,  
581 the total number of beds that may be authorized by all  
582 certificates of need issued under this paragraph (r) during any  
583 fiscal year shall not exceed one hundred twenty (120) beds, and  
584 the total number of beds that may be authorized in any Long-Term  
585 Care Planning District during any fiscal year shall not exceed  
586 forty (40) beds. Of the certificates of need that are issued for

587 each Long-Term Care Planning District during the next two (2)  
588 fiscal years, at least one (1) shall be issued for beds in the  
589 northern part of the district, at least one (1) shall be issued  
590 for beds in the central part of the district, and at least one (1)  
591 shall be issued for beds in the southern part of the district.

592 (iii) The State Department of Health, in  
593 consultation with the Department of Mental Health and the Division  
594 of Medicaid, shall develop and prescribe the staffing levels,  
595 space requirements and other standards and requirements that must  
596 be met with regard to the nursing facility beds authorized under  
597 this paragraph (r) to provide care exclusively to patients with  
598 Alzheimer's disease.

599 (s) The State Department of Health may issue a  
600 certificate of need to a nonprofit skilled nursing facility using  
601 the Green House model of skilled nursing care and located in Yazoo  
602 City, Yazoo County, Mississippi, for the construction, expansion  
603 or conversion of not more than nineteen (19) nursing facility  
604 beds. For purposes of this paragraph (s), the provisions of  
605 Section 41-7-193(1) requiring substantial compliance with the  
606 projection of need as reported in the current State Health Plan  
607 and the provisions of Section 41-7-197 requiring a formal  
608 certificate of need hearing process are waived. There shall be no  
609 prohibition or restrictions on participation in the Medicaid  
610 program for the person receiving the certificate of need  
611 authorized under this paragraph (s).

612 (t) The State Department of Health shall issue  
613 certificates of need to the owner of a nursing facility in  
614 operation at the time of Hurricane Katrina in Hancock County that  
615 was not operational on December 31, 2005, because of damage  
616 sustained from Hurricane Katrina to authorize the following: (i)  
617 the construction of a new nursing facility in Harrison County;  
618 (ii) the relocation of forty-nine (49) nursing facility beds from  
619 the Hancock County facility to the new Harrison County facility;

620 (iii) the establishment of not more than twenty (20) non-Medicaid  
621 nursing facility beds at the Hancock County facility; and (iv) the  
622 establishment of not more than twenty (20) non-Medicaid beds at  
623 the new Harrison County facility. The certificates of need that  
624 authorize the non-Medicaid nursing facility beds under  
625 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
626 subject to the following conditions: The owner of the Hancock  
627 County facility and the new Harrison County facility must agree in  
628 writing that no more than fifty (50) of the beds at the Hancock  
629 County facility and no more than forty-nine (49) of the beds at  
630 the Harrison County facility will be certified for participation  
631 in the Medicaid program, and that no claim will be submitted for  
632 Medicaid reimbursement for more than fifty (50) patients in the  
633 Hancock County facility in any month, or for more than forty-nine  
634 (49) patients in the Harrison County facility in any month, or for  
635 any patient in either facility who is in a bed that is not  
636 Medicaid-certified. This written agreement by the owner of the  
637 nursing facilities shall be a condition of the issuance of the  
638 certificates of need under this paragraph (t), and the agreement  
639 shall be fully binding on any later owner or owners of either  
640 facility if the ownership of either facility is transferred at any  
641 time after the certificates of need are issued. After this  
642 written agreement is executed, the Division of Medicaid and the  
643 State Department of Health shall not certify more than fifty (50)  
644 of the beds at the Hancock County facility or more than forty-nine  
645 (49) of the beds at the Harrison County facility for participation  
646 in the Medicaid program. If the Hancock County facility violates  
647 the terms of the written agreement by admitting or keeping in the  
648 facility on a regular or continuing basis more than fifty (50)  
649 patients who are participating in the Medicaid program, or if the  
650 Harrison County facility violates the terms of the written  
651 agreement by admitting or keeping in the facility on a regular or  
652 continuing basis more than forty-nine (49) patients who are

653 participating in the Medicaid program, the State Department of  
654 Health shall revoke the license of the facility that is in  
655 violation of the agreement, at the time that the department  
656 determines, after a hearing complying with due process, that the  
657 facility has violated the agreement.

