

By: Senator(s) Clarke, Lee (35th)

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2703

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO TRANSFER CERTIFICATE
3 OF NEED R-0077 (20-BED CHILD/ADOLESCENT PSYCHIATRIC FACILITY) AND
4 CERTIFICATE OF NEED R-0134 (60-BED PSYCHIATRIC RESIDENTIAL
5 TREATMENT FACILITY) FROM WARREN COUNTY TO WASHINGTON COUNTY,
6 MISSISSIPPI; TO AUTHORIZE THE DEPARTMENT OF HEALTH IN THE
7 ALTERNATIVE TO ISSUE A NEW CERTIFICATE OF NEED FOR SUCH BEDS IN
8 WASHINGTON COUNTY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

739 The State Department of Health, upon passage of this act,
740 shall transfer Certificate of Need R-0134 (60-bed psychiatric
741 residential treatment facility) authorized under the authority of
742 this paragraph (b), or reissue the certificate of need if it has
743 expired, to an applicant for such beds to be located in Washington
744 County. The certificate of need for said transfers shall be
745 issued by the State Department of Health within ten (10) working
746 days of submission of the application therefor. If the
747 certificate of need is not issued within this period, it shall be
748 considered issued by action of law. If the certificate of need
749 authorized for Warren County has expired, the department shall
750 issue a certificate of need for the new construction, addition or
751 conversion of psychiatric residential treatment facility beds in
752 Washington County, not to exceed sixty (60) psychiatric
753 residential treatment facility beds. For purposes of this
754 paragraph (b), the provisions of Section 41-7-193(1) requiring

755 substantial compliance with the projection of need as reported in
756 the current State Health Plan and provisions of Section 41-7-197
757 requiring a formal certificate of need hearing process are waived.
758 There shall be no prohibition or restrictions on participation in
759 the Medicaid program for the person receiving the certificate of
760 need authorized under this paragraph (b).

761 (c) Of the total number of beds authorized under this
762 subsection, the department shall issue a certificate of need to a
763 hospital currently operating Medicaid-certified acute psychiatric
764 beds for adolescents in DeSoto County, for the establishment of a
765 forty-bed psychiatric residential treatment facility in DeSoto
766 County, provided that the hospital agrees in writing (i) that the
767 hospital shall give priority for the use of those forty (40) beds
768 to Mississippi residents who are presently being treated in
769 out-of-state facilities, and (ii) that no more than fifteen (15)
770 of the beds at the psychiatric residential treatment facility will
771 be certified for participation in the Medicaid program (Section
772 43-13-101 et seq.), and that no claim will be submitted for
773 Medicaid reimbursement for more than fifteen (15) patients in the
774 psychiatric residential treatment facility in any day or for any
775 patient in the psychiatric residential treatment facility who is
776 in a bed that is not Medicaid-certified. This written agreement
777 by the recipient of the certificate of need shall be a condition
778 of the issuance of the certificate of need under this paragraph,
779 and the agreement shall be fully binding on any subsequent owner
780 of the psychiatric residential treatment facility if the ownership
781 of the facility is transferred at any time after the issuance of
782 the certificate of need. After this written agreement is
783 executed, the Division of Medicaid and the State Department of
784 Health shall not certify more than fifteen (15) of the beds in the
785 psychiatric residential treatment facility for participation in
786 the Medicaid program. If the psychiatric residential treatment
787 facility violates the terms of the written agreement by admitting

788 or keeping in the facility on a regular or continuing basis more
789 than fifteen (15) patients who are participating in the Medicaid
790 program, the State Department of Health shall revoke the license
791 of the facility, at the time that the department determines, after
792 a hearing complying with due process, that the facility has
793 violated the condition upon which the certificate of need was
794 issued, as provided in this paragraph and in the written
795 agreement.

796 (d) Of the total number of beds authorized under this
797 subsection, the department may issue a certificate or certificates
798 of need for the construction or expansion of psychiatric
799 residential treatment facility beds or the conversion of other
800 beds to psychiatric treatment facility beds, not to exceed thirty
801 (30) psychiatric residential treatment facility beds, in either
802 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
803 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

804 (e) Of the total number of beds authorized under this
805 subsection (3) the department shall issue a certificate of need to
806 a privately owned, nonprofit psychiatric residential treatment
807 facility in Hinds County for an eight-bed expansion of the
808 facility, provided that the facility agrees in writing that the
809 facility shall give priority for the use of those eight (8) beds
810 to Mississippi residents who are presently being treated in
811 out-of-state facilities.

