

By: Senator(s) Ross

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2750

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A LICENSE FOR 30
3 PRIVATE-PAY NURSING FACILITY BEDS IN RANKIN COUNTY, MISSISSIPPI,
4 WHICH SHALL NOT REQUIRE THE ISSUANCE OF A CERTIFICATE OF NEED,
5 UNDER CERTAIN CONDITIONS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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

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

69 one physical facility or site to another physical facility or

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

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

72 physical facility or site within five thousand two hundred eighty

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

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

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

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

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

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

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

80 Department of Health;

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

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

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

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

85 medical equipment to replace medical equipment for which a

86 facility is already providing medical services and for which the

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

88 such acquisition shall be exempt from this paragraph; an

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

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

91 (g) Changes of ownership of existing health care

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

226 agrees in writing that the skilled nursing facility will not at
227 any time participate in the Medicaid program (Section 43-13-101 et
228 seq.) or admit or keep any patients in the skilled nursing
229 facility who are participating in the Medicaid program. This
230 written agreement by the recipient of the certificate of need
231 shall be fully binding on any subsequent owner of the skilled
232 nursing facility, if the ownership of the facility is transferred
233 at any time after the issuance of the certificate of need.
234 Agreement that the skilled nursing facility will not participate
235 in the Medicaid program shall be a condition of the issuance of a
236 certificate of need to any person under this paragraph (i), and if
237 such skilled nursing facility at any time after the issuance of
238 the certificate of need, regardless of the ownership of the
239 facility, participates in the Medicaid program or admits or keeps
240 any patients in the facility who are participating in the Medicaid
241 program, the State Department of Health shall revoke the
242 certificate of need, if it is still outstanding, and shall deny or
243 revoke the license of the skilled nursing facility, at the time
244 that the department determines, after a hearing complying with due
245 process, that the facility has failed to comply with any of the
246 conditions upon which the certificate of need was issued, as
247 provided in this paragraph and in the written agreement by the
248 recipient of the certificate of need. The provision of Section
249 43-7-193(1) regarding substantial compliance of the projection of
250 need as reported in the current State Health Plan is waived for
251 the purposes of this paragraph. The total number of nursing
252 facility beds that may be authorized by any certificate of need
253 issued under this paragraph (i) shall not exceed sixty (60) beds.
254 If the skilled nursing facility authorized by the certificate of
255 need issued under this paragraph is not constructed and fully
256 operational within eighteen (18) months after July 1, 1994, the
257 State Department of Health, after a hearing complying with due
258 process, shall revoke the certificate of need, if it is still

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

678 (u) The State Department of Health shall issue a
679 license for thirty (30) nursing facility beds to that certain
680 one-hundred-ten-bed personal care/assisted living/Alzheimer's
681 facility located in Brandon, Rankin County, Mississippi, which
682 shall not require the issuance of a certificate of need,
683 notwithstanding any provision in Section 41-7-171 et seq. to the
684 contrary, if the conditions of this paragraph (u) are met.

685 (i) Before any construction may be undertaken, the
686 applicant to construct the thirty-bed nursing facility first must

687 file a written notice of intent and sign a written agreement with
688 the State Department of Health that the entire nursing facility
689 will not at any time participate in or have any beds certified for
690 participation in the Medicaid program (Section 43-13-101 et seq.),
691 will not admit or keep any patients in the nursing facility who
692 are participating in the Medicaid program, and will not submit any
693 claim for Medicaid reimbursement for any patient in the facility.
694 This written agreement by the owner or applicant shall be a
695 condition of exercising the authority under this paragraph (u)
696 without a certificate of need, and the agreement shall be fully
697 binding on any subsequent owner of the nursing facility if the
698 ownership of the facility is transferred at any time after the
699 agreement is signed. After the written agreement is signed, the
700 Division of Medicaid and the State Department of Health shall not
701 certify any beds in the nursing facility for participation in the
702 Medicaid program. If the nursing facility violates the terms of
703 the written agreement by participating in the Medicaid program,
704 having any beds certified for participation in the Medicaid
705 program, or submitting any claim for Medicaid reimbursement for
706 any patient in the facility, the State Department of Health shall
707 revoke the license of the nursing facility at the time that the
708 department determines, after a hearing complying with due process,
709 that the facility has violated the terms of the written agreement.