658 (3) The State Department of Health may grant approval for  
659 and issue certificates of need to any person proposing the new  
660 construction of, addition to, conversion of beds of or expansion  
661 of any health care facility defined in subparagraph (x)  
662 (psychiatric residential treatment facility) of Section  
663 41-7-173(h). The total number of beds which may be authorized by  
664 such certificates of need shall not exceed three hundred  
665 thirty-four (334) beds for the entire state.

666 (a) Of the total number of beds authorized under this  
667 subsection, the department shall issue a certificate of need to a  
668 privately-owned psychiatric residential treatment facility in  
669 Simpson County for the conversion of sixteen (16) intermediate  
670 care facility for the mentally retarded (ICF-MR) beds to  
671 psychiatric residential treatment facility beds, provided that  
672 facility agrees in writing that the facility shall give priority  
673 for the use of those sixteen (16) beds to Mississippi residents  
674 who are presently being treated in out-of-state facilities.

675 (b) Of the total number of beds authorized under this  
676 subsection, the department may issue a certificate or certificates  
677 of need for the construction or expansion of psychiatric  
678 residential treatment facility beds or the conversion of other  
679 beds to psychiatric residential treatment facility beds in Warren  
680 County, not to exceed sixty (60) psychiatric residential treatment  
681 facility beds, provided that the facility agrees in writing that  
682 no more than thirty (30) of the beds at the psychiatric  
683 residential treatment facility will be certified for participation  
684 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
685 any patients other than those who are participating only in the

686 Medicaid program of another state, and that no claim will be  
687 submitted to the Division of Medicaid for Medicaid reimbursement  
688 for more than thirty (30) patients in the psychiatric residential  
689 treatment facility in any day or for any patient in the  
690 psychiatric residential treatment facility who is in a bed that is  
691 not Medicaid-certified. This written agreement by the recipient  
692 of the certificate of need shall be a condition of the issuance of  
693 the certificate of need under this paragraph, and the agreement  
694 shall be fully binding on any subsequent owner of the psychiatric  
695 residential treatment facility if the ownership of the facility is  
696 transferred at any time after the issuance of the certificate of  
697 need. After this written agreement is executed, the Division of  
698 Medicaid and the State Department of Health shall not certify more  
699 than thirty (30) of the beds in the psychiatric residential  
700 treatment facility for participation in the Medicaid program for  
701 the use of any patients other than those who are participating  
702 only in the Medicaid program of another state. If the psychiatric  
703 residential treatment facility violates the terms of the written  
704 agreement by admitting or keeping in the facility on a regular or  
705 continuing basis more than thirty (30) patients who are  
706 participating in the Mississippi Medicaid program, the State  
707 Department of Health shall revoke the license of the facility, at  
708 the time that the department determines, after a hearing complying  
709 with due process, that the facility has violated the condition  
710 upon which the certificate of need was issued, as provided in this  
711 paragraph and in the written agreement.

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

716       (c) Of the total number of beds authorized under this  
717 subsection, the department shall issue a certificate of need to a  
718 hospital currently operating Medicaid-certified acute psychiatric

