

By: Senator(s) Horhn

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2418

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 THE CONSTRUCTION OF A 60-BED NURSING FACILITY IN ANY UNDERSERVED
4 MINORITY ZIP CODE AREA IN THE STATE; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the
9 following activities without obtaining the required certificate of
10 need:

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

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

22 (c) Any change in the existing bed complement of any
23 health care facility through the addition or conversion of any
24 beds or the alteration, modernizing or refurbishing of any unit or
25 department in which the beds may be located; however, if a health
26 care facility has voluntarily delicensed some of its existing bed
27 complement, it may later relicense some or all of its delicensed
28 beds without the necessity of having to acquire a certificate of

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

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

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

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

95 as a result of the change of ownership; an acquisition for less
96 than fair market value must be reviewed, if the acquisition at
97 fair market value would be subject to review;

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

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

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

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

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

124 (m) Reopening a health care facility that has ceased to
125 operate for a period of sixty (60) months or more, which reopening
126 requires a certificate of need for the establishment of a new
127 health care facility.

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

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

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

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

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

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

189 (e) The State Department of Health may issue a
190 certificate of need for the construction of a nursing facility or
191 the conversion of beds to nursing facility beds at a personal care
192 facility for the elderly in Lowndes County that is owned and
193 operated by a Mississippi nonprofit corporation, not to exceed

194 sixty (60) beds. From and after July 1, 1999, there shall be no
195 prohibition or restrictions on participation in the Medicaid
196 program (Section 43-13-101 et seq.) for the beds in the nursing
197 facility that were authorized under this paragraph (e).

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

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

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

222 (i) The department may issue a certificate of need for
223 the new construction of a skilled nursing facility in Leake
224 County, provided that the recipient of the certificate of need
225 agrees in writing that the skilled nursing facility will not at
226 any time participate in the Medicaid program (Section 43-13-101 et

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

259 facility at any time after the expiration of the eighteen-month
260 period.

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

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

292 2001. After this written agreement is executed, the Division of
293 Medicaid and the State Department of Health shall not certify more
294 than thirty (30) of the beds in the facility for participation in
295 the Medicaid program. If the facility violates the terms of the
296 written agreement by admitting or keeping in the facility on a
297 regular or continuing basis more than thirty (30) patients who are
298 participating in the Medicaid program, the State Department of
299 Health shall revoke the license of the facility, at the time that
300 the department determines, after a hearing complying with due
301 process, that the facility has violated the written agreement.

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

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

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

355 (n) The department may issue a certificate of need for
356 the new construction, addition or conversion of skilled nursing
357 facility beds in Madison County, provided that the recipient of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

677 (u) (i) The State Department of Health may issue a
678 certificate of need for the construction of a nursing facility in
679 an underserved minority zip code area, not to exceed sixty (60)
680 beds. For the purpose of this paragraph (u), the term "minority"
681 means Black, Hispanic, Asian or Pacific Islander, American Indian
682 or Alaskan native; and an "underserved minority zip code area"
683 means a United States Postal Service zip code area that:

684 1. Has a population of not less than thirty
685 thousand (30,000), according to the 2000 federal decennial census,

686 of which not less than seventy-five percent (75%) of the
687 population in the zip code area are racial minorities;

688 2. Is wholly or partially located in a county
689 that has a 2007 projected need for not less than four hundred
690 (400) additional nursing facility beds, according to the 2006
691 State Health Plan; and

692 3. Has no existing or approved nonpublic
693 nursing facility located in the zip code area.

694 (ii) If a certificate of need issued under this
695 paragraph (u) authorizes a nursing facility to be constructed in a
696 United States Postal Service zip code area that is located in more
697 than one (1) county, the nursing facility must be constructed in
698 that portion of the zip code area located in the county that has a
699 2007 projected need for not less than four hundred (400)
700 additional nursing facility beds, according to the 2006 State
701 Health Plan.

