

By: Senator(s) Burton

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2865

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL TRANSFER A  
3 CERTIFICATE OF NEED FOR PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY  
4 BEDS FROM WARREN COUNTY TO RANKIN COUNTY AND SHALL TRANSFER A  
5 CERTIFICATE OF NEED FOR CHILD/ADOLESCENT PSYCHIATRIC BEDS FROM  
6 WARREN COUNTY TO LAUDERDALE COUNTY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

63                   (x) Swing-bed services;

64                   (xi) Ambulatory surgical services;

65                   (xii) Magnetic resonance imaging services;

66                   (xiii) [Deleted]

67                   (xiv) Long-term care hospital services;

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

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

70 one physical facility or site to another physical facility or

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

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

73 physical facility or site within five thousand two hundred eighty

74 (5,280) feet from the main entrance of the health care facility

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

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

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

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

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

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

81 Department of Health;

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

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

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

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

86 medical equipment to replace medical equipment for which a

87 facility is already providing medical services and for which the

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

89 such acquisition shall be exempt from this paragraph; an

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

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

92           (g) Changes of ownership of existing health care

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

733       The State Department of Health, on or before July 1, 2007,  
734 shall transfer the certificate of need authorized under the  
735 authority of this paragraph (b) to 3531 Lakeland Drive in Flowood  
736 (Rankin County), Mississippi, for the construction, expansion or  
737 conversion of psychiatric residential treatment beds in Rankin  
738 County. For purposes of this paragraph (b), the provisions of  
739 Section 41-7-193(1) requiring substantial compliance with the  
740 projection of need as reported in the current State Health Plan  
741 and the provisions of Section 41-7-197 requiring a formal  
742 certificate of need hearing process are waived. The total number  
743 of beds that may be authorized under the authority of this  
744 paragraph (b) shall not exceed sixty (60) beds, no more than  
745 thirty (30) of which will be certified for participation in the  
746 Medicaid program, as specified in this paragraph (b). For  
747 purposes of the relocation of beds authorized by Section  
748 41-7-191(3)(b), the State Department of Health shall treat the  
749 beds so authorized as if they were licensed and operating, even if  
750 the beds are not yet licensed and operating, and the department  
751 shall issue an amendment for the relocation of all beds authorized  
752 by said section.

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



786 issued, as provided in this paragraph and in the written  
787 agreement.

788 (d) Of the total number of beds authorized under this  
789 subsection, the department may issue a certificate or certificates  
790 of need for the construction or expansion of psychiatric  
791 residential treatment facility beds or the conversion of other  
792 beds to psychiatric treatment facility beds, not to exceed thirty  
793 (30) psychiatric residential treatment facility beds, in either  
794 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
795 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

796 (e) Of the total number of beds authorized under this  
797 subsection (3) the department shall issue a certificate of need to  
798 a privately-owned, nonprofit psychiatric residential treatment  
799 facility in Hinds County for an eight-bed expansion of the  
800 facility, provided that the facility agrees in writing that the  
801 facility shall give priority for the use of those eight (8) beds  
802 to Mississippi residents who are presently being treated in  
803 out-of-state facilities.

804 (f) The department shall issue a certificate of need to  
805 a one-hundred-thirty-four-bed specialty hospital located on  
806 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
807 at 5900 Highway 39 North in Meridian (Lauderdale County),  
808 Mississippi, for the addition, construction or expansion of  
809 child/adolescent psychiatric residential treatment facility beds  
810 in Lauderdale County. As a condition of issuance of the  
811 certificate of need under this paragraph, the facility shall give  
812 priority in admissions to the child/adolescent psychiatric  
813 residential treatment facility beds authorized under this  
814 paragraph to patients who otherwise would require out-of-state  
815 placement. The Division of Medicaid, in conjunction with the  
816 Department of Human Services, shall furnish the facility a list of  
817 all out-of-state patients on a quarterly basis. Furthermore,  
818 notice shall also be provided to the parent, custodial parent or

819 guardian of each out-of-state patient notifying them of the  
820 priority status granted by this paragraph. For purposes of this  
821 paragraph, the provisions of Section 41-7-193(1) requiring  
822 substantial compliance with the projection of need as reported in  
823 the current State Health Plan are waived. The total number of  
824 child/adolescent psychiatric residential treatment facility beds  
825 that may be authorized under the authority of this paragraph shall  
826 be sixty (60) beds. There shall be no prohibition or restrictions  
827 on participation in the Medicaid program (Section 43-13-101 et  
828 seq.) for the person receiving the certificate of need authorized  
829 under this paragraph or for the beds converted pursuant to the  
830 authority of that certificate of need.

