

By: Senator(s) Flowers

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2876

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF  
3 NEED FOR THE CONSTRUCTION OF ACUTE CARE HOSPITAL BEDS IN ANY  
4 COUNTY LOCATED IN A METROPOLITAN STATISTICAL AREA WHICH HAS  
5 EXPERIENCED A POPULATION GROWTH OF 5% OR MORE ACCORDING TO THE  
6 PROJECTIONS OF THE STATE INSTITUTIONS OF HIGHER LEARNING OFFICE OF  
7 POLICY RESEARCH AND PLANNING TO ANY HOSPITAL WHICH HAS CONTINUOUS  
8 PARTICIPATION IN THE MISSISSIPPI TRAUMA CARE SYSTEM PLAN; AND FOR  
9 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 hospital complies with all applicable federal law and regulations  
128 regarding such replacement or relocation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

324 43-13-101 et seq.), and that no claim will be submitted for  
325 Medicaid reimbursement in the nursing facility in any day or for  
326 any patient in the nursing facility. This written agreement by  
327 the recipient of the certificate of need shall be a condition of  
328 the issuance of the certificate of need under this paragraph, and  
329 the agreement shall be fully binding on any subsequent owner of  
330 the nursing facility if the ownership of the nursing facility is  
331 transferred at any time after the issuance of the certificate of  
332 need. After this written agreement is executed, the Division of  
333 Medicaid and the State Department of Health shall not certify any  
334 of the beds in the nursing facility for participation in the  
335 Medicaid program. If the nursing facility violates the terms of  
336 the written agreement by admitting or keeping in the nursing  
337 facility on a regular or continuing basis any patients who are  
338 participating in the Medicaid program, the State Department of  
339 Health shall revoke the license of the nursing facility, at the  
340 time that the department determines, after a hearing complying  
341 with due process, that the nursing facility has violated the  
342 condition upon which the certificate of need was issued, as  
343 provided in this paragraph and in the written agreement. If the  
344 certificate of need authorized under this paragraph is not issued  
345 within twelve (12) months after July 1, 2001, the department shall  
346 deny the application for the certificate of need and shall not  
347 issue the certificate of need at any time after the twelve-month  
348 period, unless the issuance is contested. If the certificate of  
349 need is issued and substantial construction of the nursing  
350 facility beds has not commenced within eighteen (18) months after  
351 July 1, 2001, the State Department of Health, after a hearing  
352 complying with due process, shall revoke the certificate of need  
353 if it is still outstanding, and the department shall not issue a  
354 license for the nursing facility at any time after the  
355 eighteen-month period. Provided, however, that if the issuance of  
356 the certificate of need is contested, the department shall require

357 substantial construction of the nursing facility beds within six  
358 (6) months after final adjudication on the issuance of the  
359 certificate of need.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

682 (3) The State Department of Health may grant approval for  
683 and issue certificates of need to any person proposing the new  
684 construction of, addition to, conversion of beds of or expansion  
685 of any health care facility defined in subparagraph (x)

686 (psychiatric residential treatment facility) of Section  
687 41-7-173(h). The total number of beds which may be authorized by  
688 such certificates of need shall not exceed three hundred  
689 thirty-four (334) beds for the entire state.

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

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

719 residential treatment facility if the ownership of the facility is  
720 transferred at any time after the issuance of the certificate of  
721 need. After this written agreement is executed, the Division of  
722 Medicaid and the State Department of Health shall not certify more  
723 than thirty (30) of the beds in the psychiatric residential  
724 treatment facility for participation in the Medicaid program for  
725 the use of any patients other than those who are participating  
726 only in the Medicaid program of another state. If the psychiatric  
727 residential treatment facility violates the terms of the written  
728 agreement by admitting or keeping in the facility on a regular or  
729 continuing basis more than thirty (30) patients who are  
730 participating in the Mississippi Medicaid program, the State  
731 Department of Health shall revoke the license of the facility, at  
732 the time that the department determines, after a hearing complying  
733 with due process, that the facility has violated the condition  
734 upon which the certificate of need was issued, as provided in this  
735 paragraph and in the written agreement.