702 (iii) In the certificate of need review process
703 under this paragraph (u), the department shall give first priority
704 for the certificate of need to applicants that:

705 1. Currently own and operate one (1) nursing
706 facility in the State of Mississippi;

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

710 a. Termination of Medicaid and/or
711 Medicare certification;

712 b. Denial, suspension or revocation of
713 nursing facility license;

714 c. Cumulative Medicaid and/or Medicare
715 civil monetary penalties totaling more than Five Thousand Dollars
716 (\$5,000.00); or

717 d. Denial of payment for new admissions;

718 and

719 3. Mississippi Department of Health finds no
720 clear pattern of substantial or repeated state licensure and
721 Medicaid certification sanctions, including administrative
722 penalties and/or other sanctions;

723 4. As of January 1, 2007, have implemented
724 all certificates of need that they, or any partner or co-owner,
725 have previously received;

726 5. Are nonprofit corporations.

727 (3) The State Department of Health may grant approval for
728 and issue certificates of need to any person proposing the new
729 construction of, addition to, conversion of beds of or expansion
730 of any health care facility defined in subparagraph (x)
731 (psychiatric residential treatment facility) of Section
732 41-7-173(h). The total number of beds which may be authorized by
733 such certificates of need shall not exceed three hundred
734 thirty-four (334) beds for the entire state.

735 (a) Of the total number of beds authorized under this
736 subsection, the department shall issue a certificate of need to a
737 privately-owned psychiatric residential treatment facility in
738 Simpson County for the conversion of sixteen (16) intermediate
739 care facility for the mentally retarded (ICF-MR) beds to
740 psychiatric residential treatment facility beds, provided that
741 facility agrees in writing that the facility shall give priority
742 for the use of those sixteen (16) beds to Mississippi residents
743 who are presently being treated in out-of-state facilities.

744 (b) Of the total number of beds authorized under this
745 subsection, the department may issue a certificate or certificates
746 of need for the construction or expansion of psychiatric
747 residential treatment facility beds or the conversion of other
748 beds to psychiatric residential treatment facility beds in Warren
749 County, not to exceed sixty (60) psychiatric residential treatment
750 facility beds, provided that the facility agrees in writing that
751 no more than thirty (30) of the beds at the psychiatric

752 residential treatment facility will be certified for participation
753 in the Medicaid program (Section 43-13-101 et seq.) for the use of
754 any patients other than those who are participating only in the
755 Medicaid program of another state, and that no claim will be
756 submitted to the Division of Medicaid for Medicaid reimbursement
757 for more than thirty (30) patients in the psychiatric residential
758 treatment facility in any day or for any patient in the
759 psychiatric residential treatment facility who is in a bed that is
760 not Medicaid-certified. This written agreement by the recipient
761 of the certificate of need shall be a condition of the issuance of
762 the certificate of need under this paragraph, and the agreement
763 shall be fully binding on any subsequent owner of the psychiatric
764 residential treatment facility if the ownership of the facility is
765 transferred at any time after the issuance of the certificate of
766 need. After this written agreement is executed, the Division of
767 Medicaid and the State Department of Health shall not certify more
768 than thirty (30) of the beds in the psychiatric residential
769 treatment facility for participation in the Medicaid program for
770 the use of any patients other than those who are participating
771 only in the Medicaid program of another state. If the psychiatric
772 residential treatment facility violates the terms of the written
773 agreement by admitting or keeping in the facility on a regular or
774 continuing basis more than thirty (30) patients who are
775 participating in the Mississippi Medicaid program, the State
776 Department of Health shall revoke the license of the facility, at
777 the time that the department determines, after a hearing complying
778 with due process, that the facility has violated the condition
779 upon which the certificate of need was issued, as provided in this
780 paragraph and in the written agreement.

