

By: Senator(s) Robertson

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2811

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
 2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO TRANSFER CERTAIN  
 3 NURSING FACILITY BEDS FROM HANCOCK COUNTY TO JACKSON COUNTY AND TO  
 4 AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A  
 5 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW NURSING FACILITY  
 6 IN JACKSON COUNTY; TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF  
 7 HEALTH TO ISSUE A CERTIFICATE OF NEED FOR NURSING FACILITY BEDS IN  
 8 LAMAR COUNTY TO BE ADDED TO AN EXISTING CERTIFICATE OF NEED; TO  
 9 AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A  
 10 CERTIFICATE OF NEED FOR NURSING FACILITY BEDS IN STONE COUNTY TO  
 11 BE ADDED TO AN EXISTING CERTIFICATE OF NEED; AND FOR RELATED  
 12 PURPOSES.

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

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

16 41-7-191. (1) No person shall engage in any of the  
 17 following activities without obtaining the required certificate of  
 18 need:

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

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

30 (c) Any change in the existing bed complement of any  
 31 health care facility through the addition or conversion of any  
 32 beds or the alteration, modernizing or refurbishing of any unit or

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

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

- 57 (i) Open heart surgery services;
- 58 (ii) Cardiac catheterization services;
- 59 (iii) Comprehensive inpatient rehabilitation  
60 services;
- 61 (iv) Licensed psychiatric services;
- 62 (v) Licensed chemical dependency services;
- 63 (vi) Radiation therapy services;
- 64 (vii) Diagnostic imaging services of an invasive  
65 nature, i.e. invasive digital angiography;

66                   (viii) Nursing home care as defined in  
67 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);  
68                   (ix) Home health services;  
69                   (x) Swing-bed services;  
70                   (xi) Ambulatory surgical services;  
71                   (xii) Magnetic resonance imaging services;  
72                   (xiii) [Deleted]  
73                   (xiv) Long-term care hospital services;  
74                   (xv) Positron Emission Tomography (PET) services;  
75           (e) The relocation of one or more health services from  
76 one physical facility or site to another physical facility or  
77 site, unless such relocation, which does not involve a capital  
78 expenditure by or on behalf of a health care facility, (i) is to a  
79 physical facility or site within five thousand two hundred eighty  
80 (5,280) feet from the main entrance of the health care facility  
81 where the health care service is located, or (ii) is the result of  
82 an order of a court of appropriate jurisdiction or a result of  
83 pending litigation in such court, or by order of the State  
84 Department of Health, or by order of any other agency or legal  
85 entity of the state, the federal government, or any political  
86 subdivision of either, whose order is also approved by the State  
87 Department of Health;  
88           (f) The acquisition or otherwise control of any major  
89 medical equipment for the provision of medical services; provided,  
90 however, (i) the acquisition of any major medical equipment used  
91 only for research purposes, and (ii) the acquisition of major  
92 medical equipment to replace medical equipment for which a  
93 facility is already providing medical services and for which the  
94 State Department of Health has been notified before the date of  
95 such acquisition shall be exempt from this paragraph; an  
96 acquisition for less than fair market value must be reviewed, if  
97 the acquisition at fair market value would be subject to review;

98           (g) Changes of ownership of existing health care  
99 facilities in which a notice of intent is not filed with the State  
100 Department of Health at least thirty (30) days prior to the date  
101 such change of ownership occurs, or a change in services or bed  
102 capacity as prescribed in paragraph (c) or (d) of this subsection  
103 as a result of the change of ownership; an acquisition for less  
104 than fair market value must be reviewed, if the acquisition at  
105 fair market value would be subject to review;

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

114           (i) Any activity described in paragraphs (a) through  
115 (h) if undertaken by any person if that same activity would  
116 require certificate of need approval if undertaken by a health  
117 care facility;

118           (j) Any capital expenditure or deferred capital  
119 expenditure by or on behalf of a health care facility not covered  
120 by paragraphs (a) through (h);

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

127           (l) The replacement or relocation of a health care  
128 facility designated as a critical access hospital shall be exempt  
129 from this Section 41-7-191(1) so long as the critical access

130 hospital complies with all applicable federal law and regulations  
131 regarding such replacement or relocation;

132 (m) Reopening a health care facility that has ceased to  
133 operate for a period of sixty (60) months or more, which reopening  
134 requires a certificate of need for the establishment of a new  
135 health care facility.