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

740         (c) Of the total number of beds authorized under this  
741 subsection, the department shall issue a certificate of need to a  
742 hospital currently operating Medicaid-certified acute psychiatric  
743 beds for adolescents in DeSoto County, for the establishment of a  
744 forty-bed psychiatric residential treatment facility in DeSoto  
745 County, provided that the hospital agrees in writing (i) that the  
746 hospital shall give priority for the use of those forty (40) beds  
747 to Mississippi residents who are presently being treated in  
748 out-of-state facilities, and (ii) that no more than fifteen (15)  
749 of the beds at the psychiatric residential treatment facility will  
750 be certified for participation in the Medicaid program (Section  
751 43-13-101 et seq.), and that no claim will be submitted for

752 Medicaid reimbursement for more than fifteen (15) patients in the  
753 psychiatric residential treatment facility in any day or for any  
754 patient in the psychiatric residential treatment facility who is  
755 in a bed that is not Medicaid-certified. This written agreement  
756 by the recipient of the certificate of need shall be a condition  
757 of the issuance of the certificate of need under this paragraph,  
758 and the agreement shall be fully binding on any subsequent owner  
759 of the psychiatric residential treatment facility if the ownership  
760 of the facility is transferred at any time after the issuance of  
761 the certificate of need. After this written agreement is  
762 executed, the Division of Medicaid and the State Department of  
763 Health shall not certify more than fifteen (15) of the beds in the  
764 psychiatric residential treatment facility for participation in  
765 the Medicaid program. If the psychiatric residential treatment  
766 facility violates the terms of the written agreement by admitting  
767 or keeping in the facility on a regular or continuing basis more  
768 than fifteen (15) patients who are participating in the Medicaid  
769 program, the State Department of Health shall revoke the license  
770 of the facility, at the time that the department determines, after  
771 a hearing complying with due process, that the facility has  
772 violated the condition upon which the certificate of need was  
773 issued, as provided in this paragraph and in the written  
774 agreement.

775           (d) Of the total number of beds authorized under this  
776 subsection, the department may issue a certificate or certificates  
777 of need for the construction or expansion of psychiatric  
778 residential treatment facility beds or the conversion of other  
779 beds to psychiatric treatment facility beds, not to exceed thirty  
780 (30) psychiatric residential treatment facility beds, in either  
781 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
782 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

783           (e) Of the total number of beds authorized under this  
784 subsection (3) the department shall issue a certificate of need to

785 a privately-owned, nonprofit psychiatric residential treatment  
786 facility in Hinds County for an eight-bed expansion of the  
787 facility, provided that the facility agrees in writing that the  
788 facility shall give priority for the use of those eight (8) beds  
789 to Mississippi residents who are presently being treated in  
790 out-of-state facilities.

791 (f) The department shall issue a certificate of need to  
792 a one-hundred-thirty-four-bed specialty hospital located on  
793 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
794 at 5900 Highway 39 North in Meridian (Lauderdale County),  
795 Mississippi, for the addition, construction or expansion of  
796 child/adolescent psychiatric residential treatment facility beds  
797 in Lauderdale County. As a condition of issuance of the  
798 certificate of need under this paragraph, the facility shall give  
799 priority in admissions to the child/adolescent psychiatric  
800 residential treatment facility beds authorized under this  
801 paragraph to patients who otherwise would require out-of-state  
802 placement. The Division of Medicaid, in conjunction with the  
803 Department of Human Services, shall furnish the facility a list of  
804 all out-of-state patients on a quarterly basis. Furthermore,  
805 notice shall also be provided to the parent, custodial parent or  
806 guardian of each out-of-state patient notifying them of the  
807 priority status granted by this paragraph. For purposes of this  
808 paragraph, the provisions of Section 41-7-193(1) requiring  
809 substantial compliance with the projection of need as reported in  
810 the current State Health Plan are waived. The total number of  
811 child/adolescent psychiatric residential treatment facility beds  
812 that may be authorized under the authority of this paragraph shall  
813 be sixty (60) beds. There shall be no prohibition or restrictions  
814 on participation in the Medicaid program (Section 43-13-101 et  
815 seq.) for the person receiving the certificate of need authorized  
816 under this paragraph or for the beds converted pursuant to the  
817 authority of that certificate of need.