831 (4) (a) From and after July 1, 1993, the department shall  
832 not issue a certificate of need to any person for the new  
833 construction of any hospital, psychiatric hospital or chemical  
834 dependency hospital that will contain any child/adolescent  
835 psychiatric or child/adolescent chemical dependency beds, or for  
836 the conversion of any other health care facility to a hospital,  
837 psychiatric hospital or chemical dependency hospital that will  
838 contain any child/adolescent psychiatric or child/adolescent  
839 chemical dependency beds, or for the addition of any  
840 child/adolescent psychiatric or child/adolescent chemical  
841 dependency beds in any hospital, psychiatric hospital or chemical  
842 dependency hospital, or for the conversion of any beds of another  
843 category in any hospital, psychiatric hospital or chemical  
844 dependency hospital to child/adolescent psychiatric or  
845 child/adolescent chemical dependency beds, except as hereinafter  
846 authorized:

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

852 certificate of need and the owner of the hospital, psychiatric  
853 hospital or chemical dependency hospital agrees in writing that  
854 the hospital, psychiatric hospital or chemical dependency hospital  
855 will not at any time participate in the Medicaid program or admit  
856 or keep any patients who are participating in the Medicaid program  
857 in the hospital, psychiatric hospital or chemical dependency  
858 hospital. This written agreement by the recipient of the  
859 certificate of need shall be fully binding on any subsequent owner  
860 of the hospital, psychiatric hospital or chemical dependency  
861 hospital, if the ownership of the facility is transferred at any  
862 time after the issuance of the certificate of need. Agreement  
863 that the hospital, psychiatric hospital or chemical dependency  
864 hospital will not participate in the Medicaid program shall be a  
865 condition of the issuance of a certificate of need to any person  
866 under this subparagraph \* \* \* (i), and if such hospital,  
867 psychiatric hospital or chemical dependency hospital at any time  
868 after the issuance of the certificate of need, regardless of the  
869 ownership of the facility, participates in the Medicaid program or  
870 admits or keeps any patients in the hospital, psychiatric hospital  
871 or chemical dependency hospital who are participating in the  
872 Medicaid program, the State Department of Health shall revoke the  
873 certificate of need, if it is still outstanding, and shall deny or  
874 revoke the license of the hospital, psychiatric hospital or  
875 chemical dependency hospital, at the time that the department  
876 determines, after a hearing complying with due process, that the  
877 hospital, psychiatric hospital or chemical dependency hospital has  
878 failed to comply with any of the conditions upon which the  
879 certificate of need was issued, as provided in this subparagraph  
880 (i) and in the written agreement by the recipient of the  
881 certificate of need.

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

885 dependency beds. For purposes of this subparagraph (ii), the  
886 provisions of Section 41-7-193(1) requiring substantial compliance  
887 with the projection of need as reported in the current State  
888 Health Plan is waived. The total number of beds that may be  
889 authorized under authority of this subparagraph shall not exceed  
890 twenty (20) beds. There shall be no prohibition or restrictions  
891 on participation in the Medicaid program (Section 43-13-101 et  
892 seq.) for the hospital receiving the certificate of need  
893 authorized under this subparagraph \* \* \* or for the beds converted  
894 pursuant to the authority of that certificate of need.

895 (iii) The department may issue a certificate or  
896 certificates of need for the construction or expansion of  
897 child/adolescent psychiatric beds or the conversion of other beds  
898 to child/adolescent psychiatric beds in Warren County. For  
899 purposes of this subparagraph (iii), the provisions of Section  
900 41-7-193(1) requiring substantial compliance with the projection  
901 of need as reported in the current State Health Plan are waived.  
902 The total number of beds that may be authorized under the  
903 authority of this subparagraph shall not exceed twenty (20) beds.  
904 There shall be no prohibition or restrictions on participation in  
905 the Medicaid program (Section 43-13-101 et seq.) for the person  
906 receiving the certificate of need authorized under this  
907 subparagraph \* \* \* or for the beds converted pursuant to the  
908 authority of that certificate of need.