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

785 (c) Of the total number of beds authorized under this
786 subsection, the department shall issue a certificate of need to a
787 hospital currently operating Medicaid-certified acute psychiatric
788 beds for adolescents in DeSoto County, for the establishment of a
789 forty-bed psychiatric residential treatment facility in DeSoto
790 County, provided that the hospital agrees in writing (i) that the
791 hospital shall give priority for the use of those forty (40) beds
792 to Mississippi residents who are presently being treated in
793 out-of-state facilities, and (ii) that no more than fifteen (15)
794 of the beds at the psychiatric residential treatment facility will
795 be certified for participation in the Medicaid program (Section
796 43-13-101 et seq.), and that no claim will be submitted for
797 Medicaid reimbursement for more than fifteen (15) patients in the
798 psychiatric residential treatment facility in any day or for any
799 patient in the psychiatric residential treatment facility who is
800 in a bed that is not Medicaid-certified. This written agreement
801 by the recipient of the certificate of need shall be a condition
802 of the issuance of the certificate of need under this paragraph,
803 and the agreement shall be fully binding on any subsequent owner
804 of the psychiatric residential treatment facility if the ownership
805 of the facility is transferred at any time after the issuance of
806 the certificate of need. After this written agreement is
807 executed, the Division of Medicaid and the State Department of
808 Health shall not certify more than fifteen (15) of the beds in the
809 psychiatric residential treatment facility for participation in
810 the Medicaid program. If the psychiatric residential treatment
811 facility violates the terms of the written agreement by admitting
812 or keeping in the facility on a regular or continuing basis more
813 than fifteen (15) patients who are participating in the Medicaid
814 program, the State Department of Health shall revoke the license
815 of the facility, at the time that the department determines, after
816 a hearing complying with due process, that the facility has
817 violated the condition upon which the certificate of need was

818 issued, as provided in this paragraph and in the written
819 agreement.

820 (d) Of the total number of beds authorized under this
821 subsection, the department may issue a certificate or certificates
822 of need for the construction or expansion of psychiatric
823 residential treatment facility beds or the conversion of other
824 beds to psychiatric treatment facility beds, not to exceed thirty
825 (30) psychiatric residential treatment facility beds, in either
826 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
827 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

828 (e) Of the total number of beds authorized under this
829 subsection (3) the department shall issue a certificate of need to
830 a privately-owned, nonprofit psychiatric residential treatment
831 facility in Hinds County for an eight-bed expansion of the
832 facility, provided that the facility agrees in writing that the
833 facility shall give priority for the use of those eight (8) beds
834 to Mississippi residents who are presently being treated in
835 out-of-state facilities.

836 (f) The department shall issue a certificate of need to
837 a one-hundred-thirty-four-bed specialty hospital located on
838 twenty-nine and forty-four one-hundredths (29.44) commercial acres
839 at 5900 Highway 39 North in Meridian (Lauderdale County),
840 Mississippi, for the addition, construction or expansion of
841 child/adolescent psychiatric residential treatment facility beds
842 in Lauderdale County. As a condition of issuance of the
843 certificate of need under this paragraph, the facility shall give
844 priority in admissions to the child/adolescent psychiatric
845 residential treatment facility beds authorized under this
846 paragraph to patients who otherwise would require out-of-state
847 placement. The Division of Medicaid, in conjunction with the
848 Department of Human Services, shall furnish the facility a list of
849 all out-of-state patients on a quarterly basis. Furthermore,
850 notice shall also be provided to the parent, custodial parent or

851 guardian of each out-of-state patient notifying them of the
852 priority status granted by this paragraph. For purposes of this
853 paragraph, the provisions of Section 41-7-193(1) requiring
854 substantial compliance with the projection of need as reported in
855 the current State Health Plan are waived. The total number of
856 child/adolescent psychiatric residential treatment facility beds
857 that may be authorized under the authority of this paragraph shall
858 be sixty (60) beds. There shall be no prohibition or restrictions
859 on participation in the Medicaid program (Section 43-13-101 et
860 seq.) for the person receiving the certificate of need authorized
861 under this paragraph or for the beds converted pursuant to the
862 authority of that certificate of need.

863 (4) (a) From and after July 1, 1993, the department shall
864 not issue a certificate of need to any person for the new
865 construction of any hospital, psychiatric hospital or chemical
866 dependency hospital that will contain any child/adolescent
867 psychiatric or child/adolescent chemical dependency beds, or for
868 the conversion of any other health care facility to a hospital,
869 psychiatric hospital or chemical dependency hospital that will
870 contain any child/adolescent psychiatric or child/adolescent
871 chemical dependency beds, or for the addition of any
872 child/adolescent psychiatric or child/adolescent chemical
873 dependency beds in any hospital, psychiatric hospital or chemical
874 dependency hospital, or for the conversion of any beds of another
875 category in any hospital, psychiatric hospital or chemical
876 dependency hospital to child/adolescent psychiatric or
877 child/adolescent chemical dependency beds, except as hereinafter
878 authorized:

879 (i) The department may issue certificates of need
880 to any person for any purpose described in this subsection,
881 provided that the hospital, psychiatric hospital or chemical
882 dependency hospital does not participate in the Medicaid program
883 (Section 43-13-101 et seq.) at the time of the application for the

884 certificate of need and the owner of the hospital, psychiatric
885 hospital or chemical dependency hospital agrees in writing that
886 the hospital, psychiatric hospital or chemical dependency hospital
887 will not at any time participate in the Medicaid program or admit
888 or keep any patients who are participating in the Medicaid program
889 in the hospital, psychiatric hospital or chemical dependency
890 hospital. This written agreement by the recipient of the
891 certificate of need shall be fully binding on any subsequent owner
892 of the hospital, psychiatric hospital or chemical dependency
893 hospital, if the ownership of the facility is transferred at any
894 time after the issuance of the certificate of need. Agreement
895 that the hospital, psychiatric hospital or chemical dependency
896 hospital will not participate in the Medicaid program shall be a
897 condition of the issuance of a certificate of need to any person
898 under this subparagraph * * * (i), and if such hospital,
899 psychiatric hospital or chemical dependency hospital at any time
900 after the issuance of the certificate of need, regardless of the
901 ownership of the facility, participates in the Medicaid program or
902 admits or keeps any patients in the hospital, psychiatric hospital
903 or chemical dependency hospital who are participating in the
904 Medicaid program, the State Department of Health shall revoke the
905 certificate of need, if it is still outstanding, and shall deny or
906 revoke the license of the hospital, psychiatric hospital or
907 chemical dependency hospital, at the time that the department
908 determines, after a hearing complying with due process, that the
909 hospital, psychiatric hospital or chemical dependency hospital has
910 failed to comply with any of the conditions upon which the
911 certificate of need was issued, as provided in this subparagraph
912 (i) and in the written agreement by the recipient of the
913 certificate of need.

914 (ii) The department may issue a certificate of
915 need for the conversion of existing beds in a county hospital in
916 Choctaw County from acute care beds to child/adolescent chemical

917 dependency beds. For purposes of this subparagraph (ii), the
918 provisions of Section 41-7-193(1) requiring substantial compliance
919 with the projection of need as reported in the current State
920 Health Plan is waived. The total number of beds that may be
921 authorized under authority of this subparagraph shall not exceed
922 twenty (20) beds. There shall be no prohibition or restrictions
923 on participation in the Medicaid program (Section 43-13-101 et
924 seq.) for the hospital receiving the certificate of need
925 authorized under this subparagraph * * * or for the beds converted
926 pursuant to the authority of that certificate of need.

927 (iii) The department may issue a certificate or
928 certificates of need for the construction or expansion of
929 child/adolescent psychiatric beds or the conversion of other beds
930 to child/adolescent psychiatric beds in Warren County. For
931 purposes of this subparagraph (iii), the provisions of Section
932 41-7-193(1) requiring substantial compliance with the projection
933 of need as reported in the current State Health Plan are waived.
934 The total number of beds that may be authorized under the
935 authority of this subparagraph shall not exceed twenty (20) beds.
936 There shall be no prohibition or restrictions on participation in
937 the Medicaid program (Section 43-13-101 et seq.) for the person
938 receiving the certificate of need authorized under this
939 subparagraph * * * or for the beds converted pursuant to the
940 authority of that certificate of need.

941 If by January 1, 2002, there has been no significant
942 commencement of construction of the beds authorized under this
943 subparagraph * * * (iii), or no significant action taken to
944 convert existing beds to the beds authorized under this
945 subparagraph, then the certificate of need that was previously
946 issued under this subparagraph shall expire. If the previously
947 issued certificate of need expires, the department may accept
948 applications for issuance of another certificate of need for the
949 beds authorized under this subparagraph, and may issue a

950 certificate of need to authorize the construction, expansion or
951 conversion of the beds authorized under this subparagraph.