818           (4) (a) From and after July 1, 1993, the department shall  
819 not issue a certificate of need to any person for the new  
820 construction of any hospital, psychiatric hospital or chemical  
821 dependency hospital that will contain any child/adolescent  
822 psychiatric or child/adolescent chemical dependency beds, or for  
823 the conversion of any other health care facility to a hospital,  
824 psychiatric hospital or chemical dependency hospital that will  
825 contain any child/adolescent psychiatric or child/adolescent  
826 chemical dependency beds, or for the addition of any  
827 child/adolescent psychiatric or child/adolescent chemical  
828 dependency beds in any hospital, psychiatric hospital or chemical  
829 dependency hospital, or for the conversion of any beds of another  
830 category in any hospital, psychiatric hospital or chemical  
831 dependency hospital to child/adolescent psychiatric or  
832 child/adolescent chemical dependency beds, except as hereinafter  
833 authorized:

834                       (i) The department may issue certificates of need  
835 to any person for any purpose described in this subsection,  
836 provided that the hospital, psychiatric hospital or chemical  
837 dependency hospital does not participate in the Medicaid program  
838 (Section 43-13-101 et seq.) at the time of the application for the  
839 certificate of need and the owner of the hospital, psychiatric  
840 hospital or chemical dependency hospital agrees in writing that  
841 the hospital, psychiatric hospital or chemical dependency hospital  
842 will not at any time participate in the Medicaid program or admit  
843 or keep any patients who are participating in the Medicaid program  
844 in the hospital, psychiatric hospital or chemical dependency  
845 hospital. This written agreement by the recipient of the  
846 certificate of need shall be fully binding on any subsequent owner  
847 of the hospital, psychiatric hospital or chemical dependency  
848 hospital, if the ownership of the facility is transferred at any  
849 time after the issuance of the certificate of need. Agreement  
850 that the hospital, psychiatric hospital or chemical dependency

851 hospital will not participate in the Medicaid program shall be a  
852 condition of the issuance of a certificate of need to any person  
853 under this subparagraph \* \* \* (i), and if such hospital,  
854 psychiatric hospital or chemical dependency hospital at any time  
855 after the issuance of the certificate of need, regardless of the  
856 ownership of the facility, participates in the Medicaid program or  
857 admits or keeps any patients in the hospital, psychiatric hospital  
858 or chemical dependency hospital who are participating in the  
859 Medicaid program, the State Department of Health shall revoke the  
860 certificate of need, if it is still outstanding, and shall deny or  
861 revoke the license of the hospital, psychiatric hospital or  
862 chemical dependency hospital, at the time that the department  
863 determines, after a hearing complying with due process, that the  
864 hospital, psychiatric hospital or chemical dependency hospital has  
865 failed to comply with any of the conditions upon which the  
866 certificate of need was issued, as provided in this subparagraph  
867 (i) and in the written agreement by the recipient of the  
868 certificate of need.

869           (ii) The department may issue a certificate of  
870 need for the conversion of existing beds in a county hospital in  
871 Choctaw County from acute care beds to child/adolescent chemical  
872 dependency beds. For purposes of this subparagraph (ii), the  
873 provisions of Section 41-7-193(1) requiring substantial compliance  
874 with the projection of need as reported in the current State  
875 Health Plan is waived. The total number of beds that may be  
876 authorized under authority of this subparagraph shall not exceed  
877 twenty (20) beds. There shall be no prohibition or restrictions  
878 on participation in the Medicaid program (Section 43-13-101 et  
879 seq.) for the hospital receiving the certificate of need  
880 authorized under this subparagraph \* \* \* or for the beds converted  
881 pursuant to the authority of that certificate of need.