812 (f) The department shall issue a certificate of need to
813 a one-hundred-thirty-four-bed specialty hospital located on
814 twenty-nine and forty-four one-hundredths (29.44) commercial acres
815 at 5900 Highway 39 North in Meridian (Lauderdale County),
816 Mississippi, for the addition, construction or expansion of
817 child/adolescent psychiatric residential treatment facility beds
818 in Lauderdale County. As a condition of issuance of the
819 certificate of need under this paragraph, the facility shall give
820 priority in admissions to the child/adolescent psychiatric

821 residential treatment facility beds authorized under this
822 paragraph to patients who otherwise would require out-of-state
823 placement. The Division of Medicaid, in conjunction with the
824 Department of Human Services, shall furnish the facility a list of
825 all out-of-state patients on a quarterly basis. Furthermore,
826 notice shall also be provided to the parent, custodial parent or
827 guardian of each out-of-state patient notifying them of the
828 priority status granted by this paragraph. For purposes of this
829 paragraph, the provisions of Section 41-7-193(1) requiring
830 substantial compliance with the projection of need as reported in
831 the current State Health Plan are waived. The total number of
832 child/adolescent psychiatric residential treatment facility beds
833 that may be authorized under the authority of this paragraph shall
834 be sixty (60) beds. There shall be no prohibition or restrictions
835 on participation in the Medicaid program (Section 43-13-101 et
836 seq.) for the person receiving the certificate of need authorized
837 under this paragraph or for the beds converted pursuant to the
838 authority of that certificate of need.

839 (4) (a) From and after July 1, 1993, the department shall
840 not issue a certificate of need to any person for the new
841 construction of any hospital, psychiatric hospital or chemical
842 dependency hospital that will contain any child/adolescent
843 psychiatric or child/adolescent chemical dependency beds, or for
844 the conversion of any other health care facility to a hospital,
845 psychiatric hospital or chemical dependency hospital that will
846 contain any child/adolescent psychiatric or child/adolescent
847 chemical dependency beds, or for the addition of any
848 child/adolescent psychiatric or child/adolescent chemical
849 dependency beds in any hospital, psychiatric hospital or chemical
850 dependency hospital, or for the conversion of any beds of another
851 category in any hospital, psychiatric hospital or chemical
852 dependency hospital to child/adolescent psychiatric or

853 child/adolescent chemical dependency beds, except as hereinafter
854 authorized:

855 (i) The department may issue certificates of need
856 to any person for any purpose described in this subsection,
857 provided that the hospital, psychiatric hospital or chemical
858 dependency hospital does not participate in the Medicaid program
859 (Section 43-13-101 et seq.) at the time of the application for the
860 certificate of need and the owner of the hospital, psychiatric
861 hospital or chemical dependency hospital agrees in writing that
862 the hospital, psychiatric hospital or chemical dependency hospital
863 will not at any time participate in the Medicaid program or admit
864 or keep any patients who are participating in the Medicaid program
865 in the hospital, psychiatric hospital or chemical dependency
866 hospital. This written agreement by the recipient of the
867 certificate of need shall be fully binding on any subsequent owner
868 of the hospital, psychiatric hospital or chemical dependency
869 hospital, if the ownership of the facility is transferred at any
870 time after the issuance of the certificate of need. Agreement
871 that the hospital, psychiatric hospital or chemical dependency
872 hospital will not participate in the Medicaid program shall be a
873 condition of the issuance of a certificate of need to any person
874 under this subparagraph * * * (i), and if such hospital,
875 psychiatric hospital or chemical dependency hospital at any time
876 after the issuance of the certificate of need, regardless of the
877 ownership of the facility, participates in the Medicaid program or
878 admits or keeps any patients in the hospital, psychiatric hospital
879 or chemical dependency hospital who are participating in the
880 Medicaid program, the State Department of Health shall revoke the
881 certificate of need, if it is still outstanding, and shall deny or
882 revoke the license of the hospital, psychiatric hospital or
883 chemical dependency hospital, at the time that the department
884 determines, after a hearing complying with due process, that the
885 hospital, psychiatric hospital or chemical dependency hospital has

886 failed to comply with any of the conditions upon which the
887 certificate of need was issued, as provided in this subparagraph
888 (i) and in the written agreement by the recipient of the
889 certificate of need.