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

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

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

160 (c) The department may issue a certificate of need for  
161 the addition to or expansion of any skilled nursing facility that  
162 is part of an existing continuing care retirement community

163 located in Madison County, provided that the recipient of the  
164 certificate of need agrees in writing that the skilled nursing  
165 facility will not at any time participate in the Medicaid program  
166 (Section 43-13-101 et seq.) or admit or keep any patients in the  
167 skilled nursing facility who are participating in the Medicaid  
168 program. This written agreement by the recipient of the  
169 certificate of need shall be fully binding on any subsequent owner  
170 of the skilled nursing facility, if the ownership of the facility  
171 is transferred at any time after the issuance of the certificate  
172 of need. Agreement that the skilled nursing facility will not  
173 participate in the Medicaid program shall be a condition of the  
174 issuance of a certificate of need to any person under this  
175 paragraph (c), and if such skilled nursing facility at any time  
176 after the issuance of the certificate of need, regardless of the  
177 ownership of the facility, participates in the Medicaid program or  
178 admits or keeps any patients in the facility who are participating  
179 in the Medicaid program, the State Department of Health shall  
180 revoke the certificate of need, if it is still outstanding, and  
181 shall deny or revoke the license of the skilled nursing facility,  
182 at the time that the department determines, after a hearing  
183 complying with due process, that the facility has failed to comply  
184 with any of the conditions upon which the certificate of need was  
185 issued, as provided in this paragraph and in the written agreement  
186 by the recipient of the certificate of need. The total number of  
187 beds that may be authorized under the authority of this paragraph  
188 (c) shall not exceed sixty (60) beds.

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

195 for the beds in the nursing facility that were authorized under  
196 this paragraph (d).

197 (e) The State Department of Health may issue a  
198 certificate of need for the construction of a nursing facility or  
199 the conversion of beds to nursing facility beds at a personal care  
200 facility for the elderly in Lowndes County that is owned and  
201 operated by a Mississippi nonprofit corporation, not to exceed  
202 sixty (60) beds. From and after July 1, 1999, there shall be no  
203 prohibition or restrictions on participation in the Medicaid  
204 program (Section 43-13-101 et seq.) for the beds in the nursing  
205 facility that were authorized under this paragraph (e).

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

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

222 (h) The State Department of Health may issue a  
223 certificate of need for the construction or expansion of nursing  
224 facility beds or the conversion of other beds to nursing facility  
225 beds in either Hancock, Harrison or Jackson County, not to exceed  
226 sixty (60) beds. From and after July 1, 1999, there shall be no  
227 prohibition or restrictions on participation in the Medicaid

228 program (Section 43-13-101 et seq.) for the beds in the facility  
229 that were authorized under this paragraph (h).

230 (i) The department may issue a certificate of need for  
231 the new construction of a skilled nursing facility in Leake  
232 County, provided that the recipient of the certificate of need  
233 agrees in writing that the skilled nursing facility will not at  
234 any time participate in the Medicaid program (Section 43-13-101 et  
235 seq.) or admit or keep any patients in the skilled nursing  
236 facility who are participating in the Medicaid program. This  
237 written agreement by the recipient of the certificate of need  
238 shall be fully binding on any subsequent owner of the skilled  
239 nursing facility, if the ownership of the facility is transferred  
240 at any time after the issuance of the certificate of need.

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



261 If the skilled nursing facility authorized by the certificate of  
262 need issued under this paragraph is not constructed and fully  
263 operational within eighteen (18) months after July 1, 1994, the  
264 State Department of Health, after a hearing complying with due  
265 process, shall revoke the certificate of need, if it is still  
266 outstanding, and shall not issue a license for the skilled nursing  
267 facility at any time after the expiration of the eighteen-month  
268 period.

269 (j) The department may issue certificates of need to  
270 allow any existing freestanding long-term care facility in  
271 Tishomingo County and Hancock County that on July 1, 1995, is  
272 licensed with fewer than sixty (60) beds. For the purposes of  
273 this paragraph (j), the provision of Section 41-7-193(1) requiring  
274 substantial compliance with the projection of need as reported in  
275 the current State Health Plan is waived. From and after July 1,  
276 1999, there shall be no prohibition or restrictions on  
277 participation in the Medicaid program (Section 43-13-101 et seq.)  
278 for the beds in the long-term care facilities that were authorized  
279 under this paragraph (j).