952 (iv) The department shall issue a certificate of
953 need to the Region 7 Mental Health/Retardation Commission for the
954 construction or expansion of child/adolescent psychiatric beds or
955 the conversion of other beds to child/adolescent psychiatric beds
956 in any of the counties served by the commission. For purposes of
957 this subparagraph (iv), the provisions of Section 41-7-193(1)
958 requiring substantial compliance with the projection of need as
959 reported in the current State Health Plan is waived. The total
960 number of beds that may be authorized under the authority of this
961 subparagraph shall not exceed twenty (20) beds. There shall be no
962 prohibition or restrictions on participation in the Medicaid
963 program (Section 43-13-101 et seq.) for the person receiving the
964 certificate of need authorized under this subparagraph * * * or
965 for the beds converted pursuant to the authority of that
966 certificate of need.

967 (v) The department may issue a certificate of need
968 to any county hospital located in Leflore County for the
969 construction or expansion of adult psychiatric beds or the
970 conversion of other beds to adult psychiatric beds, not to exceed
971 twenty (20) beds, provided that the recipient of the certificate
972 of need agrees in writing that the adult psychiatric beds will not
973 at any time be certified for participation in the Medicaid program
974 and that the hospital will not admit or keep any patients who are
975 participating in the Medicaid program in any of such adult
976 psychiatric beds. This written agreement by the recipient of the
977 certificate of need shall be fully binding on any subsequent owner
978 of the hospital if the ownership of the hospital is transferred at
979 any time after the issuance of the certificate of need. Agreement
980 that the adult psychiatric beds will not be certified for
981 participation in the Medicaid program shall be a condition of the
982 issuance of a certificate of need to any person under this

983 subparagraph * * * (v), and if such hospital at any time after the
984 issuance of the certificate of need, regardless of the ownership
985 of the hospital, has any of such adult psychiatric beds certified
986 for participation in the Medicaid program or admits or keeps any
987 Medicaid patients in such adult psychiatric beds, the State
988 Department of Health shall revoke the certificate of need, if it
989 is still outstanding, and shall deny or revoke the license of the
990 hospital at the time that the department determines, after a
991 hearing complying with due process, that the hospital has failed
992 to comply with any of the conditions upon which the certificate of
993 need was issued, as provided in this subparagraph and in the
994 written agreement by the recipient of the certificate of need.

995 (vi) The department may issue a certificate or
996 certificates of need for the expansion of child psychiatric beds
997 or the conversion of other beds to child psychiatric beds at the
998 University of Mississippi Medical Center. For purposes of this
999 subparagraph * * * (vi), the provision of Section 41-7-193(1)
1000 requiring substantial compliance with the projection of need as
1001 reported in the current State Health Plan is waived. The total
1002 number of beds that may be authorized under the authority of this
1003 subparagraph * * * shall not exceed fifteen (15) beds. There
1004 shall be no prohibition or restrictions on participation in the
1005 Medicaid program (Section 43-13-101 et seq.) for the hospital
1006 receiving the certificate of need authorized under this
1007 subparagraph * * * or for the beds converted pursuant to the
1008 authority of that certificate of need.

1009 (b) From and after July 1, 1990, no hospital,
1010 psychiatric hospital or chemical dependency hospital shall be
1011 authorized to add any child/adolescent psychiatric or
1012 child/adolescent chemical dependency beds or convert any beds of
1013 another category to child/adolescent psychiatric or
1014 child/adolescent chemical dependency beds without a certificate of
1015 need under the authority of subsection (1)(c) of this section.

1016 (5) The department may issue a certificate of need to a
1017 county hospital in Winston County for the conversion of fifteen
1018 (15) acute care beds to geriatric psychiatric care beds.