909 \* \* \*

910 The State Department of Health, on or before July 1, 2007,  
911 shall transfer the certificate of need authorized under the  
912 authority of this paragraph (a)(iii) to 5900 Highway 39 North in  
913 Meridian (Lauderdale County), Mississippi, for the addition,  
914 construction or expansion of child/adolescent psychiatric  
915 residential treatment facility beds in Lauderdale County. For  
916 purposes of this subparagraph, the provisions of Section  
917 41-7-193(1) requiring substantial compliance with the projection

918 of need as reported in the current State Health Plan and the  
919 provisions of Section 41-7-197 requiring a formal certificate of  
920 need hearing process are waived. The total number of beds that  
921 may be authorized under the authority of this subparagraph shall  
922 not exceed twenty (20) beds. There shall be no prohibition or  
923 restrictions on participation in the Medicaid program (Section  
924 43-13-101 et seq.) for the hospital receiving the certificate of  
925 need authorized under this subparagraph (a)(iii) or for the beds  
926 covered pursuant to the authority of that certificate of need.  
927 For purposes of the relocation of beds authorized by Section  
928 41-7-191(4)(a)(iii), the State Department of Health shall treat  
929 the beds so authorized as if they were licensed and operating,  
930 even if the beds are not yet licensed and operating, and the  
931 department shall issue an amendment for the relocation of all beds  
932 authorized by said section.

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

948           (v) The department may issue a certificate of need  
949 to any county hospital located in Leflore County for the  
950 construction or expansion of adult psychiatric beds or the

951 conversion of other beds to adult psychiatric beds, not to exceed  
952 twenty (20) beds, provided that the recipient of the certificate  
953 of need agrees in writing that the adult psychiatric beds will not  
954 at any time be certified for participation in the Medicaid program  
955 and that the hospital will not admit or keep any patients who are  
956 participating in the Medicaid program in any of such adult  
957 psychiatric beds. This written agreement by the recipient of the  
958 certificate of need shall be fully binding on any subsequent owner  
959 of the hospital if the ownership of the hospital is transferred at  
960 any time after the issuance of the certificate of need. Agreement  
961 that the adult psychiatric beds will not be certified for  
962 participation in the Medicaid program shall be a condition of the  
963 issuance of a certificate of need to any person under this  
964 subparagraph \* \* \* (v), and if such hospital at any time after the  
965 issuance of the certificate of need, regardless of the ownership  
966 of the hospital, has any of such adult psychiatric beds certified  
967 for participation in the Medicaid program or admits or keeps any  
968 Medicaid patients in such adult psychiatric beds, the State  
969 Department of Health shall revoke the certificate of need, if it  
970 is still outstanding, and shall deny or revoke the license of the  
971 hospital at the time that the department determines, after a  
972 hearing complying with due process, that the hospital has failed  
973 to comply with any of the conditions upon which the certificate of  
974 need was issued, as provided in this subparagraph and in the  
975 written agreement by the recipient of the certificate of need.

976 (vi) The department may issue a certificate or  
977 certificates of need for the expansion of child psychiatric beds  
978 or the conversion of other beds to child psychiatric beds at the  
979 University of Mississippi Medical Center. For purposes of this  
980 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
981 requiring substantial compliance with the projection of need as  
982 reported in the current State Health Plan is waived. The total  
983 number of beds that may be authorized under the authority of this

984 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
985 shall be no prohibition or restrictions on participation in the  
986 Medicaid program (Section 43-13-101 et seq.) for the hospital  
987 receiving the certificate of need authorized under this  
988 subparagraph \* \* \* or for the beds converted pursuant to the  
989 authority of that certificate of need.

990 (b) From and after July 1, 1990, no hospital,  
991 psychiatric hospital or chemical dependency hospital shall be  
992 authorized to add any child/adolescent psychiatric or  
993 child/adolescent chemical dependency beds or convert any beds of  
994 another category to child/adolescent psychiatric or  
995 child/adolescent chemical dependency beds without a certificate of  
996 need under the authority of subsection (1)(c) of this section.