882           (iii) The department may issue a certificate or  
883 certificates of need for the construction or expansion of

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

896 If by January 1, 2002, there has been no significant  
897 commencement of construction of the beds authorized under this  
898 subparagraph \* \* \* (iii), or no significant action taken to  
899 convert existing beds to the beds authorized under this  
900 subparagraph, then the certificate of need that was previously  
901 issued under this subparagraph shall expire. If the previously  
902 issued certificate of need expires, the department may accept  
903 applications for issuance of another certificate of need for the  
904 beds authorized under this subparagraph, and may issue a  
905 certificate of need to authorize the construction, expansion or  
906 conversion of the beds authorized under this subparagraph.

907 (iv) The department shall issue a certificate of  
908 need to the Region 7 Mental Health/Retardation Commission for the  
909 construction or expansion of child/adolescent psychiatric beds or  
910 the conversion of other beds to child/adolescent psychiatric beds  
911 in any of the counties served by the commission. For purposes of  
912 this subparagraph (iv), the provisions of Section 41-7-193(1)  
913 requiring substantial compliance with the projection of need as  
914 reported in the current State Health Plan is waived. The total  
915 number of beds that may be authorized under the authority of this  
916 subparagraph shall not exceed twenty (20) beds. There shall be no

917 prohibition or restrictions on participation in the Medicaid  
918 program (Section 43-13-101 et seq.) for the person receiving the  
919 certificate of need authorized under this subparagraph \* \* \* or  
920 for the beds converted pursuant to the authority of that  
921 certificate of need.

922 (v) The department may issue a certificate of need  
923 to any county hospital located in Leflore County for the  
924 construction or expansion of adult psychiatric beds or the  
925 conversion of other beds to adult psychiatric beds, not to exceed  
926 twenty (20) beds, provided that the recipient of the certificate  
927 of need agrees in writing that the adult psychiatric beds will not  
928 at any time be certified for participation in the Medicaid program  
929 and that the hospital will not admit or keep any patients who are  
930 participating in the Medicaid program in any of such adult  
931 psychiatric beds. This written agreement by the recipient of the  
932 certificate of need shall be fully binding on any subsequent owner  
933 of the hospital if the ownership of the hospital is transferred at  
934 any time after the issuance of the certificate of need. Agreement  
935 that the adult psychiatric beds will not be certified for  
936 participation in the Medicaid program shall be a condition of the  
937 issuance of a certificate of need to any person under this  
938 subparagraph \* \* \* (v), and if such hospital at any time after the  
939 issuance of the certificate of need, regardless of the ownership  
940 of the hospital, has any of such adult psychiatric beds certified  
941 for participation in the Medicaid program or admits or keeps any  
942 Medicaid patients in such adult psychiatric beds, the State  
943 Department of Health shall revoke the certificate of need, if it  
944 is still outstanding, and shall deny or revoke the license of the  
945 hospital at the time that the department determines, after a  
946 hearing complying with due process, that the hospital has failed  
947 to comply with any of the conditions upon which the certificate of  
948 need was issued, as provided in this subparagraph and in the  
949 written agreement by the recipient of the certificate of need.

950                   (vi) The department may issue a certificate or  
951 certificates of need for the expansion of child psychiatric beds  
952 or the conversion of other beds to child psychiatric beds at the  
953 University of Mississippi Medical Center. For purposes of this  
954 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
955 requiring substantial compliance with the projection of need as  
956 reported in the current State Health Plan is waived. The total  
957 number of beds that may be authorized under the authority of this  
958 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
959 shall be no prohibition or restrictions on participation in the  
960 Medicaid program (Section 43-13-101 et seq.) for the hospital  
961 receiving the certificate of need authorized under this  
962 subparagraph \* \* \* or for the beds converted pursuant to the  
963 authority of that certificate of need.