890 (ii) The department may issue a certificate of
891 need for the conversion of existing beds in a county hospital in
892 Choctaw County from acute care beds to child/adolescent chemical
893 dependency beds. For purposes of this subparagraph (ii), the
894 provisions of Section 41-7-193(1) requiring substantial compliance
895 with the projection of need as reported in the current State
896 Health Plan is waived. The total number of beds that may be
897 authorized under authority of this subparagraph shall not exceed
898 twenty (20) beds. There shall be no prohibition or restrictions
899 on participation in the Medicaid program (Section 43-13-101 et
900 seq.) for the hospital receiving the certificate of need
901 authorized under this subparagraph * * * or for the beds converted
902 pursuant to the authority of that certificate of need.

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

917 If by January 1, 2002, there has been no significant
918 commencement of construction of the beds authorized under this

919 subparagraph * * * (iii), or no significant action taken to
920 convert existing beds to the beds authorized under this
921 subparagraph, then the certificate of need that was previously
922 issued under this subparagraph shall expire. If the previously
923 issued certificate of need expires, the department may accept
924 applications for issuance of another certificate of need for the
925 beds authorized under this subparagraph, and may issue a
926 certificate of need to authorize the construction, expansion or
927 conversion of the beds authorized under this subparagraph.

928 The State Department of Health, upon passage of this act,
929 shall transfer Certificate of Need R-0077 (20-bed child/adolescent
930 psychiatric facility) authorized under the authority of this
931 subparagraph (iii), or reissue the certificate of need if it has
932 expired to an applicant for such beds to be located in Washington
933 County. The certificate of need for said transfers shall be
934 issued by the State Department of Health within ten (10) working
935 days of submission of the application therefor. If the
936 certificate of need is not issued within this period, it shall be
937 considered issued by action of law. If the certificate of need
938 authorized for Warren County has expired, the department shall
939 issue a certificate of need for the new construction, addition or
940 conversion of child/adolescent psychiatric facility beds, not to
941 exceed twenty (20) psychiatric facility beds. For purposes of
942 this subparagraph (iii), the provisions of Section 41-7-191(1)
943 requiring substantial compliance with the projection of need as
944 reported in the current State Health Plan and provisions of
945 Section 41-7-197 requiring a formal certificate of need hearing
946 process are waived. There shall be no prohibition or restrictions
947 on participation in the Medicaid program for the person receiving
948 the certificate of need authorized under this subparagraph (iii).

949 (iv) The department shall issue a certificate of
950 need to the Region 7 Mental Health/Retardation Commission for the
951 construction or expansion of child/adolescent psychiatric beds or

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

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

985 Department of Health shall revoke the certificate of need, if it
986 is still outstanding, and shall deny or revoke the license of the
987 hospital at the time that the department determines, after a
988 hearing complying with due process, that the hospital has failed
989 to comply with any of the conditions upon which the certificate of
990 need was issued, as provided in this subparagraph and in the
991 written agreement by the recipient of the certificate of need.

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

1006 (b) From and after July 1, 1990, no hospital,
1007 psychiatric hospital or chemical dependency hospital shall be
1008 authorized to add any child/adolescent psychiatric or
1009 child/adolescent chemical dependency beds or convert any beds of
1010 another category to child/adolescent psychiatric or
1011 child/adolescent chemical dependency beds without a certificate of
1012 need under the authority of subsection (1)(c) of this section.

1013 (5) The department may issue a certificate of need to a
1014 county hospital in Winston County for the conversion of fifteen
1015 (15) acute care beds to geriatric psychiatric care beds.