710 (ii) For the purposes of this paragraph (u),
711 participation in the Medicaid program includes Medicaid
712 reimbursement of coinsurance and deductibles for recipients who
713 are qualified Medicare beneficiaries and/or those who are dually
714 eligible.

715 (iii) The new construction of the thirty-bed
716 nursing facility described in this section must be constructed as
717 a part of the existing retirement community and as an addition to
718 the one-hundred-ten-bed personal care, assisting living and
719 Alzheimer's components so that the completed project will be a

720 continuing care retirement community, containing 1. independent
721 living accommodations, 2. personal care beds, 3. Alzheimer's beds,
722 4. assisting living beds, and 5. thirty (30) nursing facility
723 beds. All components must be located on a single site and be
724 operated as one (1) inseparable retirement community. The nursing
725 facility component must contain a minimum of thirty (30) beds.
726 Any nursing facility beds authorized by this section will not be
727 counted against the bed need set forth in the State Health Plan,
728 as identified in Section 41-7-171 et seq.

729 (iv) For purposes of this paragraph (u), the
730 provisions of Section 41-7-193(1) requiring substantial compliance
731 with the projection of need as reported in the current State
732 Health Plan and the provisions of Section 41-7-197 requiring a
733 formal certificate of need hearing process are waived.

734 (3) The State Department of Health may grant approval for
735 and issue certificates of need to any person proposing the new
736 construction of, addition to, conversion of beds of or expansion
737 of any health care facility defined in subparagraph (x)
738 (psychiatric residential treatment facility) of Section
739 41-7-173(h). The total number of beds which may be authorized by
740 such certificates of need shall not exceed three hundred
741 thirty-four (334) beds for the entire state.

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

751 (b) Of the total number of beds authorized under this
752 subsection, the department may issue a certificate or certificates

753 of need for the construction or expansion of psychiatric
754 residential treatment facility beds or the conversion of other
755 beds to psychiatric residential treatment facility beds in Warren
756 County, not to exceed sixty (60) psychiatric residential treatment
757 facility beds, provided that the facility agrees in writing that
758 no more than thirty (30) of the beds at the psychiatric
759 residential treatment facility will be certified for participation
760 in the Medicaid program (Section 43-13-101 et seq.) for the use of
761 any patients other than those who are participating only in the
762 Medicaid program of another state, and that no claim will be
763 submitted to the Division of Medicaid for Medicaid reimbursement
764 for more than thirty (30) patients in the psychiatric residential
765 treatment facility in any day or for any patient in the
766 psychiatric residential treatment facility who is in a bed that is
767 not Medicaid-certified. This written agreement by the recipient
768 of the certificate of need shall be a condition of the issuance of
769 the certificate of need under this paragraph, and the agreement
770 shall be fully binding on any subsequent owner of the psychiatric
771 residential treatment facility if the ownership of the facility is
772 transferred at any time after the issuance of the certificate of
773 need. After this written agreement is executed, the Division of
774 Medicaid and the State Department of Health shall not certify more
775 than thirty (30) of the beds in the psychiatric residential
776 treatment facility for participation in the Medicaid program for
777 the use of any patients other than those who are participating
778 only in the Medicaid program of another state. If the psychiatric
779 residential treatment facility violates the terms of the written
780 agreement by admitting or keeping in the facility on a regular or
781 continuing basis more than thirty (30) patients who are
782 participating in the Mississippi Medicaid program, the State
783 Department of Health shall revoke the license of the facility, at
784 the time that the department determines, after a hearing complying
785 with due process, that the facility has violated the condition

786 upon which the certificate of need was issued, as provided in this
787 paragraph and in the written agreement.