964                   (b) From and after July 1, 1990, no hospital,  
965 psychiatric hospital or chemical dependency hospital shall be  
966 authorized to add any child/adolescent psychiatric or  
967 child/adolescent chemical dependency beds or convert any beds of  
968 another category to child/adolescent psychiatric or  
969 child/adolescent chemical dependency beds without a certificate of  
970 need under the authority of subsection (1)(c) of this section.

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

974                   (6) The State Department of Health shall issue a certificate  
975 of need to a Mississippi corporation qualified to manage a  
976 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
977 Harrison County, not to exceed eighty (80) beds, including any  
978 necessary renovation or construction required for licensure and  
979 certification, provided that the recipient of the certificate of  
980 need agrees in writing that the long-term care hospital will not  
981 at any time participate in the Medicaid program (Section 43-13-101  
982 et seq.) or admit or keep any patients in the long-term care

983 hospital who are participating in the Medicaid program. This  
984 written agreement by the recipient of the certificate of need  
985 shall be fully binding on any subsequent owner of the long-term  
986 care hospital, if the ownership of the facility is transferred at  
987 any time after the issuance of the certificate of need. Agreement  
988 that the long-term care hospital will not participate in the  
989 Medicaid program shall be a condition of the issuance of a  
990 certificate of need to any person under this subsection (6), and  
991 if such long-term care hospital at any time after the issuance of  
992 the certificate of need, regardless of the ownership of the  
993 facility, participates in the Medicaid program or admits or keeps  
994 any patients in the facility who are participating in the Medicaid  
995 program, the State Department of Health shall revoke the  
996 certificate of need, if it is still outstanding, and shall deny or  
997 revoke the license of the long-term care hospital, at the time  
998 that the department determines, after a hearing complying with due  
999 process, that the facility has failed to comply with any of the  
1000 conditions upon which the certificate of need was issued, as  
1001 provided in this subsection and in the written agreement by the  
1002 recipient of the certificate of need. For purposes of this  
1003 subsection, the provision of Section 41-7-193(1) requiring  
1004 substantial compliance with the projection of need as reported in  
1005 the current State Health Plan is hereby waived.

1006 (7) The State Department of Health may issue a certificate  
1007 of need to any hospital in the state to utilize a portion of its  
1008 beds for the "swing-bed" concept. Any such hospital must be in  
1009 conformance with the federal regulations regarding such swing-bed  
1010 concept at the time it submits its application for a certificate  
1011 of need to the State Department of Health, except that such  
1012 hospital may have more licensed beds or a higher average daily  
1013 census (ADC) than the maximum number specified in federal  
1014 regulations for participation in the swing-bed program. Any  
1015 hospital meeting all federal requirements for participation in the

1016 swing-bed program which receives such certificate of need shall  
1017 render services provided under the swing-bed concept to any  
1018 patient eligible for Medicare (Title XVIII of the Social Security  
1019 Act) who is certified by a physician to be in need of such  
1020 services, and no such hospital shall permit any patient who is  
1021 eligible for both Medicaid and Medicare or eligible only for  
1022 Medicaid to stay in the swing beds of the hospital for more than  
1023 thirty (30) days per admission unless the hospital receives prior  
1024 approval for such patient from the Division of Medicaid, Office of  
1025 the Governor. Any hospital having more licensed beds or a higher  
1026 average daily census (ADC) than the maximum number specified in  
1027 federal regulations for participation in the swing-bed program  
1028 which receives such certificate of need shall develop a procedure  
1029 to insure that before a patient is allowed to stay in the swing  
1030 beds of the hospital, there are no vacant nursing home beds  
1031 available for that patient located within a fifty-mile radius of  
1032 the hospital. When any such hospital has a patient staying in the  
1033 swing beds of the hospital and the hospital receives notice from a  
1034 nursing home located within such radius that there is a vacant bed  
1035 available for that patient, the hospital shall transfer the  
1036 patient to the nursing home within a reasonable time after receipt  
1037 of the notice. Any hospital which is subject to the requirements  
1038 of the two (2) preceding sentences of this subsection may be  
1039 suspended from participation in the swing-bed program for a  
1040 reasonable period of time by the State Department of Health if the  
1041 department, after a hearing complying with due process, determines  
1042 that the hospital has failed to comply with any of those  
1043 requirements.