719 beds for adolescents in DeSoto County, for the establishment of a  
720 forty-bed psychiatric residential treatment facility in DeSoto  
721 County, provided that the hospital agrees in writing (i) that the  
722 hospital shall give priority for the use of those forty (40) beds  
723 to Mississippi residents who are presently being treated in  
724 out-of-state facilities, and (ii) that no more than fifteen (15)  
725 of the beds at the psychiatric residential treatment facility will  
726 be certified for participation in the Medicaid program (Section  
727 43-13-101 et seq.), and that no claim will be submitted for  
728 Medicaid reimbursement for more than fifteen (15) patients in the  
729 psychiatric residential treatment facility in any day or for any  
730 patient in the psychiatric residential treatment facility who is  
731 in a bed that is not Medicaid-certified. This written agreement  
732 by the recipient of the certificate of need shall be a condition  
733 of the issuance of the certificate of need under this paragraph,  
734 and the agreement shall be fully binding on any subsequent owner  
735 of the psychiatric residential treatment facility if the ownership  
736 of the facility is transferred at any time after the issuance of  
737 the certificate of need. After this written agreement is  
738 executed, the Division of Medicaid and the State Department of  
739 Health shall not certify more than fifteen (15) of the beds in the  
740 psychiatric residential treatment facility for participation in  
741 the Medicaid program. If the psychiatric residential treatment  
742 facility violates the terms of the written agreement by admitting  
743 or keeping in the facility on a regular or continuing basis more  
744 than fifteen (15) patients who are participating in the Medicaid  
745 program, the State Department of Health shall revoke the license  
746 of the facility, at the time that the department determines, after  
747 a hearing complying with due process, that the facility has  
748 violated the condition upon which the certificate of need was  
749 issued, as provided in this paragraph and in the written  
750 agreement.

751 (d) Of the total number of beds authorized under this  
752 subsection, the department may issue a certificate or certificates  
753 of need for the construction or expansion of psychiatric  
754 residential treatment facility beds or the conversion of other  
755 beds to psychiatric treatment facility beds, not to exceed thirty  
756 (30) psychiatric residential treatment facility beds, in either  
757 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
758 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

759 (e) Of the total number of beds authorized under this  
760 subsection (3) the department shall issue a certificate of need to  
761 a privately-owned, nonprofit psychiatric residential treatment  
762 facility in Hinds County for an eight-bed expansion of the  
763 facility, provided that the facility agrees in writing that the  
764 facility shall give priority for the use of those eight (8) beds  
765 to Mississippi residents who are presently being treated in  
766 out-of-state facilities.

767 (f) The department shall issue a certificate of need to  
768 a one-hundred-thirty-four-bed specialty hospital located on  
769 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
770 at 5900 Highway 39 North in Meridian (Lauderdale County),  
771 Mississippi, for the addition, construction or expansion of  
772 child/adolescent psychiatric residential treatment facility beds  
773 in Lauderdale County. As a condition of issuance of the  
774 certificate of need under this paragraph, the facility shall give  
775 priority in admissions to the child/adolescent psychiatric  
776 residential treatment facility beds authorized under this  
777 paragraph to patients who otherwise would require out-of-state  
778 placement. The Division of Medicaid, in conjunction with the  
779 Department of Human Services, shall furnish the facility a list of  
780 all out-of-state patients on a quarterly basis. Furthermore,  
781 notice shall also be provided to the parent, custodial parent or  
782 guardian of each out-of-state patient notifying them of the  
783 priority status granted by this paragraph. For purposes of this



784 paragraph, the provisions of Section 41-7-193(1) requiring  
785 substantial compliance with the projection of need as reported in  
786 the current State Health Plan are waived. The total number of  
787 child/adolescent psychiatric residential treatment facility beds  
788 that may be authorized under the authority of this paragraph shall  
789 be sixty (60) beds. There shall be no prohibition or restrictions  
790 on participation in the Medicaid program (Section 43-13-101 et  
791 seq.) for the person receiving the certificate of need authorized  
792 under this paragraph or for the beds converted pursuant to the  
793 authority of that certificate of need.

794 (4) (a) From and after July 1, 1993, the department shall  
795 not issue a certificate of need to any person for the new  
796 construction of any hospital, psychiatric hospital or chemical  
797 dependency hospital that will contain any child/adolescent  
798 psychiatric or child/adolescent chemical dependency beds, or for  
799 the conversion of any other health care facility to a hospital,  
800 psychiatric hospital or chemical dependency hospital that will  
801 contain any child/adolescent psychiatric or child/adolescent  
802 chemical dependency beds, or for the addition of any  
803 child/adolescent psychiatric or child/adolescent chemical  
804 dependency beds in any hospital, psychiatric hospital or chemical  
805 dependency hospital, or for the conversion of any beds of another  
806 category in any hospital, psychiatric hospital or chemical  
807 dependency hospital to child/adolescent psychiatric or  
808 child/adolescent chemical dependency beds, except as hereinafter  
809 authorized:

810 (i) The department may issue certificates of need  
811 to any person for any purpose described in this subsection,  
812 provided that the hospital, psychiatric hospital or chemical  
813 dependency hospital does not participate in the Medicaid program  
814 (Section 43-13-101 et seq.) at the time of the application for the  
815 certificate of need and the owner of the hospital, psychiatric  
816 hospital or chemical dependency hospital agrees in writing that

817 the hospital, psychiatric hospital or chemical dependency hospital  
818 will not at any time participate in the Medicaid program or admit  
819 or keep any patients who are participating in the Medicaid program  
820 in the hospital, psychiatric hospital or chemical dependency  
821 hospital. This written agreement by the recipient of the  
822 certificate of need shall be fully binding on any subsequent owner  
823 of the hospital, psychiatric hospital or chemical dependency  
824 hospital, if the ownership of the facility is transferred at any  
825 time after the issuance of the certificate of need. Agreement  
826 that the hospital, psychiatric hospital or chemical dependency  
827 hospital will not participate in the Medicaid program shall be a  
828 condition of the issuance of a certificate of need to any person  
829 under this subparagraph \* \* \* (i), and if such hospital,  
830 psychiatric hospital or chemical dependency hospital at any time  
831 after the issuance of the certificate of need, regardless of the  
832 ownership of the facility, participates in the Medicaid program or  
833 admits or keeps any patients in the hospital, psychiatric hospital  
834 or chemical dependency hospital who are participating in the  
835 Medicaid program, the State Department of Health shall revoke the  
836 certificate of need, if it is still outstanding, and shall deny or  
837 revoke the license of the hospital, psychiatric hospital or  
838 chemical dependency hospital, at the time that the department  
839 determines, after a hearing complying with due process, that the  
840 hospital, psychiatric hospital or chemical dependency hospital has  
841 failed to comply with any of the conditions upon which the  
842 certificate of need was issued, as provided in this subparagraph  
843 (i) and in the written agreement by the recipient of the  
844 certificate of need.

845                   (ii) The department may issue a certificate of  
846 need for the conversion of existing beds in a county hospital in  
847 Choctaw County from acute care beds to child/adolescent chemical  
848 dependency beds. For purposes of this subparagraph (ii), the  
849 provisions of Section 41-7-193(1) requiring substantial compliance

850 with the projection of need as reported in the current State  
851 Health Plan is waived. The total number of beds that may be  
852 authorized under authority of this subparagraph shall not exceed  
853 twenty (20) beds. There shall be no prohibition or restrictions  
854 on participation in the Medicaid program (Section 43-13-101 et  
855 seq.) for the hospital receiving the certificate of need  
856 authorized under this subparagraph \* \* \* or for the beds converted  
857 pursuant to the authority of that certificate of need.

858 (iii) The department may issue a certificate or  
859 certificates of need for the construction or expansion of  
860 child/adolescent psychiatric beds or the conversion of other beds  
861 to child/adolescent psychiatric beds in Warren County. For  
862 purposes of this subparagraph (iii), the provisions of Section  
863 41-7-193(1) requiring substantial compliance with the projection  
864 of need as reported in the current State Health Plan are waived.  
865 The total number of beds that may be authorized under the  
866 authority of this subparagraph shall not exceed twenty (20) beds.  
867 There shall be no prohibition or restrictions on participation in  
868 the Medicaid program (Section 43-13-101 et seq.) for the person  
869 receiving the certificate of need authorized under this  
870 subparagraph \* \* \* or for the beds converted pursuant to the  
871 authority of that certificate of need.

872 If by January 1, 2002, there has been no significant  
873 commencement of construction of the beds authorized under this  
874 subparagraph \* \* \* (iii), or no significant action taken to  
875 convert existing beds to the beds authorized under this  
876 subparagraph, then the certificate of need that was previously  
877 issued under this subparagraph shall expire. If the previously  
878 issued certificate of need expires, the department may accept  
879 applications for issuance of another certificate of need for the  
880 beds authorized under this subparagraph, and may issue a  
881 certificate of need to authorize the construction, expansion or  
882 conversion of the beds authorized under this subparagraph.