1019 (6) The State Department of Health shall issue a certificate
1020 of need to a Mississippi corporation qualified to manage a
1021 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1022 Harrison County, not to exceed eighty (80) beds, including any
1023 necessary renovation or construction required for licensure and
1024 certification, provided that the recipient of the certificate of
1025 need agrees in writing that the long-term care hospital will not
1026 at any time participate in the Medicaid program (Section 43-13-101
1027 et seq.) or admit or keep any patients in the long-term care
1028 hospital who are participating in the Medicaid program. This
1029 written agreement by the recipient of the certificate of need
1030 shall be fully binding on any subsequent owner of the long-term
1031 care hospital, if the ownership of the facility is transferred at
1032 any time after the issuance of the certificate of need. Agreement
1033 that the long-term care hospital will not participate in the
1034 Medicaid program shall be a condition of the issuance of a
1035 certificate of need to any person under this subsection (6), and
1036 if such long-term care hospital at any time after the issuance of
1037 the certificate of need, regardless of the ownership of the
1038 facility, participates in the Medicaid program or admits or keeps
1039 any patients in the facility who are participating in the Medicaid
1040 program, the State Department of Health shall revoke the
1041 certificate of need, if it is still outstanding, and shall deny or
1042 revoke the license of the long-term care hospital, at the time
1043 that the department determines, after a hearing complying with due
1044 process, that the facility has failed to comply with any of the
1045 conditions upon which the certificate of need was issued, as
1046 provided in this subsection and in the written agreement by the
1047 recipient of the certificate of need. For purposes of this
1048 subsection, the provision of Section 41-7-193(1) requiring

1049 substantial compliance with the projection of need as reported in
1050 the current State Health Plan is hereby waived.

1051 (7) The State Department of Health may issue a certificate
1052 of need to any hospital in the state to utilize a portion of its
1053 beds for the "swing-bed" concept. Any such hospital must be in
1054 conformance with the federal regulations regarding such swing-bed
1055 concept at the time it submits its application for a certificate
1056 of need to the State Department of Health, except that such
1057 hospital may have more licensed beds or a higher average daily
1058 census (ADC) than the maximum number specified in federal
1059 regulations for participation in the swing-bed program. Any
1060 hospital meeting all federal requirements for participation in the
1061 swing-bed program which receives such certificate of need shall
1062 render services provided under the swing-bed concept to any
1063 patient eligible for Medicare (Title XVIII of the Social Security
1064 Act) who is certified by a physician to be in need of such
1065 services, and no such hospital shall permit any patient who is
1066 eligible for both Medicaid and Medicare or eligible only for
1067 Medicaid to stay in the swing beds of the hospital for more than
1068 thirty (30) days per admission unless the hospital receives prior
1069 approval for such patient from the Division of Medicaid, Office of
1070 the Governor. Any hospital having more licensed beds or a higher
1071 average daily census (ADC) than the maximum number specified in
1072 federal regulations for participation in the swing-bed program
1073 which receives such certificate of need shall develop a procedure
1074 to insure that before a patient is allowed to stay in the swing
1075 beds of the hospital, there are no vacant nursing home beds
1076 available for that patient located within a fifty-mile radius of
1077 the hospital. When any such hospital has a patient staying in the
1078 swing beds of the hospital and the hospital receives notice from a
1079 nursing home located within such radius that there is a vacant bed
1080 available for that patient, the hospital shall transfer the
1081 patient to the nursing home within a reasonable time after receipt

1082 of the notice. Any hospital which is subject to the requirements
1083 of the two (2) preceding sentences of this subsection may be
1084 suspended from participation in the swing-bed program for a
1085 reasonable period of time by the State Department of Health if the
1086 department, after a hearing complying with due process, determines
1087 that the hospital has failed to comply with any of those
1088 requirements.

1089 (8) The Department of Health shall not grant approval for or
1090 issue a certificate of need to any person proposing the new
1091 construction of, addition to or expansion of a health care
1092 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1093 except as hereinafter provided: The department may issue a
1094 certificate of need to a nonprofit corporation located in Madison
1095 County, Mississippi, for the construction, expansion or conversion
1096 of not more than twenty (20) beds in a community living program
1097 for developmentally disabled adults in a facility as defined in
1098 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1099 subsection (8), the provisions of Section 41-7-193(1) requiring
1100 substantial compliance with the projection of need as reported in
1101 the current State Health Plan and the provisions of Section
1102 41-7-197 requiring a formal certificate of need hearing process
1103 are waived. There shall be no prohibition or restrictions on
1104 participation in the Medicaid program for the person receiving the
1105 certificate of need authorized under this subsection (8).