1044 (8) The Department of Health shall not grant approval for or  
1045 issue a certificate of need to any person proposing the new  
1046 construction of, addition to or expansion of a health care  
1047 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1048 except as hereinafter provided: The department may issue a

1049 certificate of need to a nonprofit corporation located in Madison  
1050 County, Mississippi, for the construction, expansion or conversion  
1051 of not more than twenty (20) beds in a community living program  
1052 for developmentally disabled adults in a facility as defined in  
1053 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1054 subsection (8), the provisions of Section 41-7-193(1) requiring  
1055 substantial compliance with the projection of need as reported in  
1056 the current State Health Plan and the provisions of Section  
1057 41-7-197 requiring a formal certificate of need hearing process  
1058 are waived. There shall be no prohibition or restrictions on  
1059 participation in the Medicaid program for the person receiving the  
1060 certificate of need authorized under this subsection (8).

1061 (9) The Department of Health shall not grant approval for or  
1062 issue a certificate of need to any person proposing the  
1063 establishment of, or expansion of the currently approved territory  
1064 of, or the contracting to establish a home office, subunit or  
1065 branch office within the space operated as a health care facility  
1066 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1067 care facility as defined in subparagraph (ix) of Section  
1068 41-7-173(h).

1069 (10) Health care facilities owned and/or operated by the  
1070 state or its agencies are exempt from the restraints in this  
1071 section against issuance of a certificate of need if such addition  
1072 or expansion consists of repairing or renovation necessary to  
1073 comply with the state licensure law. This exception shall not  
1074 apply to the new construction of any building by such state  
1075 facility. This exception shall not apply to any health care  
1076 facilities owned and/or operated by counties, municipalities,  
1077 districts, unincorporated areas, other defined persons, or any  
1078 combination thereof.

1079 (11) The new construction, renovation or expansion of or  
1080 addition to any health care facility defined in subparagraph (ii)  
1081 (psychiatric hospital), subparagraph (iv) (skilled nursing

1082 facility), subparagraph (vi) (intermediate care facility),  
1083 subparagraph (viii) (intermediate care facility for the mentally  
1084 retarded) and subparagraph (x) (psychiatric residential treatment  
1085 facility) of Section 41-7-173(h) which is owned by the State of  
1086 Mississippi and under the direction and control of the State  
1087 Department of Mental Health, and the addition of new beds or the  
1088 conversion of beds from one category to another in any such  
1089 defined health care facility which is owned by the State of  
1090 Mississippi and under the direction and control of the State  
1091 Department of Mental Health, shall not require the issuance of a  
1092 certificate of need under Section 41-7-171 et seq.,  
1093 notwithstanding any provision in Section 41-7-171 et seq. to the  
1094 contrary.

1095 (12) The new construction, renovation or expansion of or  
1096 addition to any veterans homes or domiciliaries for eligible  
1097 veterans of the State of Mississippi as authorized under Section  
1098 35-1-19 shall not require the issuance of a certificate of need,  
1099 notwithstanding any provision in Section 41-7-171 et seq. to the  
1100 contrary.

1101 (13) The new construction of a nursing facility or nursing  
1102 facility beds or the conversion of other beds to nursing facility  
1103 beds shall not require the issuance of a certificate of need,  
1104 notwithstanding any provision in Section 41-7-171 et seq. to the  
1105 contrary, if the conditions of this subsection are met.