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

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

819 or keeping in the facility on a regular or continuing basis more
820 than fifteen (15) patients who are participating in the Medicaid
821 program, the State Department of Health shall revoke the license
822 of the facility, at the time that the department determines, after
823 a hearing complying with due process, that the facility has
824 violated the condition upon which the certificate of need was
825 issued, as provided in this paragraph and in the written
826 agreement.

827 (d) Of the total number of beds authorized under this
828 subsection, the department may issue a certificate or certificates
829 of need for the construction or expansion of psychiatric
830 residential treatment facility beds or the conversion of other
831 beds to psychiatric treatment facility beds, not to exceed thirty
832 (30) psychiatric residential treatment facility beds, in either
833 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
834 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

843 (f) The department shall issue a certificate of need to
844 a one-hundred-thirty-four-bed specialty hospital located on
845 twenty-nine and forty-four one-hundredths (29.44) commercial acres
846 at 5900 Highway 39 North in Meridian (Lauderdale County),
847 Mississippi, for the addition, construction or expansion of
848 child/adolescent psychiatric residential treatment facility beds
849 in Lauderdale County. As a condition of issuance of the
850 certificate of need under this paragraph, the facility shall give
851 priority in admissions to the child/adolescent psychiatric

852 residential treatment facility beds authorized under this
853 paragraph to patients who otherwise would require out-of-state
854 placement. The Division of Medicaid, in conjunction with the
855 Department of Human Services, shall furnish the facility a list of
856 all out-of-state patients on a quarterly basis. Furthermore,
857 notice shall also be provided to the parent, custodial parent or
858 guardian of each out-of-state patient notifying them of the
859 priority status granted by this paragraph. For purposes of this
860 paragraph, the provisions of Section 41-7-193(1) requiring
861 substantial compliance with the projection of need as reported in
862 the current State Health Plan are waived. The total number of
863 child/adolescent psychiatric residential treatment facility beds
864 that may be authorized under the authority of this paragraph shall
865 be sixty (60) beds. There shall be no prohibition or restrictions
866 on participation in the Medicaid program (Section 43-13-101 et
867 seq.) for the person receiving the certificate of need authorized
868 under this paragraph or for the beds converted pursuant to the
869 authority of that certificate of need.

870 (4) (a) From and after July 1, 1993, the department shall
871 not issue a certificate of need to any person for the new
872 construction of any hospital, psychiatric hospital or chemical
873 dependency hospital that will contain any child/adolescent
874 psychiatric or child/adolescent chemical dependency beds, or for
875 the conversion of any other health care facility to a hospital,
876 psychiatric hospital or chemical dependency hospital that will
877 contain any child/adolescent psychiatric or child/adolescent
878 chemical dependency beds, or for the addition of any
879 child/adolescent psychiatric or child/adolescent chemical
880 dependency beds in any hospital, psychiatric hospital or chemical
881 dependency hospital, or for the conversion of any beds of another
882 category in any hospital, psychiatric hospital or chemical
883 dependency hospital to child/adolescent psychiatric or

884 child/adolescent chemical dependency beds, except as hereinafter
885 authorized:

886 (i) The department may issue certificates of need
887 to any person for any purpose described in this subsection,
888 provided that the hospital, psychiatric hospital or chemical
889 dependency hospital does not participate in the Medicaid program
890 (Section 43-13-101 et seq.) at the time of the application for the
891 certificate of need and the owner of the hospital, psychiatric
892 hospital or chemical dependency hospital agrees in writing that
893 the hospital, psychiatric hospital or chemical dependency hospital
894 will not at any time participate in the Medicaid program or admit
895 or keep any patients who are participating in the Medicaid program
896 in the hospital, psychiatric hospital or chemical dependency
897 hospital. This written agreement by the recipient of the
898 certificate of need shall be fully binding on any subsequent owner
899 of the hospital, psychiatric hospital or chemical dependency
900 hospital, if the ownership of the facility is transferred at any
901 time after the issuance of the certificate of need. Agreement
902 that the hospital, psychiatric hospital or chemical dependency
903 hospital will not participate in the Medicaid program shall be a
904 condition of the issuance of a certificate of need to any person
905 under this subparagraph * * * (i), and if such hospital,
906 psychiatric hospital or chemical dependency hospital at any time
907 after the issuance of the certificate of need, regardless of the
908 ownership of the facility, participates in the Medicaid program or
909 admits or keeps any patients in the hospital, psychiatric hospital
910 or chemical dependency hospital who are participating in the
911 Medicaid program, the State Department of Health shall revoke the
912 certificate of need, if it is still outstanding, and shall deny or
913 revoke the license of the hospital, psychiatric hospital or
914 chemical dependency hospital, at the time that the department
915 determines, after a hearing complying with due process, that the
916 hospital, psychiatric hospital or chemical dependency hospital has

917 failed to comply with any of the conditions upon which the
918 certificate of need was issued, as provided in this subparagraph
919 (i) and in the written agreement by the recipient of the
920 certificate of need.

921 (ii) The department may issue a certificate of
922 need for the conversion of existing beds in a county hospital in
923 Choctaw County from acute care beds to child/adolescent chemical
924 dependency beds. For purposes of this subparagraph (ii), the
925 provisions of Section 41-7-193(1) requiring substantial compliance
926 with the projection of need as reported in the current State
927 Health Plan is waived. The total number of beds that may be
928 authorized under authority of this subparagraph shall not exceed
929 twenty (20) beds. There shall be no prohibition or restrictions
930 on participation in the Medicaid program (Section 43-13-101 et
931 seq.) for the hospital receiving the certificate of need
932 authorized under this subparagraph * * * or for the beds converted
933 pursuant to the authority of that certificate of need.

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

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

950 subparagraph * * * (iii), or no significant action taken to
951 convert existing beds to the beds authorized under this
952 subparagraph, then the certificate of need that was previously
953 issued under this subparagraph shall expire. If the previously
954 issued certificate of need expires, the department may accept
955 applications for issuance of another certificate of need for the
956 beds authorized under this subparagraph, and may issue a
957 certificate of need to authorize the construction, expansion or
958 conversion of the beds authorized under this subparagraph.

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

974 (v) The department may issue a certificate of need
975 to any county hospital located in Leflore County for the
976 construction or expansion of adult psychiatric beds or the
977 conversion of other beds to adult psychiatric beds, not to exceed
978 twenty (20) beds, provided that the recipient of the certificate
979 of need agrees in writing that the adult psychiatric beds will not
980 at any time be certified for participation in the Medicaid program
981 and that the hospital will not admit or keep any patients who are
982 participating in the Medicaid program in any of such adult

983 psychiatric beds. This written agreement by the recipient of the
984 certificate of need shall be fully binding on any subsequent owner
985 of the hospital if the ownership of the hospital is transferred at
986 any time after the issuance of the certificate of need. Agreement
987 that the adult psychiatric beds will not be certified for
988 participation in the Medicaid program shall be a condition of the
989 issuance of a certificate of need to any person under this
990 subparagraph * * * (v), and if such hospital at any time after the
991 issuance of the certificate of need, regardless of the ownership
992 of the hospital, has any of such adult psychiatric beds certified
993 for participation in the Medicaid program or admits or keeps any
994 Medicaid patients in such adult psychiatric beds, the State
995 Department of Health shall revoke the certificate of need, if it
996 is still outstanding, and shall deny or revoke the license of the
997 hospital at the time that the department determines, after a
998 hearing complying with due process, that the hospital has failed
999 to comply with any of the conditions upon which the certificate of
1000 need was issued, as provided in this subparagraph and in the
1001 written agreement by the recipient of the certificate of need.