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

1000 (6) The State Department of Health shall issue a certificate  
1001 of need to a Mississippi corporation qualified to manage a  
1002 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1003 Harrison County, not to exceed eighty (80) beds, including any  
1004 necessary renovation or construction required for licensure and  
1005 certification, provided that the recipient of the certificate of  
1006 need agrees in writing that the long-term care hospital will not  
1007 at any time participate in the Medicaid program (Section 43-13-101  
1008 et seq.) or admit or keep any patients in the long-term care  
1009 hospital who are participating in the Medicaid program. This  
1010 written agreement by the recipient of the certificate of need  
1011 shall be fully binding on any subsequent owner of the long-term  
1012 care hospital, if the ownership of the facility is transferred at  
1013 any time after the issuance of the certificate of need. Agreement  
1014 that the long-term care hospital will not participate in the  
1015 Medicaid program shall be a condition of the issuance of a  
1016 certificate of need to any person under this subsection (6), and

1017 if such long-term care hospital at any time after the issuance of  
1018 the certificate of need, regardless of the ownership of the  
1019 facility, participates in the Medicaid program or admits or keeps  
1020 any patients in the facility who are participating in the Medicaid  
1021 program, the State Department of Health shall revoke the  
1022 certificate of need, if it is still outstanding, and shall deny or  
1023 revoke the license of the long-term care hospital, at the time  
1024 that the department determines, after a hearing complying with due  
1025 process, that the facility has failed to comply with any of the  
1026 conditions upon which the certificate of need was issued, as  
1027 provided in this subsection and in the written agreement by the  
1028 recipient of the certificate of need. For purposes of this  
1029 subsection, the provision of Section 41-7-193(1) requiring  
1030 substantial compliance with the projection of need as reported in  
1031 the current State Health Plan is \* \* \* waived.

1032 (7) The State Department of Health may issue a certificate  
1033 of need to any hospital in the state to utilize a portion of its  
1034 beds for the "swing-bed" concept. Any such hospital must be in  
1035 conformance with the federal regulations regarding such swing-bed  
1036 concept at the time it submits its application for a certificate  
1037 of need to the State Department of Health, except that such  
1038 hospital may have more licensed beds or a higher average daily  
1039 census (ADC) than the maximum number specified in federal  
1040 regulations for participation in the swing-bed program. Any  
1041 hospital meeting all federal requirements for participation in the  
1042 swing-bed program which receives such certificate of need shall  
1043 render services provided under the swing-bed concept to any  
1044 patient eligible for Medicare (Title XVIII of the Social Security  
1045 Act) who is certified by a physician to be in need of such  
1046 services, and no such hospital shall permit any patient who is  
1047 eligible for both Medicaid and Medicare or eligible only for  
1048 Medicaid to stay in the swing beds of the hospital for more than  
1049 thirty (30) days per admission unless the hospital receives prior



1050 approval for such patient from the Division of Medicaid, Office of  
1051 the Governor. Any hospital having more licensed beds or a higher  
1052 average daily census (ADC) than the maximum number specified in  
1053 federal regulations for participation in the swing-bed program  
1054 which receives such certificate of need shall develop a procedure  
1055 to insure that before a patient is allowed to stay in the swing  
1056 beds of the hospital, there are no vacant nursing home beds  
1057 available for that patient located within a fifty-mile radius of  
1058 the hospital. When any such hospital has a patient staying in the  
1059 swing beds of the hospital and the hospital receives notice from a  
1060 nursing home located within such radius that there is a vacant bed  
1061 available for that patient, the hospital shall transfer the  
1062 patient to the nursing home within a reasonable time after receipt  
1063 of the notice. Any hospital which is subject to the requirements  
1064 of the two (2) preceding sentences of this subsection may be  
1065 suspended from participation in the swing-bed program for a  
1066 reasonable period of time by the State Department of Health if the  
1067 department, after a hearing complying with due process, determines  
1068 that the hospital has failed to comply with any of those  
1069 requirements.

1070 (8) The Department of Health shall not grant approval for or  
1071 issue a certificate of need to any person proposing the new  
1072 construction of, addition to or expansion of a health care  
1073 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1074 except as hereinafter provided: The department may issue a  
1075 certificate of need to a nonprofit corporation located in Madison  
1076 County, Mississippi, for the construction, expansion or conversion  
1077 of not more than twenty (20) beds in a community living program  
1078 for developmentally disabled adults in a facility as defined in  
1079 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1080 subsection (8), the provisions of Section 41-7-193(1) requiring  
1081 substantial compliance with the projection of need as reported in  
1082 the current State Health Plan and the provisions of Section

1083 41-7-197 requiring a formal certificate of need hearing process  
1084 are waived. There shall be no prohibition or restrictions on  
1085 participation in the Medicaid program for the person receiving the  
1086 certificate of need authorized under this subsection (8).