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

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

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

320 (m) The State Department of Health may issue a  
321 certificate of need to a county-owned hospital in the Second  
322 Judicial District of Panola County for the conversion of not more  
323 than seventy-two (72) hospital beds to nursing facility beds,  
324 provided that the recipient of the certificate of need agrees in  
325 writing that none of the beds at the nursing facility will be  
326 certified for participation in the Medicaid program (Section

327 43-13-101 et seq.), and that no claim will be submitted for  
328 Medicaid reimbursement in the nursing facility in any day or for  
329 any patient in the nursing facility. This written agreement by  
330 the recipient of the certificate of need shall be a condition of  
331 the issuance of the certificate of need under this paragraph, and  
332 the agreement shall be fully binding on any subsequent owner of  
333 the nursing facility if the ownership of the nursing facility is  
334 transferred at any time after the issuance of the certificate of  
335 need. After this written agreement is executed, the Division of  
336 Medicaid and the State Department of Health shall not certify any  
337 of the beds in the nursing facility for participation in the  
338 Medicaid program. If the nursing facility violates the terms of  
339 the written agreement by admitting or keeping in the nursing  
340 facility on a regular or continuing basis any patients who are  
341 participating in the Medicaid program, the State Department of  
342 Health shall revoke the license of the nursing facility, at the  
343 time that the department determines, after a hearing complying  
344 with due process, that the nursing facility has violated the  
345 condition upon which the certificate of need was issued, as  
346 provided in this paragraph and in the written agreement. If the  
347 certificate of need authorized under this paragraph is not issued  
348 within twelve (12) months after July 1, 2001, the department shall  
349 deny the application for the certificate of need and shall not  
350 issue the certificate of need at any time after the twelve-month  
351 period, unless the issuance is contested. If the certificate of  
352 need is issued and substantial construction of the nursing  
353 facility beds has not commenced within eighteen (18) months after  
354 July 1, 2001, the State Department of Health, after a hearing  
355 complying with due process, shall revoke the certificate of need  
356 if it is still outstanding, and the department shall not issue a  
357 license for the nursing facility at any time after the  
358 eighteen-month period. Provided, however, that if the issuance of  
359 the certificate of need is contested, the department shall require

360 substantial construction of the nursing facility beds within six  
361 (6) months after final adjudication on the issuance of the  
362 certificate of need.

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

393 department shall deny the application for the certificate of need  
394 and shall not issue the certificate of need at any time after the  
395 twelve-month period, unless the issuance is contested. If the  
396 certificate of need is issued and substantial construction of the  
397 nursing facility beds has not commenced within eighteen (18)  
398 months after the effective date of July 1, 1998, the State  
399 Department of Health, after a hearing complying with due process,  
400 shall revoke the certificate of need if it is still outstanding,  
401 and the department shall not issue a license for the nursing  
402 facility at any time after the eighteen-month period. Provided,  
403 however, that if the issuance of the certificate of need is  
404 contested, the department shall require substantial construction  
405 of the nursing facility beds within six (6) months after final  
406 adjudication on the issuance of the certificate of need.

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

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

451 (p) The department may issue a certificate of need for  
452 the construction of a municipally owned nursing facility within  
453 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
454 beds, provided that the recipient of the certificate of need  
455 agrees in writing that the skilled nursing facility will not at  
456 any time participate in the Medicaid program (Section 43-13-101 et  
457 seq.) or admit or keep any patients in the skilled nursing  
458 facility who are participating in the Medicaid program. This

459 written agreement by the recipient of the certificate of need  
460 shall be fully binding on any subsequent owner of the skilled  
461 nursing facility, if the ownership of the facility is transferred  
462 at any time after the issuance of the certificate of need.

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

492 Provided, however, that if the issuance of the certificate of need  
493 is contested, the department shall require substantial  
494 construction of the nursing facility beds within six (6) months  
495 after final adjudication on the issuance of the certificate of  
496 need.

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

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



525 previous fiscal years. During fiscal year 2000, in addition to  
526 the six (6) certificates of need authorized in this subparagraph,  
527 the department also shall issue a certificate of need for new  
528 nursing facility beds in Amite County and a certificate of need  
529 for new nursing facility beds in Carroll County.

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

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

558 the need for those beds on a statewide basis, from the county with  
559 the second highest need to the county with the lowest need, until  
560 an application is received for nursing facility beds in an  
561 eligible county from the state at large.

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

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

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

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

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

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

619                   (iii) The State Department of Health, in  
620 consultation with the Department of Mental Health and the Division  
621 of Medicaid, shall develop and prescribe the staffing levels,  
622 space requirements and other standards and requirements that must

623 be met with regard to the nursing facility beds authorized under  
624 this paragraph (r) to provide care exclusively to patients with  
625 Alzheimer's disease.