1016 (6) The State Department of Health shall issue a certificate
1017 of need to a Mississippi corporation qualified to manage a

1018 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1019 Harrison County, not to exceed eighty (80) beds, including any
1020 necessary renovation or construction required for licensure and
1021 certification, provided that the recipient of the certificate of
1022 need agrees in writing that the long-term care hospital will not
1023 at any time participate in the Medicaid program (Section 43-13-101
1024 et seq.) or admit or keep any patients in the long-term care
1025 hospital who are participating in the Medicaid program. This
1026 written agreement by the recipient of the certificate of need
1027 shall be fully binding on any subsequent owner of the long-term
1028 care hospital, if the ownership of the facility is transferred at
1029 any time after the issuance of the certificate of need. Agreement
1030 that the long-term care hospital will not participate in the
1031 Medicaid program shall be a condition of the issuance of a
1032 certificate of need to any person under this subsection (6), and
1033 if such long-term care hospital at any time after the issuance of
1034 the certificate of need, regardless of the ownership of the
1035 facility, participates in the Medicaid program or admits or keeps
1036 any patients in the facility who are participating in the Medicaid
1037 program, the State Department of Health shall revoke the
1038 certificate of need, if it is still outstanding, and shall deny or
1039 revoke the license of the long-term care hospital, at the time
1040 that the department determines, after a hearing complying with due
1041 process, that the facility has failed to comply with any of the
1042 conditions upon which the certificate of need was issued, as
1043 provided in this subsection and in the written agreement by the
1044 recipient of the certificate of need. For purposes of this
1045 subsection, the provision of Section 41-7-193(1) requiring
1046 substantial compliance with the projection of need as reported in
1047 the current State Health Plan is hereby waived.

1048 (7) The State Department of Health may issue a certificate
1049 of need to any hospital in the state to utilize a portion of its
1050 beds for the "swing-bed" concept. Any such hospital must be in

1051 conformance with the federal regulations regarding such swing-bed
1052 concept at the time it submits its application for a certificate
1053 of need to the State Department of Health, except that such
1054 hospital may have more licensed beds or a higher average daily
1055 census (ADC) than the maximum number specified in federal
1056 regulations for participation in the swing-bed program. Any
1057 hospital meeting all federal requirements for participation in the
1058 swing-bed program which receives such certificate of need shall
1059 render services provided under the swing-bed concept to any
1060 patient eligible for Medicare (Title XVIII of the Social Security
1061 Act) who is certified by a physician to be in need of such
1062 services, and no such hospital shall permit any patient who is
1063 eligible for both Medicaid and Medicare or eligible only for
1064 Medicaid to stay in the swing beds of the hospital for more than
1065 thirty (30) days per admission unless the hospital receives prior
1066 approval for such patient from the Division of Medicaid, Office of
1067 the Governor. Any hospital having more licensed beds or a higher
1068 average daily census (ADC) than the maximum number specified in
1069 federal regulations for participation in the swing-bed program
1070 which receives such certificate of need shall develop a procedure
1071 to insure that before a patient is allowed to stay in the swing
1072 beds of the hospital, there are no vacant nursing home beds
1073 available for that patient located within a fifty-mile radius of
1074 the hospital. When any such hospital has a patient staying in the
1075 swing beds of the hospital and the hospital receives notice from a
1076 nursing home located within such radius that there is a vacant bed
1077 available for that patient, the hospital shall transfer the
1078 patient to the nursing home within a reasonable time after receipt
1079 of the notice. Any hospital which is subject to the requirements
1080 of the two (2) preceding sentences of this subsection may be
1081 suspended from participation in the swing-bed program for a
1082 reasonable period of time by the State Department of Health if the
1083 department, after a hearing complying with due process, determines

1084 that the hospital has failed to comply with any of those
1085 requirements.

1086 (8) The Department of Health shall not grant approval for or
1087 issue a certificate of need to any person proposing the new
1088 construction of, addition to or expansion of a health care
1089 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1090 except as hereinafter provided: The department may issue a
1091 certificate of need to a nonprofit corporation located in Madison
1092 County, Mississippi, for the construction, expansion or conversion
1093 of not more than twenty (20) beds in a community living program
1094 for developmentally disabled adults in a facility as defined in
1095 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1096 subsection (8), the provisions of Section 41-7-193(1) requiring
1097 substantial compliance with the projection of need as reported in
1098 the current State Health Plan and the provisions of Section
1099 41-7-197 requiring a formal certificate of need hearing process
1100 are waived. There shall be no prohibition or restrictions on
1101 participation in the Medicaid program for the person receiving the
1102 certificate of need authorized under this subsection (8).