1087 (9) The Department of Health shall not grant approval for or  
1088 issue a certificate of need to any person proposing the  
1089 establishment of, or expansion of the currently approved territory  
1090 of, or the contracting to establish a home office, subunit or  
1091 branch office within the space operated as a health care facility  
1092 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1093 care facility as defined in subparagraph (ix) of Section  
1094 41-7-173(h).

1095 (10) Health care facilities owned and/or operated by the  
1096 state or its agencies are exempt from the restraints in this  
1097 section against issuance of a certificate of need if such addition  
1098 or expansion consists of repairing or renovation necessary to  
1099 comply with the state licensure law. This exception shall not  
1100 apply to the new construction of any building by such state  
1101 facility. This exception shall not apply to any health care  
1102 facilities owned and/or operated by counties, municipalities,  
1103 districts, unincorporated areas, other defined persons, or any  
1104 combination thereof.

1105 (11) The new construction, renovation or expansion of or  
1106 addition to any health care facility defined in subparagraph (ii)  
1107 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1108 facility), subparagraph (vi) (intermediate care facility),  
1109 subparagraph (viii) (intermediate care facility for the mentally  
1110 retarded) and subparagraph (x) (psychiatric residential treatment  
1111 facility) of Section 41-7-173(h) which is owned by the State of  
1112 Mississippi and under the direction and control of the State  
1113 Department of Mental Health, and the addition of new beds or the  
1114 conversion of beds from one category to another in any such  
1115 defined health care facility which is owned by the State of

1116 Mississippi and under the direction and control of the State  
1117 Department of Mental Health, shall not require the issuance of a  
1118 certificate of need under Section 41-7-171 et seq.,  
1119 notwithstanding any provision in Section 41-7-171 et seq. to the  
1120 contrary.

1121 (12) The new construction, renovation or expansion of or  
1122 addition to any veterans homes or domiciliaries for eligible  
1123 veterans of the State of Mississippi as authorized under Section  
1124 35-1-19 shall not require the issuance of a certificate of need,  
1125 notwithstanding any provision in Section 41-7-171 et seq. to the  
1126 contrary.

1127 (13) The new construction of a nursing facility or nursing  
1128 facility beds or the conversion of other beds to nursing facility  
1129 beds shall not require the issuance of a certificate of need,  
1130 notwithstanding any provision in Section 41-7-171 et seq. to the  
1131 contrary, if the conditions of this subsection are met.

1132 (a) Before any construction or conversion may be  
1133 undertaken without a certificate of need, the owner of the nursing  
1134 facility, in the case of an existing facility, or the applicant to  
1135 construct a nursing facility, in the case of new construction,  
1136 first must file a written notice of intent and sign a written  
1137 agreement with the State Department of Health that the entire  
1138 nursing facility will not at any time participate in or have any  
1139 beds certified for participation in the Medicaid program (Section  
1140 43-13-101 et seq.), will not admit or keep any patients in the  
1141 nursing facility who are participating in the Medicaid program,  
1142 and will not submit any claim for Medicaid reimbursement for any  
1143 patient in the facility. This written agreement by the owner or  
1144 applicant shall be a condition of exercising the authority under  
1145 this subsection without a certificate of need, and the agreement  
1146 shall be fully binding on any subsequent owner of the nursing  
1147 facility if the ownership of the facility is transferred at any  
1148 time after the agreement is signed. After the written agreement

1149 is signed, the Division of Medicaid and the State Department of  
1150 Health shall not certify any beds in the nursing facility for  
1151 participation in the Medicaid program. If the nursing facility  
1152 violates the terms of the written agreement by participating in  
1153 the Medicaid program, having any beds certified for participation  
1154 in the Medicaid program, admitting or keeping any patient in the  
1155 facility who is participating in the Medicaid program, or  
1156 submitting any claim for Medicaid reimbursement for any patient in  
1157 the facility, the State Department of Health shall revoke the  
1158 license of the nursing facility at the time that the department  
1159 determines, after a hearing complying with due process, that the  
1160 facility has violated the terms of the written agreement.