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

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

656 County facility and no more than forty-nine (49) of the beds at  
657 the Harrison County facility will be certified for participation  
658 in the Medicaid program, and that no claim will be submitted for  
659 Medicaid reimbursement for more than fifty (50) patients in the  
660 Hancock County facility in any month, or for more than forty-nine  
661 (49) patients in the Harrison County facility in any month, or for  
662 any patient in either facility who is in a bed that is not  
663 Medicaid-certified. This written agreement by the owner of the  
664 nursing facilities shall be a condition of the issuance of the  
665 certificates of need under this paragraph (t), and the agreement  
666 shall be fully binding on any later owner or owners of either  
667 facility if the ownership of either facility is transferred at any  
668 time after the certificates of need are issued. After this  
669 written agreement is executed, the Division of Medicaid and the  
670 State Department of Health shall not certify more than fifty (50)  
671 of the beds at the Hancock County facility or more than forty-nine  
672 (49) of the beds at the Harrison County facility for participation  
673 in the Medicaid program. If the Hancock County facility violates  
674 the terms of the written agreement by admitting or keeping in the  
675 facility on a regular or continuing basis more than fifty (50)  
676 patients who are participating in the Medicaid program, or if the  
677 Harrison County facility violates the terms of the written  
678 agreement by admitting or keeping in the facility on a regular or  
679 continuing basis more than forty-nine (49) patients who are  
680 participating in the Medicaid program, the State Department of  
681 Health shall revoke the license of the facility that is in  
682 violation of the agreement, at the time that the department  
683 determines, after a hearing complying with due process, that the  
684 facility has violated the agreement.

685 (u) The State Department of Health shall authorize the  
686 transfer and relocation of nursing facility beds licensed to Hotel  
687 Reed Nursing Center in Hancock County under License Number 452 as  
688 follows: the ninety-eight (98) licensed beds shall be transferred

689 to Jackson County for the construction of the facility authorized  
690 under this paragraph (u). The certificate of need for said  
691 transfers shall be issued by the State Department of Health within  
692 ten (10) working days of submission of the application therefor.  
693 If the certificate of need is not issued within this period, it  
694 shall be considered issued by action of law. The department shall  
695 issue a certificate of need for the new construction, addition or  
696 conversion of skilled nursing facility beds in Jackson County, for  
697 the ninety-eight (98) licensed beds transferred from Hancock  
698 County, plus an additional twenty-two (22) beds for the same  
699 facility for a total not to exceed one hundred twenty (120) beds.  
700 There shall be no restriction on the location of the facility  
701 within the county. For purposes of this paragraph (u), the  
702 provisions of Section 41-7-193(1) requiring substantial compliance  
703 with the projection of need as reported in the current State  
704 Health Plan and the provisions of Section 41-7-197 requiring a  
705 formal certificate of need hearing process are waived. There  
706 shall be no prohibition or restrictions on participation in the  
707 Medicaid program for the person receiving the certificate of need  
708 authorized under this paragraph (u).

709 (v) The department shall issue a certificate of need  
710 for the new construction, addition or conversion of skilled  
711 nursing facility beds in Lamar County, not to exceed twenty (20)  
712 additional beds to be added to an existing 40-bed certificate of  
713 need in Lamar County which has been issued but for which the beds  
714 have not been licensed, for a total not to exceed sixty (60) beds.  
715 There shall be no restriction on the location of the facility  
716 within the county. For purposes of this paragraph (v), the  
717 provisions of Section 41-7-193(1) requiring substantial compliance  
718 with the projection of need as reported in the current State  
719 Health Plan and the provisions of Section 41-7-197 requiring a  
720 formal certificate of need hearing process are waived. There  
721 shall be no prohibition or restrictions on participation in the

722 Medicaid program for the person receiving the certificate of need  
723 authorized under this paragraph (v).

724 (w) The department shall issue a certificate of need  
725 for the new construction, addition or conversion of skilled  
726 nursing facility beds in Stone County, not to exceed forty (40)  
727 beds to be added to an existing 20-bed certificate of need for  
728 Alzheimer patients that is currently licensed in Stone County, for  
729 a total not to exceed sixty (60) beds. Such beds shall not be  
730 required to be qualified to serve Alzheimer patients. For  
731 purposes of this paragraph (w), the provisions of Section  
732 41-7-193(1) requiring substantial compliance with the projection  
733 of need as reported in the current State Health Plan and the  
734 provisions of Section 41-7-197 requiring a formal certificate of  
735 need hearing process are waived. There shall be no prohibition or  
736 restrictions on participation in the Medicaid program for the  
737 person receiving the certificate of need authorized under this  
738 paragraph (w).

739 (3) The State Department of Health may grant approval for  
740 and issue certificates of need to any person proposing the new  
741 construction of, addition to, conversion of beds of or expansion  
742 of any health care facility defined in subparagraph (x)  
743 (psychiatric residential treatment facility) of Section  
744 41-7-173(h). The total number of beds which may be authorized by  
745 such certificates of need shall not exceed three hundred  
746 thirty-four (334) beds for the entire state.