1103 (9) The Department of Health shall not grant approval for or
1104 issue a certificate of need to any person proposing the
1105 establishment of, or expansion of the currently approved territory
1106 of, or the contracting to establish a home office, subunit or
1107 branch office within the space operated as a health care facility
1108 as defined in Section 41-7-173(h)(i) through (viii) by a health
1109 care facility as defined in subparagraph (ix) of Section
1110 41-7-173(h).

1111 (10) Health care facilities owned and/or operated by the
1112 state or its agencies are exempt from the restraints in this
1113 section against issuance of a certificate of need if such addition
1114 or expansion consists of repairing or renovation necessary to
1115 comply with the state licensure law. This exception shall not
1116 apply to the new construction of any building by such state

1117 facility. This exception shall not apply to any health care
1118 facilities owned and/or operated by counties, municipalities,
1119 districts, unincorporated areas, other defined persons, or any
1120 combination thereof.

1121 (11) The new construction, renovation or expansion of or
1122 addition to any health care facility defined in subparagraph (ii)
1123 (psychiatric hospital), subparagraph (iv) (skilled nursing
1124 facility), subparagraph (vi) (intermediate care facility),
1125 subparagraph (viii) (intermediate care facility for the mentally
1126 retarded) and subparagraph (x) (psychiatric residential treatment
1127 facility) of Section 41-7-173(h) which is owned by the State of
1128 Mississippi and under the direction and control of the State
1129 Department of Mental Health, and the addition of new beds or the
1130 conversion of beds from one category to another in any such
1131 defined health care facility which is owned by the State of
1132 Mississippi and under the direction and control of the State
1133 Department of Mental Health, shall not require the issuance of a
1134 certificate of need under Section 41-7-171 et seq.,
1135 notwithstanding any provision in Section 41-7-171 et seq. to the
1136 contrary.

1137 (12) The new construction, renovation or expansion of or
1138 addition to any veterans homes or domiciliaries for eligible
1139 veterans of the State of Mississippi as authorized under Section
1140 35-1-19 shall not require the issuance of a certificate of need,
1141 notwithstanding any provision in Section 41-7-171 et seq. to the
1142 contrary.

1143 (13) The new construction of a nursing facility or nursing
1144 facility beds or the conversion of other beds to nursing facility
1145 beds shall not require the issuance of a certificate of need,
1146 notwithstanding any provision in Section 41-7-171 et seq. to the
1147 contrary, if the conditions of this subsection are met.

1148 (a) Before any construction or conversion may be
1149 undertaken without a certificate of need, the owner of the nursing

1150 facility, in the case of an existing facility, or the applicant to
1151 construct a nursing facility, in the case of new construction,
1152 first must file a written notice of intent and sign a written
1153 agreement with the State Department of Health that the entire
1154 nursing facility will not at any time participate in or have any
1155 beds certified for participation in the Medicaid program (Section
1156 43-13-101 et seq.), will not admit or keep any patients in the
1157 nursing facility who are participating in the Medicaid program,
1158 and will not submit any claim for Medicaid reimbursement for any
1159 patient in the facility. This written agreement by the owner or
1160 applicant shall be a condition of exercising the authority under
1161 this subsection without a certificate of need, and the agreement
1162 shall be fully binding on any subsequent owner of the nursing
1163 facility if the ownership of the facility is transferred at any
1164 time after the agreement is signed. After the written agreement
1165 is signed, the Division of Medicaid and the State Department of
1166 Health shall not certify any beds in the nursing facility for
1167 participation in the Medicaid program. If the nursing facility
1168 violates the terms of the written agreement by participating in
1169 the Medicaid program, having any beds certified for participation
1170 in the Medicaid program, admitting or keeping any patient in the
1171 facility who is participating in the Medicaid program, or
1172 submitting any claim for Medicaid reimbursement for any patient in
1173 the facility, the State Department of Health shall revoke the
1174 license of the nursing facility at the time that the department
1175 determines, after a hearing complying with due process, that the
1176 facility has violated the terms of the written agreement.