1002 (vi) The department may issue a certificate or
1003 certificates of need for the expansion of child psychiatric beds
1004 or the conversion of other beds to child psychiatric beds at the
1005 University of Mississippi Medical Center. For purposes of this
1006 subparagraph * * * (vi), the provision of Section 41-7-193(1)
1007 requiring substantial compliance with the projection of need as
1008 reported in the current State Health Plan is waived. The total
1009 number of beds that may be authorized under the authority of this
1010 subparagraph * * * shall not exceed fifteen (15) beds. There
1011 shall be no prohibition or restrictions on participation in the
1012 Medicaid program (Section 43-13-101 et seq.) for the hospital
1013 receiving the certificate of need authorized under this
1014 subparagraph * * * or for the beds converted pursuant to the
1015 authority of that certificate of need.

1016 (b) From and after July 1, 1990, no hospital,
1017 psychiatric hospital or chemical dependency hospital shall be
1018 authorized to add any child/adolescent psychiatric or
1019 child/adolescent chemical dependency beds or convert any beds of
1020 another category to child/adolescent psychiatric or
1021 child/adolescent chemical dependency beds without a certificate of
1022 need under the authority of subsection (1)(c) of this section.

1023 (5) The department may issue a certificate of need to a
1024 county hospital in Winston County for the conversion of fifteen
1025 (15) acute care beds to geriatric psychiatric care beds.

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

1049 revoke the license of the long-term care hospital, at the time
1050 that the department determines, after a hearing complying with due
1051 process, that the facility has failed to comply with any of the
1052 conditions upon which the certificate of need was issued, as
1053 provided in this subsection and in the written agreement by the
1054 recipient of the certificate of need. For purposes of this
1055 subsection, the provision of Section 41-7-193(1) requiring
1056 substantial compliance with the projection of need as reported in
1057 the current State Health Plan is hereby waived.

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

1082 beds of the hospital, there are no vacant nursing home beds
1083 available for that patient located within a fifty-mile radius of
1084 the hospital. When any such hospital has a patient staying in the
1085 swing beds of the hospital and the hospital receives notice from a
1086 nursing home located within such radius that there is a vacant bed
1087 available for that patient, the hospital shall transfer the
1088 patient to the nursing home within a reasonable time after receipt
1089 of the notice. Any hospital which is subject to the requirements
1090 of the two (2) preceding sentences of this subsection may be
1091 suspended from participation in the swing-bed program for a
1092 reasonable period of time by the State Department of Health if the
1093 department, after a hearing complying with due process, determines
1094 that the hospital has failed to comply with any of those
1095 requirements.

1096 (8) The Department of Health shall not grant approval for or
1097 issue a certificate of need to any person proposing the new
1098 construction of, addition to or expansion of a health care
1099 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1100 except as hereinafter provided: The department may issue a
1101 certificate of need to a nonprofit corporation located in Madison
1102 County, Mississippi, for the construction, expansion or conversion
1103 of not more than twenty (20) beds in a community living program
1104 for developmentally disabled adults in a facility as defined in
1105 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1106 subsection (8), the provisions of Section 41-7-193(1) requiring
1107 substantial compliance with the projection of need as reported in
1108 the current State Health Plan and the provisions of Section
1109 41-7-197 requiring a formal certificate of need hearing process
1110 are waived. There shall be no prohibition or restrictions on
1111 participation in the Medicaid program for the person receiving the
1112 certificate of need authorized under this subsection (8).

1113 (9) The Department of Health shall not grant approval for or
1114 issue a certificate of need to any person proposing the

1115 establishment of, or expansion of the currently approved territory
1116 of, or the contracting to establish a home office, subunit or
1117 branch office within the space operated as a health care facility
1118 as defined in Section 41-7-173(h)(i) through (viii) by a health
1119 care facility as defined in subparagraph (ix) of Section
1120 41-7-173(h).