747 (a) Of the total number of beds authorized under this  
748 subsection, the department shall issue a certificate of need to a  
749 privately-owned psychiatric residential treatment facility in  
750 Simpson County for the conversion of sixteen (16) intermediate  
751 care facility for the mentally retarded (ICF-MR) beds to  
752 psychiatric residential treatment facility beds, provided that  
753 facility agrees in writing that the facility shall give priority

754 for the use of those sixteen (16) beds to Mississippi residents  
755 who are presently being treated in out-of-state facilities.

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



787 participating in the Mississippi Medicaid program, the State  
788 Department of Health shall revoke the license of the facility, at  
789 the time that the department determines, after a hearing complying  
790 with due process, that the facility has violated the condition  
791 upon which the certificate of need was issued, as provided in this  
792 paragraph and in the written agreement.

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

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

820 Health shall not certify more than fifteen (15) of the beds in the  
821 psychiatric residential treatment facility for participation in  
822 the Medicaid program. If the psychiatric residential treatment  
823 facility violates the terms of the written agreement by admitting  
824 or keeping in the facility on a regular or continuing basis more  
825 than fifteen (15) patients who are participating in the Medicaid  
826 program, the State Department of Health shall revoke the license  
827 of the facility, at the time that the department determines, after  
828 a hearing complying with due process, that the facility has  
829 violated the condition upon which the certificate of need was  
830 issued, as provided in this paragraph and in the written  
831 agreement.

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

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

848 (f) The department shall issue a certificate of need to  
849 a one-hundred-thirty-four-bed specialty hospital located on  
850 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
851 at 5900 Highway 39 North in Meridian (Lauderdale County),  
852 Mississippi, for the addition, construction or expansion of

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

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

886 dependency hospital, or for the conversion of any beds of another  
887 category in any hospital, psychiatric hospital or chemical  
888 dependency hospital to child/adolescent psychiatric or  
889 child/adolescent chemical dependency beds, except as hereinafter  
890 authorized:

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

919 chemical dependency hospital, at the time that the department  
920 determines, after a hearing complying with due process, that the  
921 hospital, psychiatric hospital or chemical dependency hospital has  
922 failed to comply with any of the conditions upon which the  
923 certificate of need was issued, as provided in this subparagraph  
924 (i) and in the written agreement by the recipient of the  
925 certificate of need.

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

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

951 subparagraph \* \* \* or for the beds converted pursuant to the  
952 authority of that certificate of need.

953         If by January 1, 2002, there has been no significant  
954 commencement of construction of the beds authorized under this  
955 subparagraph \* \* \* (iii), or no significant action taken to  
956 convert existing beds to the beds authorized under this  
957 subparagraph, then the certificate of need that was previously  
958 issued under this subparagraph shall expire. If the previously  
959 issued certificate of need expires, the department may accept  
960 applications for issuance of another certificate of need for the  
961 beds authorized under this subparagraph, and may issue a  
962 certificate of need to authorize the construction, expansion or  
963 conversion of the beds authorized under this subparagraph.

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

979                 (v) The department may issue a certificate of need  
980 to any county hospital located in Leflore County for the  
981 construction or expansion of adult psychiatric beds or the  
982 conversion of other beds to adult psychiatric beds, not to exceed  
983 twenty (20) beds, provided that the recipient of the certificate

984 of need agrees in writing that the adult psychiatric beds will not  
985 at any time be certified for participation in the Medicaid program  
986 and that the hospital will not admit or keep any patients who are  
987 participating in the Medicaid program in any of such adult  
988 psychiatric beds. This written agreement by the recipient of the  
989 certificate of need shall be fully binding on any subsequent owner  
990 of the hospital if the ownership of the hospital is transferred at  
991 any time after the issuance of the certificate of need. Agreement  
992 that the adult psychiatric beds will not be certified for  
993 participation in the Medicaid program shall be a condition of the  
994 issuance of a certificate of need to any person under this  
995 subparagraph \* \* \* (v), and if such hospital at any time after the  
996 issuance of the certificate of need, regardless of the ownership  
997 of the hospital, has any of such adult psychiatric beds certified  
998 for participation in the Medicaid program or admits or keeps any  
999 Medicaid patients in such adult psychiatric beds, the State  
1000 Department of Health shall revoke the certificate of need, if it  
1001 is still outstanding, and shall deny or revoke the license of the  
1002 hospital at the time that the department determines, after a  
1003 hearing complying with due process, that the hospital has failed  
1004 to comply with any of the conditions upon which the certificate of  
1005 need was issued, as provided in this subparagraph and in the  
1006 written agreement by the recipient of the certificate of need.