1177 (b) For the purposes of this subsection, participation
1178 in the Medicaid program by a nursing facility includes Medicaid
1179 reimbursement of coinsurance and deductibles for recipients who
1180 are qualified Medicare beneficiaries and/or those who are dually
1181 eligible. Any nursing facility exercising the authority under
1182 this subsection may not bill or submit a claim to the Division of

1183 Medicaid for services to qualified Medicare beneficiaries and/or
1184 those who are dually eligible.

1185 (c) The new construction of a nursing facility or
1186 nursing facility beds or the conversion of other beds to nursing
1187 facility beds described in this section must be either a part of a
1188 completely new continuing care retirement community, as described
1189 in the latest edition of the Mississippi State Health Plan, or an
1190 addition to existing personal care and independent living
1191 components, and so that the completed project will be a continuing
1192 care retirement community, containing (i) independent living
1193 accommodations, (ii) personal care beds, and (iii) the nursing
1194 home facility beds. The three (3) components must be located on a
1195 single site and be operated as one (1) inseparable facility. The
1196 nursing facility component must contain a minimum of thirty (30)
1197 beds. Any nursing facility beds authorized by this section will
1198 not be counted against the bed need set forth in the State Health
1199 Plan, as identified in Section 41-7-171 et seq.

1200 This subsection (13) shall stand repealed from and after July
1201 1, 2005.

1202 (14) The State Department of Health shall issue a
1203 certificate of need to any hospital which is currently licensed
1204 for two hundred fifty (250) or more acute care beds and is located
1205 in any general hospital service area not having a comprehensive
1206 cancer center, for the establishment and equipping of such a
1207 center which provides facilities and services for outpatient
1208 radiation oncology therapy, outpatient medical oncology therapy,
1209 and appropriate support services including the provision of
1210 radiation therapy services. The provision of Section 41-7-193(1)
1211 regarding substantial compliance with the projection of need as
1212 reported in the current State Health Plan is waived for the
1213 purpose of this subsection.

1214 (15) The State Department of Health may authorize the
1215 transfer of hospital beds, not to exceed sixty (60) beds, from the

1216 North Panola Community Hospital to the South Panola Community
1217 Hospital. The authorization for the transfer of those beds shall
1218 be exempt from the certificate of need review process.

1219 (16) The State Department of Health shall issue any
1220 certificates of need necessary for Mississippi State University
1221 and a public or private health care provider to jointly acquire
1222 and operate a linear accelerator and a magnetic resonance imaging
1223 unit. Those certificates of need shall cover all capital
1224 expenditures related to the project between Mississippi State
1225 University and the health care provider, including, but not
1226 limited to, the acquisition of the linear accelerator, the
1227 magnetic resonance imaging unit and other radiological modalities;
1228 the offering of linear accelerator and magnetic resonance imaging
1229 services; and the cost of construction of facilities in which to
1230 locate these services. The linear accelerator and the magnetic
1231 resonance imaging unit shall be (a) located in the City of
1232 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1233 Mississippi State University and the public or private health care
1234 provider selected by Mississippi State University through a
1235 request for proposals (RFP) process in which Mississippi State
1236 University selects, and the Board of Trustees of State
1237 Institutions of Higher Learning approves, the health care provider
1238 that makes the best overall proposal; (c) available to Mississippi
1239 State University for research purposes two-thirds (2/3) of the
1240 time that the linear accelerator and magnetic resonance imaging
1241 unit are operational; and (d) available to the public or private
1242 health care provider selected by Mississippi State University and
1243 approved by the Board of Trustees of State Institutions of Higher
1244 Learning one-third (1/3) of the time for clinical, diagnostic and
1245 treatment purposes. For purposes of this subsection, the
1246 provisions of Section 41-7-193(1) requiring substantial compliance
1247 with the projection of need as reported in the current State
1248 Health Plan are waived.

1249 (17) Nothing in this section or in any other provision of
1250 Section 41-7-171 et seq. shall prevent any nursing facility from
1251 designating an appropriate number of existing beds in the facility
1252 as beds for providing care exclusively to patients with
1253 Alzheimer's disease.

1254 **SECTION 2.** This act shall take effect and be in force from
1255 and after its passage.