1106 (9) The Department of Health shall not grant approval for or
1107 issue a certificate of need to any person proposing the
1108 establishment of, or expansion of the currently approved territory
1109 of, or the contracting to establish a home office, subunit or
1110 branch office within the space operated as a health care facility
1111 as defined in Section 41-7-173(h)(i) through (viii) by a health
1112 care facility as defined in subparagraph (ix) of Section
1113 41-7-173(h).

1114 (10) Health care facilities owned and/or operated by the
1115 state or its agencies are exempt from the restraints in this
1116 section against issuance of a certificate of need if such addition
1117 or expansion consists of repairing or renovation necessary to
1118 comply with the state licensure law. This exception shall not
1119 apply to the new construction of any building by such state
1120 facility. This exception shall not apply to any health care
1121 facilities owned and/or operated by counties, municipalities,
1122 districts, unincorporated areas, other defined persons, or any
1123 combination thereof.

1124 (11) The new construction, renovation or expansion of or
1125 addition to any health care facility defined in subparagraph (ii)
1126 (psychiatric hospital), subparagraph (iv) (skilled nursing
1127 facility), subparagraph (vi) (intermediate care facility),
1128 subparagraph (viii) (intermediate care facility for the mentally
1129 retarded) and subparagraph (x) (psychiatric residential treatment
1130 facility) of Section 41-7-173(h) which is owned by the State of
1131 Mississippi and under the direction and control of the State
1132 Department of Mental Health, and the addition of new beds or the
1133 conversion of beds from one category to another in any such
1134 defined health care facility which is owned by the State of
1135 Mississippi and under the direction and control of the State
1136 Department of Mental Health, shall not require the issuance of a
1137 certificate of need under Section 41-7-171 et seq.,
1138 notwithstanding any provision in Section 41-7-171 et seq. to the
1139 contrary.

1140 (12) The new construction, renovation or expansion of or
1141 addition to any veterans homes or domiciliaries for eligible
1142 veterans of the State of Mississippi as authorized under Section
1143 35-1-19 shall not require the issuance of a certificate of need,
1144 notwithstanding any provision in Section 41-7-171 et seq. to the
1145 contrary.

1146 (13) The new construction of a nursing facility or nursing
1147 facility beds or the conversion of other beds to nursing facility
1148 beds shall not require the issuance of a certificate of need,
1149 notwithstanding any provision in Section 41-7-171 et seq. to the
1150 contrary, if the conditions of this subsection are met.

1151 (a) Before any construction or conversion may be
1152 undertaken without a certificate of need, the owner of the nursing
1153 facility, in the case of an existing facility, or the applicant to
1154 construct a nursing facility, in the case of new construction,
1155 first must file a written notice of intent and sign a written
1156 agreement with the State Department of Health that the entire
1157 nursing facility will not at any time participate in or have any
1158 beds certified for participation in the Medicaid program (Section
1159 43-13-101 et seq.), will not admit or keep any patients in the
1160 nursing facility who are participating in the Medicaid program,
1161 and will not submit any claim for Medicaid reimbursement for any
1162 patient in the facility. This written agreement by the owner or
1163 applicant shall be a condition of exercising the authority under
1164 this subsection without a certificate of need, and the agreement
1165 shall be fully binding on any subsequent owner of the nursing
1166 facility if the ownership of the facility is transferred at any
1167 time after the agreement is signed. After the written agreement
1168 is signed, the Division of Medicaid and the State Department of
1169 Health shall not certify any beds in the nursing facility for
1170 participation in the Medicaid program. If the nursing facility
1171 violates the terms of the written agreement by participating in
1172 the Medicaid program, having any beds certified for participation
1173 in the Medicaid program, admitting or keeping any patient in the
1174 facility who is participating in the Medicaid program, or
1175 submitting any claim for Medicaid reimbursement for any patient in
1176 the facility, the State Department of Health shall revoke the
1177 license of the nursing facility at the time that the department

1178 determines, after a hearing complying with due process, that the
1179 facility has violated the terms of the written agreement.