1007 (vi) The department may issue a certificate or  
1008 certificates of need for the expansion of child psychiatric beds  
1009 or the conversion of other beds to child psychiatric beds at the  
1010 University of Mississippi Medical Center. For purposes of this  
1011 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
1012 requiring substantial compliance with the projection of need as  
1013 reported in the current State Health Plan is waived. The total  
1014 number of beds that may be authorized under the authority of this  
1015 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
1016 shall be no prohibition or restrictions on participation in the

1017 Medicaid program (Section 43-13-101 et seq.) for the hospital  
1018 receiving the certificate of need authorized under this  
1019 subparagraph \* \* \* or for the beds converted pursuant to the  
1020 authority of that certificate of need.

1021 (b) From and after July 1, 1990, no hospital,  
1022 psychiatric hospital or chemical dependency hospital shall be  
1023 authorized to add any child/adolescent psychiatric or  
1024 child/adolescent chemical dependency beds or convert any beds of  
1025 another category to child/adolescent psychiatric or  
1026 child/adolescent chemical dependency beds without a certificate of  
1027 need under the authority of subsection (1)(c) of this section.

1028 (5) The department may issue a certificate of need to a  
1029 county hospital in Winston County for the conversion of fifteen  
1030 (15) acute care beds to geriatric psychiatric care beds.

1031 (6) The State Department of Health shall issue a certificate  
1032 of need to a Mississippi corporation qualified to manage a  
1033 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1034 Harrison County, not to exceed eighty (80) beds, including any  
1035 necessary renovation or construction required for licensure and  
1036 certification, provided that the recipient of the certificate of  
1037 need agrees in writing that the long-term care hospital will not  
1038 at any time participate in the Medicaid program (Section 43-13-101  
1039 et seq.) or admit or keep any patients in the long-term care  
1040 hospital who are participating in the Medicaid program. This  
1041 written agreement by the recipient of the certificate of need  
1042 shall be fully binding on any subsequent owner of the long-term  
1043 care hospital, if the ownership of the facility is transferred at  
1044 any time after the issuance of the certificate of need. Agreement  
1045 that the long-term care hospital will not participate in the  
1046 Medicaid program shall be a condition of the issuance of a  
1047 certificate of need to any person under this subsection (6), and  
1048 if such long-term care hospital at any time after the issuance of  
1049 the certificate of need, regardless of the ownership of the



1050 facility, participates in the Medicaid program or admits or keeps  
1051 any patients in the facility who are participating in the Medicaid  
1052 program, the State Department of Health shall revoke the  
1053 certificate of need, if it is still outstanding, and shall deny or  
1054 revoke the license of the long-term care hospital, at the time  
1055 that the department determines, after a hearing complying with due  
1056 process, that the facility has failed to comply with any of the  
1057 conditions upon which the certificate of need was issued, as  
1058 provided in this subsection and in the written agreement by the  
1059 recipient of the certificate of need. For purposes of this  
1060 subsection, the provision of Section 41-7-193(1) requiring  
1061 substantial compliance with the projection of need as reported in  
1062 the current State Health Plan is hereby waived.

1063 (7) The State Department of Health may issue a certificate  
1064 of need to any hospital in the state to utilize a portion of its  
1065 beds for the "swing-bed" concept. Any such hospital must be in  
1066 conformance with the federal regulations regarding such swing-bed  
1067 concept at the time it submits its application for a certificate  
1068 of need to the State Department of Health, except that such  
1069 hospital may have more licensed beds or a higher average daily  
1070 census (ADC) than the maximum number specified in federal  
1071 regulations for participation in the swing-bed program. Any  
1072 hospital meeting all federal requirements for participation in the  
1073 swing-bed program which receives such certificate of need shall  
1074 render services provided under the swing-bed concept to any  
1075 patient eligible for Medicare (Title XVIII of the Social Security  
1076 Act) who is certified by a physician to be in need of such  
1077 services, and no such hospital shall permit any patient who is  
1078 eligible for both Medicaid and Medicare or eligible only for  
1079 Medicaid to stay in the swing beds of the hospital for more than  
1080 thirty (30) days per admission unless the hospital receives prior  
1081 approval for such patient from the Division of Medicaid, Office of  
1082 the Governor. Any hospital having more licensed beds or a higher

1083 average daily census (ADC) than the maximum number specified in  
1084 federal regulations for participation in the swing-bed program  
1085 which receives such certificate of need shall develop a procedure  
1086 to insure that before a patient is allowed to stay in the swing  
1087 beds of the hospital, there are no vacant nursing home beds  
1088 available for that patient located within a fifty-mile radius of  
1089 the hospital. When any such hospital has a patient staying in the  
1090 swing beds of the hospital and the hospital receives notice from a  
1091 nursing home located within such radius that there is a vacant bed  
1092 available for that patient, the hospital shall transfer the  
1093 patient to the nursing home within a reasonable time after receipt  
1094 of the notice. Any hospital which is subject to the requirements  
1095 of the two (2) preceding sentences of this subsection may be  
1096 suspended from participation in the swing-bed program for a  
1097 reasonable period of time by the State Department of Health if the  
1098 department, after a hearing complying with due process, determines  
1099 that the hospital has failed to comply with any of those  
1100 requirements.