883                   (iv) The department shall issue a certificate of  
884 need to the Region 7 Mental Health/Retardation Commission for the  
885 construction or expansion of child/adolescent psychiatric beds or  
886 the conversion of other beds to child/adolescent psychiatric beds  
887 in any of the counties served by the commission. For purposes of  
888 this subparagraph (iv), the provisions of Section 41-7-193(1)  
889 requiring substantial compliance with the projection of need as  
890 reported in the current State Health Plan is waived. The total  
891 number of beds that may be authorized under the authority of this  
892 subparagraph shall not exceed twenty (20) beds. There shall be no  
893 prohibition or restrictions on participation in the Medicaid  
894 program (Section 43-13-101 et seq.) for the person receiving the  
895 certificate of need authorized under this subparagraph \* \* \* or  
896 for the beds converted pursuant to the authority of that  
897 certificate of need.

898                   (v) The department may issue a certificate of need  
899 to any county hospital located in Leflore County for the  
900 construction or expansion of adult psychiatric beds or the  
901 conversion of other beds to adult psychiatric beds, not to exceed  
902 twenty (20) beds, provided that the recipient of the certificate  
903 of need agrees in writing that the adult psychiatric beds will not  
904 at any time be certified for participation in the Medicaid program  
905 and that the hospital will not admit or keep any patients who are  
906 participating in the Medicaid program in any of such adult  
907 psychiatric beds. This written agreement by the recipient of the  
908 certificate of need shall be fully binding on any subsequent owner  
909 of the hospital if the ownership of the hospital is transferred at  
910 any time after the issuance of the certificate of need. Agreement  
911 that the adult psychiatric beds will not be certified for  
912 participation in the Medicaid program shall be a condition of the  
913 issuance of a certificate of need to any person under this  
914 subparagraph \* \* \* (v), and if such hospital at any time after the  
915 issuance of the certificate of need, regardless of the ownership

916 of the hospital, has any of such adult psychiatric beds certified  
917 for participation in the Medicaid program or admits or keeps any  
918 Medicaid patients in such adult psychiatric beds, the State  
919 Department of Health shall revoke the certificate of need, if it  
920 is still outstanding, and shall deny or revoke the license of the  
921 hospital at the time that the department determines, after a  
922 hearing complying with due process, that the hospital has failed  
923 to comply with any of the conditions upon which the certificate of  
924 need was issued, as provided in this subparagraph and in the  
925 written agreement by the recipient of the certificate of need.

926           (vi) The department may issue a certificate or  
927 certificates of need for the expansion of child psychiatric beds  
928 or the conversion of other beds to child psychiatric beds at the  
929 University of Mississippi Medical Center. For purposes of this  
930 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
931 requiring substantial compliance with the projection of need as  
932 reported in the current State Health Plan is waived. The total  
933 number of beds that may be authorized under the authority of this  
934 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
935 shall be no prohibition or restrictions on participation in the  
936 Medicaid program (Section 43-13-101 et seq.) for the hospital  
937 receiving the certificate of need authorized under this  
938 subparagraph \* \* \* or for the beds converted pursuant to the  
939 authority of that certificate of need.

940           (b) From and after July 1, 1990, no hospital,  
941 psychiatric hospital or chemical dependency hospital shall be  
942 authorized to add any child/adolescent psychiatric or  
943 child/adolescent chemical dependency beds or convert any beds of  
944 another category to child/adolescent psychiatric or  
945 child/adolescent chemical dependency beds without a certificate of  
946 need under the authority of subsection (1)(c) of this section.