1180 (b) For the purposes of this subsection, participation
1181 in the Medicaid program by a nursing facility includes Medicaid
1182 reimbursement of coinsurance and deductibles for recipients who
1183 are qualified Medicare beneficiaries and/or those who are dually
1184 eligible. Any nursing facility exercising the authority under
1185 this subsection may not bill or submit a claim to the Division of
1186 Medicaid for services to qualified Medicare beneficiaries and/or
1187 those who are dually eligible.

1188 (c) The new construction of a nursing facility or
1189 nursing facility beds or the conversion of other beds to nursing
1190 facility beds described in this section must be either a part of a
1191 completely new continuing care retirement community, as described
1192 in the latest edition of the Mississippi State Health Plan, or an
1193 addition to existing personal care and independent living
1194 components, and so that the completed project will be a continuing
1195 care retirement community, containing (i) independent living
1196 accommodations, (ii) personal care beds, and (iii) the nursing
1197 home facility beds. The three (3) components must be located on a
1198 single site and be operated as one (1) inseparable facility. The
1199 nursing facility component must contain a minimum of thirty (30)
1200 beds. Any nursing facility beds authorized by this section will
1201 not be counted against the bed need set forth in the State Health
1202 Plan, as identified in Section 41-7-171 et seq.

1203 This subsection (13) shall stand repealed from and after July
1204 1, 2005.

1205 (14) The State Department of Health shall issue a
1206 certificate of need to any hospital which is currently licensed
1207 for two hundred fifty (250) or more acute care beds and is located
1208 in any general hospital service area not having a comprehensive
1209 cancer center, for the establishment and equipping of such a
1210 center which provides facilities and services for outpatient

1211 radiation oncology therapy, outpatient medical oncology therapy,
1212 and appropriate support services including the provision of
1213 radiation therapy services. The provision of Section 41-7-193(1)
1214 regarding substantial compliance with the projection of need as
1215 reported in the current State Health Plan is waived for the
1216 purpose of this subsection.

1217 (15) The State Department of Health may authorize the
1218 transfer of hospital beds, not to exceed sixty (60) beds, from the
1219 North Panola Community Hospital to the South Panola Community
1220 Hospital. The authorization for the transfer of those beds shall
1221 be exempt from the certificate of need review process.

1222 (16) The State Department of Health shall issue any
1223 certificates of need necessary for Mississippi State University
1224 and a public or private health care provider to jointly acquire
1225 and operate a linear accelerator and a magnetic resonance imaging
1226 unit. Those certificates of need shall cover all capital
1227 expenditures related to the project between Mississippi State
1228 University and the health care provider, including, but not
1229 limited to, the acquisition of the linear accelerator, the
1230 magnetic resonance imaging unit and other radiological modalities;
1231 the offering of linear accelerator and magnetic resonance imaging
1232 services; and the cost of construction of facilities in which to
1233 locate these services. The linear accelerator and the magnetic
1234 resonance imaging unit shall be (a) located in the City of
1235 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1236 Mississippi State University and the public or private health care
1237 provider selected by Mississippi State University through a
1238 request for proposals (RFP) process in which Mississippi State
1239 University selects, and the Board of Trustees of State
1240 Institutions of Higher Learning approves, the health care provider
1241 that makes the best overall proposal; (c) available to Mississippi
1242 State University for research purposes two-thirds (2/3) of the
1243 time that the linear accelerator and magnetic resonance imaging

1244 unit are operational; and (d) available to the public or private
1245 health care provider selected by Mississippi State University and
1246 approved by the Board of Trustees of State Institutions of Higher
1247 Learning one-third (1/3) of the time for clinical, diagnostic and
1248 treatment purposes. For purposes of this subsection, the
1249 provisions of Section 41-7-193(1) requiring substantial compliance
1250 with the projection of need as reported in the current State
1251 Health Plan are waived.

1252 (17) Nothing in this section or in any other provision of
1253 Section 41-7-171 et seq. shall prevent any nursing facility from
1254 designating an appropriate number of existing beds in the facility
1255 as beds for providing care exclusively to patients with
1256 Alzheimer's disease.

1257 **SECTION 2.** This act shall take effect and be in force from
1258 and after July 1, 2007.