1101 (8) The Department of Health shall not grant approval for or  
1102 issue a certificate of need to any person proposing the new  
1103 construction of, addition to or expansion of a health care  
1104 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1105 except as hereinafter provided: The department may issue a  
1106 certificate of need to a nonprofit corporation located in Madison  
1107 County, Mississippi, for the construction, expansion or conversion  
1108 of not more than twenty (20) beds in a community living program  
1109 for developmentally disabled adults in a facility as defined in  
1110 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1111 subsection (8), the provisions of Section 41-7-193(1) requiring  
1112 substantial compliance with the projection of need as reported in  
1113 the current State Health Plan and the provisions of Section  
1114 41-7-197 requiring a formal certificate of need hearing process  
1115 are waived. There shall be no prohibition or restrictions on

1116 participation in the Medicaid program for the person receiving the  
1117 certificate of need authorized under this subsection (8).

1118 (9) The Department of Health shall not grant approval for or  
1119 issue a certificate of need to any person proposing the  
1120 establishment of, or expansion of the currently approved territory  
1121 of, or the contracting to establish a home office, subunit or  
1122 branch office within the space operated as a health care facility  
1123 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1124 care facility as defined in subparagraph (ix) of Section  
1125 41-7-173(h).

1126 (10) Health care facilities owned and/or operated by the  
1127 state or its agencies are exempt from the restraints in this  
1128 section against issuance of a certificate of need if such addition  
1129 or expansion consists of repairing or renovation necessary to  
1130 comply with the state licensure law. This exception shall not  
1131 apply to the new construction of any building by such state  
1132 facility. This exception shall not apply to any health care  
1133 facilities owned and/or operated by counties, municipalities,  
1134 districts, unincorporated areas, other defined persons, or any  
1135 combination thereof.

1136 (11) The new construction, renovation or expansion of or  
1137 addition to any health care facility defined in subparagraph (ii)  
1138 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1139 facility), subparagraph (vi) (intermediate care facility),  
1140 subparagraph (viii) (intermediate care facility for the mentally  
1141 retarded) and subparagraph (x) (psychiatric residential treatment  
1142 facility) of Section 41-7-173(h) which is owned by the State of  
1143 Mississippi and under the direction and control of the State  
1144 Department of Mental Health, and the addition of new beds or the  
1145 conversion of beds from one category to another in any such  
1146 defined health care facility which is owned by the State of  
1147 Mississippi and under the direction and control of the State  
1148 Department of Mental Health, shall not require the issuance of a

1149 certificate of need under Section 41-7-171 et seq.,  
1150 notwithstanding any provision in Section 41-7-171 et seq. to the  
1151 contrary.

1152 (12) The new construction, renovation or expansion of or  
1153 addition to any veterans homes or domiciliaries for eligible  
1154 veterans of the State of Mississippi as authorized under Section  
1155 35-1-19 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.

1158 (13) The new construction of a nursing facility or nursing  
1159 facility beds or the conversion of other beds to nursing facility  
1160 beds shall not require the issuance of a certificate of need,  
1161 notwithstanding any provision in Section 41-7-171 et seq. to the  
1162 contrary, if the conditions of this subsection are met.

1163 (a) Before any construction or conversion may be  
1164 undertaken without a certificate of need, the owner of the nursing  
1165 facility, in the case of an existing facility, or the applicant to  
1166 construct a nursing facility, in the case of new construction,  
1167 first must file a written notice of intent and sign a written  
1168 agreement with the State Department of Health that the entire  
1169 nursing facility will not at any time participate in or have any  
1170 beds certified for participation in the Medicaid program (Section  
1171 43-13-101 et seq.), will not admit or keep any patients in the  
1172 nursing facility who are participating in the Medicaid program,  
1173 and will not submit any claim for Medicaid reimbursement for any  
1174 patient in the facility. This written agreement by the owner or  
1175 applicant shall be a condition of exercising the authority under  
1176 this subsection without a certificate of need, and the agreement  
1177 shall be fully binding on any subsequent owner of the nursing  
1178 facility if the ownership of the facility is transferred at any  
1179 time after the agreement is signed. After the written agreement  
1180 is signed, the Division of Medicaid and the State Department of  
1181 Health shall not certify any beds in the nursing facility for

1182 participation in the Medicaid program. If the nursing facility  
1183 violates the terms of the written agreement by participating in  
1184 the Medicaid program, having any beds certified for participation  
1185 in the Medicaid program, admitting or keeping any patient in the  
1186 facility who is participating in the Medicaid program, or  
1187 submitting any claim for Medicaid reimbursement for any patient in  
1188 the facility, the State Department of Health shall revoke the  
1189 license of the nursing facility at the time that the department  
1190 determines, after a hearing complying with due process, that the  
1191 facility has violated the terms of the written agreement.