1121 (10) Health care facilities owned and/or operated by the
1122 state or its agencies are exempt from the restraints in this
1123 section against issuance of a certificate of need if such addition
1124 or expansion consists of repairing or renovation necessary to
1125 comply with the state licensure law. This exception shall not
1126 apply to the new construction of any building by such state
1127 facility. This exception shall not apply to any health care
1128 facilities owned and/or operated by counties, municipalities,
1129 districts, unincorporated areas, other defined persons, or any
1130 combination thereof.

1131 (11) The new construction, renovation or expansion of or
1132 addition to any health care facility defined in subparagraph (ii)
1133 (psychiatric hospital), subparagraph (iv) (skilled nursing
1134 facility), subparagraph (vi) (intermediate care facility),
1135 subparagraph (viii) (intermediate care facility for the mentally
1136 retarded) and subparagraph (x) (psychiatric residential treatment
1137 facility) of Section 41-7-173(h) which is owned by the State of
1138 Mississippi and under the direction and control of the State
1139 Department of Mental Health, and the addition of new beds or the
1140 conversion of beds from one category to another in any such
1141 defined health care facility which is owned by the State of
1142 Mississippi and under the direction and control of the State
1143 Department of Mental Health, shall not require the issuance of a
1144 certificate of need under Section 41-7-171 et seq.,
1145 notwithstanding any provision in Section 41-7-171 et seq. to the
1146 contrary.

1147 (12) The new construction, renovation or expansion of or
1148 addition to any veterans homes or domiciliaries for eligible
1149 veterans of the State of Mississippi as authorized under Section
1150 35-1-19 shall not require the issuance of a certificate of need,
1151 notwithstanding any provision in Section 41-7-171 et seq. to the
1152 contrary.

1153 (13) The new construction of a nursing facility or nursing
1154 facility beds or the conversion of other beds to nursing facility
1155 beds shall not require the issuance of a certificate of need,
1156 notwithstanding any provision in Section 41-7-171 et seq. to the
1157 contrary, if the conditions of this subsection are met.

1158 (a) Before any construction or conversion may be
1159 undertaken without a certificate of need, the owner of the nursing
1160 facility, in the case of an existing facility, or the applicant to
1161 construct a nursing facility, in the case of new construction,
1162 first must file a written notice of intent and sign a written
1163 agreement with the State Department of Health that the entire
1164 nursing facility will not at any time participate in or have any
1165 beds certified for participation in the Medicaid program (Section
1166 43-13-101 et seq.), will not admit or keep any patients in the
1167 nursing facility who are participating in the Medicaid program,
1168 and will not submit any claim for Medicaid reimbursement for any
1169 patient in the facility. This written agreement by the owner or
1170 applicant shall be a condition of exercising the authority under
1171 this subsection without a certificate of need, and the agreement
1172 shall be fully binding on any subsequent owner of the nursing
1173 facility if the ownership of the facility is transferred at any
1174 time after the agreement is signed. After the written agreement
1175 is signed, the Division of Medicaid and the State Department of
1176 Health shall not certify any beds in the nursing facility for
1177 participation in the Medicaid program. If the nursing facility
1178 violates the terms of the written agreement by participating in
1179 the Medicaid program, having any beds certified for participation

1180 in the Medicaid program, admitting or keeping any patient in the
1181 facility who is participating in the Medicaid program, or
1182 submitting any claim for Medicaid reimbursement for any patient in
1183 the facility, the State Department of Health shall revoke the
1184 license of the nursing facility at the time that the department
1185 determines, after a hearing complying with due process, that the
1186 facility has violated the terms of the written agreement.

1187 (b) For the purposes of this subsection, participation
1188 in the Medicaid program by a nursing facility includes Medicaid
1189 reimbursement of coinsurance and deductibles for recipients who
1190 are qualified Medicare beneficiaries and/or those who are dually
1191 eligible. Any nursing facility exercising the authority under
1192 this subsection may not bill or submit a claim to the Division of
1193 Medicaid for services to qualified Medicare beneficiaries and/or
1194 those who are dually eligible.