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

950 (6) The State Department of Health shall issue a certificate  
951 of need to a Mississippi corporation qualified to manage a  
952 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
953 Harrison County, not to exceed eighty (80) beds, including any  
954 necessary renovation or construction required for licensure and  
955 certification, provided that the recipient of the certificate of  
956 need agrees in writing that the long-term care hospital will not  
957 at any time participate in the Medicaid program (Section 43-13-101  
958 et seq.) or admit or keep any patients in the long-term care  
959 hospital who are participating in the Medicaid program. This  
960 written agreement by the recipient of the certificate of need  
961 shall be fully binding on any subsequent owner of the long-term  
962 care hospital, if the ownership of the facility is transferred at  
963 any time after the issuance of the certificate of need. Agreement  
964 that the long-term care hospital will not participate in the  
965 Medicaid program shall be a condition of the issuance of a  
966 certificate of need to any person under this subsection (6), and  
967 if such long-term care hospital at any time after the issuance of  
968 the certificate of need, regardless of the ownership of the  
969 facility, participates in the Medicaid program or admits or keeps  
970 any patients in the facility who are participating in the Medicaid  
971 program, the State Department of Health shall revoke the  
972 certificate of need, if it is still outstanding, and shall deny or  
973 revoke the license of the long-term care hospital, at the time  
974 that the department determines, after a hearing complying with due  
975 process, that the facility has failed to comply with any of the  
976 conditions upon which the certificate of need was issued, as  
977 provided in this subsection and in the written agreement by the  
978 recipient of the certificate of need. For purposes of this  
979 subsection, the provision of Section 41-7-193(1) requiring

980 substantial compliance with the projection of need as reported in  
981 the current State Health Plan is hereby waived.

982 (7) The State Department of Health may issue a certificate  
983 of need to any hospital in the state to utilize a portion of its  
984 beds for the "swing-bed" concept. Any such hospital must be in  
985 conformance with the federal regulations regarding such swing-bed  
986 concept at the time it submits its application for a certificate  
987 of need to the State Department of Health, except that such  
988 hospital may have more licensed beds or a higher average daily  
989 census (ADC) than the maximum number specified in federal  
990 regulations for participation in the swing-bed program. Any  
991 hospital meeting all federal requirements for participation in the  
992 swing-bed program which receives such certificate of need shall  
993 render services provided under the swing-bed concept to any  
994 patient eligible for Medicare (Title XVIII of the Social Security  
995 Act) who is certified by a physician to be in need of such  
996 services, and no such hospital shall permit any patient who is  
997 eligible for both Medicaid and Medicare or eligible only for  
998 Medicaid to stay in the swing beds of the hospital for more than  
999 thirty (30) days per admission unless the hospital receives prior  
1000 approval for such patient from the Division of Medicaid, Office of  
1001 the Governor. Any hospital having more licensed beds or a higher  
1002 average daily census (ADC) than the maximum number specified in  
1003 federal regulations for participation in the swing-bed program  
1004 which receives such certificate of need shall develop a procedure  
1005 to insure that before a patient is allowed to stay in the swing  
1006 beds of the hospital, there are no vacant nursing home beds  
1007 available for that patient located within a fifty-mile radius of  
1008 the hospital. When any such hospital has a patient staying in the  
1009 swing beds of the hospital and the hospital receives notice from a  
1010 nursing home located within such radius that there is a vacant bed  
1011 available for that patient, the hospital shall transfer the  
1012 patient to the nursing home within a reasonable time after receipt

1013 of the notice. Any hospital which is subject to the requirements  
1014 of the two (2) preceding sentences of this subsection may be  
1015 suspended from participation in the swing-bed program for a  
1016 reasonable period of time by the State Department of Health if the  
1017 department, after a hearing complying with due process, determines  
1018 that the hospital has failed to comply with any of those  
1019 requirements.

1020 (8) The Department of Health shall not grant approval for or  
1021 issue a certificate of need to any person proposing the new  
1022 construction of, addition to or expansion of a health care  
1023 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1024 except as hereinafter provided: The department may issue a  
1025 certificate of need to a nonprofit corporation located in Madison  
1026 County, Mississippi, for the construction, expansion or conversion  
1027 of not more than twenty (20) beds in a community living program  
1028 for developmentally disabled adults in a facility as defined in  
1029 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1030 subsection (8), the provisions of Section 41-7-193(1) requiring  
1031 substantial compliance with the projection of need as reported in  
1032 the current State Health Plan and the provisions of Section  
1033 41-7-197 requiring a formal certificate of need hearing process  
1034 are waived. There shall be no prohibition or restrictions on  
1035 participation in the Medicaid program for the person receiving the  
1036 certificate of need authorized under this subsection (8).