1192 (b) For the purposes of this subsection, participation  
1193 in the Medicaid program by a nursing facility includes Medicaid  
1194 reimbursement of coinsurance and deductibles for recipients who  
1195 are qualified Medicare beneficiaries and/or those who are dually  
1196 eligible. Any nursing facility exercising the authority under  
1197 this subsection may not bill or submit a claim to the Division of  
1198 Medicaid for services to qualified Medicare beneficiaries and/or  
1199 those who are dually eligible.

1200 (c) The new construction of a nursing facility or  
1201 nursing facility beds or the conversion of other beds to nursing  
1202 facility beds described in this section must be either a part of a  
1203 completely new continuing care retirement community, as described  
1204 in the latest edition of the Mississippi State Health Plan, or an  
1205 addition to existing personal care and independent living  
1206 components, and so that the completed project will be a continuing  
1207 care retirement community, containing (i) independent living  
1208 accommodations, (ii) personal care beds, and (iii) the nursing  
1209 home facility beds. The three (3) components must be located on a  
1210 single site and be operated as one (1) inseparable facility. The  
1211 nursing facility component must contain a minimum of thirty (30)  
1212 beds. Any nursing facility beds authorized by this section will  
1213 not be counted against the bed need set forth in the State Health  
1214 Plan, as identified in Section 41-7-171 et seq.

1215           This subsection (13) shall stand repealed from and after July  
1216 1, 2005.

1217           (14) The State Department of Health shall issue a  
1218 certificate of need to any hospital which is currently licensed  
1219 for two hundred fifty (250) or more acute care beds and is located  
1220 in any general hospital service area not having a comprehensive  
1221 cancer center, for the establishment and equipping of such a  
1222 center which provides facilities and services for outpatient  
1223 radiation oncology therapy, outpatient medical oncology therapy,  
1224 and appropriate support services including the provision of  
1225 radiation therapy services. The provision of Section 41-7-193(1)  
1226 regarding substantial compliance with the projection of need as  
1227 reported in the current State Health Plan is waived for the  
1228 purpose of this subsection.

1229           (15) The State Department of Health may authorize the  
1230 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1231 North Panola Community Hospital to the South Panola Community  
1232 Hospital. The authorization for the transfer of those beds shall  
1233 be exempt from the certificate of need review process.

1234           (16) The State Department of Health shall issue any  
1235 certificates of need necessary for Mississippi State University  
1236 and a public or private health care provider to jointly acquire  
1237 and operate a linear accelerator and a magnetic resonance imaging  
1238 unit. Those certificates of need shall cover all capital  
1239 expenditures related to the project between Mississippi State  
1240 University and the health care provider, including, but not  
1241 limited to, the acquisition of the linear accelerator, the  
1242 magnetic resonance imaging unit and other radiological modalities;  
1243 the offering of linear accelerator and magnetic resonance imaging  
1244 services; and the cost of construction of facilities in which to  
1245 locate these services. The linear accelerator and the magnetic  
1246 resonance imaging unit shall be (a) located in the City of  
1247 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by

1248 Mississippi State University and the public or private health care  
1249 provider selected by Mississippi State University through a  
1250 request for proposals (RFP) process in which Mississippi State  
1251 University selects, and the Board of Trustees of State  
1252 Institutions of Higher Learning approves, the health care provider  
1253 that makes the best overall proposal; (c) available to Mississippi  
1254 State University for research purposes two-thirds (2/3) of the  
1255 time that the linear accelerator and magnetic resonance imaging  
1256 unit are operational; and (d) available to the public or private  
1257 health care provider selected by Mississippi State University and  
1258 approved by the Board of Trustees of State Institutions of Higher  
1259 Learning one-third (1/3) of the time for clinical, diagnostic and  
1260 treatment purposes. For purposes of this subsection, the  
1261 provisions of Section 41-7-193(1) requiring substantial compliance  
1262 with the projection of need as reported in the current State  
1263 Health Plan are waived.

1264 (17) Nothing in this section or in any other provision of  
1265 Section 41-7-171 et seq. shall prevent any nursing facility from  
1266 designating an appropriate number of existing beds in the facility  
1267 as beds for providing care exclusively to patients with  
1268 Alzheimer's disease.

1269 **SECTION 2.** This act shall take effect and be in force from  
1270 and after its passage.