1161 (b) For the purposes of this subsection, participation  
1162 in the Medicaid program by a nursing facility includes Medicaid  
1163 reimbursement of coinsurance and deductibles for recipients who  
1164 are qualified Medicare beneficiaries and/or those who are dually  
1165 eligible. Any nursing facility exercising the authority under  
1166 this subsection may not bill or submit a claim to the Division of  
1167 Medicaid for services to qualified Medicare beneficiaries and/or  
1168 those who are dually eligible.

1169 (c) The new construction of a nursing facility or  
1170 nursing facility beds or the conversion of other beds to nursing  
1171 facility beds described in this section must be either a part of a  
1172 completely new continuing care retirement community, as described  
1173 in the latest edition of the Mississippi State Health Plan, or an  
1174 addition to existing personal care and independent living  
1175 components, and so that the completed project will be a continuing  
1176 care retirement community, containing (i) independent living  
1177 accommodations, (ii) personal care beds, and (iii) the nursing  
1178 home facility beds. The three (3) components must be located on a  
1179 single site and be operated as one (1) inseparable facility. The  
1180 nursing facility component must contain a minimum of thirty (30)  
1181 beds. Any nursing facility beds authorized by this section will

1182 not be counted against the bed need set forth in the State Health  
1183 Plan, as identified in Section 41-7-171 et seq.

1184 This subsection (13) shall stand repealed from and after July  
1185 1, 2005.

1186 (14) The State Department of Health shall issue a  
1187 certificate of need to any hospital which is currently licensed  
1188 for two hundred fifty (250) or more acute care beds and is located  
1189 in any general hospital service area not having a comprehensive  
1190 cancer center, for the establishment and equipping of such a  
1191 center which provides facilities and services for outpatient  
1192 radiation oncology therapy, outpatient medical oncology therapy,  
1193 and appropriate support services including the provision of  
1194 radiation therapy services. The provision of Section 41-7-193(1)  
1195 regarding substantial compliance with the projection of need as  
1196 reported in the current State Health Plan is waived for the  
1197 purpose of this subsection.

1198 (15) The State Department of Health may authorize the  
1199 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1200 North Panola Community Hospital to the South Panola Community  
1201 Hospital. The authorization for the transfer of those beds shall  
1202 be exempt from the certificate of need review process.

1203 (16) The State Department of Health shall issue any  
1204 certificates of need necessary for Mississippi State University  
1205 and a public or private health care provider to jointly acquire  
1206 and operate a linear accelerator and a magnetic resonance imaging  
1207 unit. Those certificates of need shall cover all capital  
1208 expenditures related to the project between Mississippi State  
1209 University and the health care provider, including, but not  
1210 limited to, the acquisition of the linear accelerator, the  
1211 magnetic resonance imaging unit and other radiological modalities;  
1212 the offering of linear accelerator and magnetic resonance imaging  
1213 services; and the cost of construction of facilities in which to  
1214 locate these services. The linear accelerator and the magnetic

1215 resonance imaging unit shall be (a) located in the City of  
1216 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1217 Mississippi State University and the public or private health care  
1218 provider selected by Mississippi State University through a  
1219 request for proposals (RFP) process in which Mississippi State  
1220 University selects, and the Board of Trustees of State  
1221 Institutions of Higher Learning approves, the health care provider  
1222 that makes the best overall proposal; (c) available to Mississippi  
1223 State University for research purposes two-thirds (2/3) of the  
1224 time that the linear accelerator and magnetic resonance imaging  
1225 unit are operational; and (d) available to the public or private  
1226 health care provider selected by Mississippi State University and  
1227 approved by the Board of Trustees of State Institutions of Higher  
1228 Learning one-third (1/3) of the time for clinical, diagnostic and  
1229 treatment purposes. For purposes of this subsection, the  
1230 provisions of Section 41-7-193(1) requiring substantial compliance  
1231 with the projection of need as reported in the current State  
1232 Health Plan are waived.

1233 (17) Nothing in this section or in any other provision of  
1234 Section 41-7-171 et seq. shall prevent any nursing facility from  
1235 designating an appropriate number of existing beds in the facility  
1236 as beds for providing care exclusively to patients with  
1237 Alzheimer's disease.

1238 **SECTION 2.** This act shall take effect and be in force from  
1239 and after its passage.