1037 (9) The Department of Health shall not grant approval for or  
1038 issue a certificate of need to any person proposing the  
1039 establishment of, or expansion of the currently approved territory  
1040 of, or the contracting to establish a home office, subunit or  
1041 branch office within the space operated as a health care facility  
1042 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1043 care facility as defined in subparagraph (ix) of Section  
1044 41-7-173(h).



1045           (10) Health care facilities owned and/or operated by the  
1046 state or its agencies are exempt from the restraints in this  
1047 section against issuance of a certificate of need if such addition  
1048 or expansion consists of repairing or renovation necessary to  
1049 comply with the state licensure law. This exception shall not  
1050 apply to the new construction of any building by such state  
1051 facility. This exception shall not apply to any health care  
1052 facilities owned and/or operated by counties, municipalities,  
1053 districts, unincorporated areas, other defined persons, or any  
1054 combination thereof.

1055           (11) The new construction, renovation or expansion of or  
1056 addition to any health care facility defined in subparagraph (ii)  
1057 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1058 facility), subparagraph (vi) (intermediate care facility),  
1059 subparagraph (viii) (intermediate care facility for the mentally  
1060 retarded) and subparagraph (x) (psychiatric residential treatment  
1061 facility) of Section 41-7-173(h) which is owned by the State of  
1062 Mississippi and under the direction and control of the State  
1063 Department of Mental Health, and the addition of new beds or the  
1064 conversion of beds from one category to another in any such  
1065 defined health care facility which is owned by the State of  
1066 Mississippi and under the direction and control of the State  
1067 Department of Mental Health, shall not require the issuance of a  
1068 certificate of need under Section 41-7-171 et seq.,  
1069 notwithstanding any provision in Section 41-7-171 et seq. to the  
1070 contrary.

1071           (12) The new construction, renovation or expansion of or  
1072 addition to any veterans homes or domiciliaries for eligible  
1073 veterans of the State of Mississippi as authorized under Section  
1074 35-1-19 shall not require the issuance of a certificate of need,  
1075 notwithstanding any provision in Section 41-7-171 et seq. to the  
1076 contrary.

1077           (13) The new construction of a nursing facility or nursing  
1078 facility beds or the conversion of other beds to nursing facility  
1079 beds shall not require the issuance of a certificate of need,  
1080 notwithstanding any provision in Section 41-7-171 et seq. to the  
1081 contrary, if the conditions of this subsection are met.

1082           (a) Before any construction or conversion may be  
1083 undertaken without a certificate of need, the owner of the nursing  
1084 facility, in the case of an existing facility, or the applicant to  
1085 construct a nursing facility, in the case of new construction,  
1086 first must file a written notice of intent and sign a written  
1087 agreement with the State Department of Health that the entire  
1088 nursing facility will not at any time participate in or have any  
1089 beds certified for participation in the Medicaid program (Section  
1090 43-13-101 et seq.), will not admit or keep any patients in the  
1091 nursing facility who are participating in the Medicaid program,  
1092 and will not submit any claim for Medicaid reimbursement for any  
1093 patient in the facility. This written agreement by the owner or  
1094 applicant shall be a condition of exercising the authority under  
1095 this subsection without a certificate of need, and the agreement  
1096 shall be fully binding on any subsequent owner of the nursing  
1097 facility if the ownership of the facility is transferred at any  
1098 time after the agreement is signed. After the written agreement  
1099 is signed, the Division of Medicaid and the State Department of  
1100 Health shall not certify any beds in the nursing facility for  
1101 participation in the Medicaid program. If the nursing facility  
1102 violates the terms of the written agreement by participating in  
1103 the Medicaid program, having any beds certified for participation  
1104 in the Medicaid program, admitting or keeping any patient in the  
1105 facility who is participating in the Medicaid program, or  
1106 submitting any claim for Medicaid reimbursement for any patient in  
1107 the facility, the State Department of Health shall revoke the  
1108 license of the nursing facility at the time that the department

1109 determines, after a hearing complying with due process, that the  
1110 facility has violated the terms of the written agreement.