1195 (c) The new construction of a nursing facility or
1196 nursing facility beds or the conversion of other beds to nursing
1197 facility beds described in this section must be either a part of a
1198 completely new continuing care retirement community, as described
1199 in the latest edition of the Mississippi State Health Plan, or an
1200 addition to existing personal care and independent living
1201 components, and so that the completed project will be a continuing
1202 care retirement community, containing (i) independent living
1203 accommodations, (ii) personal care beds, and (iii) the nursing
1204 home facility beds. The three (3) components must be located on a
1205 single site and be operated as one (1) inseparable facility. The
1206 nursing facility component must contain a minimum of thirty (30)
1207 beds. Any nursing facility beds authorized by this section will
1208 not be counted against the bed need set forth in the State Health
1209 Plan, as identified in Section 41-7-171 et seq.

1210 This subsection (13) shall stand repealed from and after July
1211 1, 2005.

1212 (14) The State Department of Health shall issue a
1213 certificate of need to any hospital which is currently licensed
1214 for two hundred fifty (250) or more acute care beds and is located
1215 in any general hospital service area not having a comprehensive
1216 cancer center, for the establishment and equipping of such a
1217 center which provides facilities and services for outpatient
1218 radiation oncology therapy, outpatient medical oncology therapy,
1219 and appropriate support services including the provision of
1220 radiation therapy services. The provision of Section 41-7-193(1)
1221 regarding substantial compliance with the projection of need as
1222 reported in the current State Health Plan is waived for the
1223 purpose of this subsection.

1224 (15) The State Department of Health may authorize the
1225 transfer of hospital beds, not to exceed sixty (60) beds, from the
1226 North Panola Community Hospital to the South Panola Community
1227 Hospital. The authorization for the transfer of those beds shall
1228 be exempt from the certificate of need review process.

1229 (16) The State Department of Health shall issue any
1230 certificates of need necessary for Mississippi State University
1231 and a public or private health care provider to jointly acquire
1232 and operate a linear accelerator and a magnetic resonance imaging
1233 unit. Those certificates of need shall cover all capital
1234 expenditures related to the project between Mississippi State
1235 University and the health care provider, including, but not
1236 limited to, the acquisition of the linear accelerator, the
1237 magnetic resonance imaging unit and other radiological modalities;
1238 the offering of linear accelerator and magnetic resonance imaging
1239 services; and the cost of construction of facilities in which to
1240 locate these services. The linear accelerator and the magnetic
1241 resonance imaging unit shall be (a) located in the City of
1242 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1243 Mississippi State University and the public or private health care
1244 provider selected by Mississippi State University through a

1245 request for proposals (RFP) process in which Mississippi State
1246 University selects, and the Board of Trustees of State
1247 Institutions of Higher Learning approves, the health care provider
1248 that makes the best overall proposal; (c) available to Mississippi
1249 State University for research purposes two-thirds (2/3) of the
1250 time that the linear accelerator and magnetic resonance imaging
1251 unit are operational; and (d) available to the public or private
1252 health care provider selected by Mississippi State University and
1253 approved by the Board of Trustees of State Institutions of Higher
1254 Learning one-third (1/3) of the time for clinical, diagnostic and
1255 treatment purposes. For purposes of this subsection, the
1256 provisions of Section 41-7-193(1) requiring substantial compliance
1257 with the projection of need as reported in the current State
1258 Health Plan are waived.

1259 (17) Nothing in this section or in any other provision of
1260 Section 41-7-171 et seq. shall prevent any nursing facility from
1261 designating an appropriate number of existing beds in the facility
1262 as beds for providing care exclusively to patients with
1263 Alzheimer's disease.

1264 **SECTION 2.** This act shall take effect and be in force from
1265 and after its passage.