1111 (b) For the purposes of this subsection, participation  
1112 in the Medicaid program by a nursing facility includes Medicaid  
1113 reimbursement of coinsurance and deductibles for recipients who  
1114 are qualified Medicare beneficiaries and/or those who are dually  
1115 eligible. Any nursing facility exercising the authority under  
1116 this subsection may not bill or submit a claim to the Division of  
1117 Medicaid for services to qualified Medicare beneficiaries and/or  
1118 those who are dually eligible.

1119 (c) The new construction of a nursing facility or  
1120 nursing facility beds or the conversion of other beds to nursing  
1121 facility beds described in this section must be either a part of a  
1122 completely new continuing care retirement community, as described  
1123 in the latest edition of the Mississippi State Health Plan, or an  
1124 addition to existing personal care and independent living  
1125 components, and so that the completed project will be a continuing  
1126 care retirement community, containing (i) independent living  
1127 accommodations, (ii) personal care beds, and (iii) the nursing  
1128 home facility beds. The three (3) components must be located on a  
1129 single site and be operated as one (1) inseparable facility. The  
1130 nursing facility component must contain a minimum of thirty (30)  
1131 beds. Any nursing facility beds authorized by this section will  
1132 not be counted against the bed need set forth in the State Health  
1133 Plan, as identified in Section 41-7-171 et seq.

1134 This subsection (13) shall stand repealed from and after July  
1135 1, 2005.

1136 (14) The State Department of Health shall issue a  
1137 certificate of need to any hospital which is currently licensed  
1138 for two hundred fifty (250) or more acute care beds and is located  
1139 in any general hospital service area not having a comprehensive  
1140 cancer center, for the establishment and equipping of such a  
1141 center which provides facilities and services for outpatient

1142 radiation oncology therapy, outpatient medical oncology therapy,  
1143 and appropriate support services including the provision of  
1144 radiation therapy services. The provision of Section 41-7-193(1)  
1145 regarding substantial compliance with the projection of need as  
1146 reported in the current State Health Plan is waived for the  
1147 purpose of this subsection.

1148 (15) The State Department of Health may authorize the  
1149 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1150 North Panola Community Hospital to the South Panola Community  
1151 Hospital. The authorization for the transfer of those beds shall  
1152 be exempt from the certificate of need review process.

1153 (16) The State Department of Health shall issue any  
1154 certificates of need necessary for Mississippi State University  
1155 and a public or private health care provider to jointly acquire  
1156 and operate a linear accelerator and a magnetic resonance imaging  
1157 unit. Those certificates of need shall cover all capital  
1158 expenditures related to the project between Mississippi State  
1159 University and the health care provider, including, but not  
1160 limited to, the acquisition of the linear accelerator, the  
1161 magnetic resonance imaging unit and other radiological modalities;  
1162 the offering of linear accelerator and magnetic resonance imaging  
1163 services; and the cost of construction of facilities in which to  
1164 locate these services. The linear accelerator and the magnetic  
1165 resonance imaging unit shall be (a) located in the City of  
1166 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1167 Mississippi State University and the public or private health care  
1168 provider selected by Mississippi State University through a  
1169 request for proposals (RFP) process in which Mississippi State  
1170 University selects, and the Board of Trustees of State  
1171 Institutions of Higher Learning approves, the health care provider  
1172 that makes the best overall proposal; (c) available to Mississippi  
1173 State University for research purposes two-thirds (2/3) of the  
1174 time that the linear accelerator and magnetic resonance imaging

1175 unit are operational; and (d) available to the public or private  
1176 health care provider selected by Mississippi State University and  
1177 approved by the Board of Trustees of State Institutions of Higher  
1178 Learning one-third (1/3) of the time for clinical, diagnostic and  
1179 treatment purposes. For purposes of this subsection, the  
1180 provisions of Section 41-7-193(1) requiring substantial compliance  
1181 with the projection of need as reported in the current State  
1182 Health Plan are waived.

1183 (17) Nothing in this section or in any other provision of  
1184 Section 41-7-171 et seq. shall prevent any nursing facility from  
1185 designating an appropriate number of existing beds in the facility  
1186 as beds for providing care exclusively to patients with  
1187 Alzheimer's disease.

1188 **SECTION 2.** This act shall take effect and be in force from  
1189 and after July 1, 2007.