1106 (a) Before any construction or conversion may be  
1107 undertaken without a certificate of need, the owner of the nursing  
1108 facility, in the case of an existing facility, or the applicant to  
1109 construct a nursing facility, in the case of new construction,  
1110 first must file a written notice of intent and sign a written  
1111 agreement with the State Department of Health that the entire  
1112 nursing facility will not at any time participate in or have any  
1113 beds certified for participation in the Medicaid program (Section  
1114 43-13-101 et seq.), will not admit or keep any patients in the

1115 nursing facility who are participating in the Medicaid program,  
1116 and will not submit any claim for Medicaid reimbursement for any  
1117 patient in the facility. This written agreement by the owner or  
1118 applicant shall be a condition of exercising the authority under  
1119 this subsection without a certificate of need, and the agreement  
1120 shall be fully binding on any subsequent owner of the nursing  
1121 facility if the ownership of the facility is transferred at any  
1122 time after the agreement is signed. After the written agreement  
1123 is signed, the Division of Medicaid and the State Department of  
1124 Health shall not certify any beds in the nursing facility for  
1125 participation in the Medicaid program. If the nursing facility  
1126 violates the terms of the written agreement by participating in  
1127 the Medicaid program, having any beds certified for participation  
1128 in the Medicaid program, admitting or keeping any patient in the  
1129 facility who is participating in the Medicaid program, or  
1130 submitting any claim for Medicaid reimbursement for any patient in  
1131 the facility, the State Department of Health shall revoke the  
1132 license of the nursing facility at the time that the department  
1133 determines, after a hearing complying with due process, that the  
1134 facility has violated the terms of the written agreement.

1135           (b) For the purposes of this subsection, participation  
1136 in the Medicaid program by a nursing facility includes Medicaid  
1137 reimbursement of coinsurance and deductibles for recipients who  
1138 are qualified Medicare beneficiaries and/or those who are dually  
1139 eligible. Any nursing facility exercising the authority under  
1140 this subsection may not bill or submit a claim to the Division of  
1141 Medicaid for services to qualified Medicare beneficiaries and/or  
1142 those who are dually eligible.

1143           (c) The new construction of a nursing facility or  
1144 nursing facility beds or the conversion of other beds to nursing  
1145 facility beds described in this section must be either a part of a  
1146 completely new continuing care retirement community, as described  
1147 in the latest edition of the Mississippi State Health Plan, or an

1148 addition to existing personal care and independent living  
1149 components, and so that the completed project will be a continuing  
1150 care retirement community, containing (i) independent living  
1151 accommodations, (ii) personal care beds, and (iii) the nursing  
1152 home facility beds. The three (3) components must be located on a  
1153 single site and be operated as one (1) inseparable facility. The  
1154 nursing facility component must contain a minimum of thirty (30)  
1155 beds. Any nursing facility beds authorized by this section will  
1156 not be counted against the bed need set forth in the State Health  
1157 Plan, as identified in Section 41-7-171 et seq.

1158         This subsection (13) shall stand repealed from and after July  
1159 1, 2005.

1160         (14) The State Department of Health shall issue a  
1161 certificate of need to any hospital which is currently licensed  
1162 for two hundred fifty (250) or more acute care beds and is located  
1163 in any general hospital service area not having a comprehensive  
1164 cancer center, for the establishment and equipping of such a  
1165 center which provides facilities and services for outpatient  
1166 radiation oncology therapy, outpatient medical oncology therapy,  
1167 and appropriate support services including the provision of  
1168 radiation therapy services. The provision of Section 41-7-193(1)  
1169 regarding substantial compliance with the projection of need as  
1170 reported in the current State Health Plan is waived for the  
1171 purpose of this subsection.

1172         (15) The State Department of Health may authorize the  
1173 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1174 North Panola Community Hospital to the South Panola Community  
1175 Hospital. The authorization for the transfer of those beds shall  
1176 be exempt from the certificate of need review process.

1177         (16) The State Department of Health shall issue any  
1178 certificates of need necessary for Mississippi State University  
1179 and a public or private health care provider to jointly acquire  
1180 and operate a linear accelerator and a magnetic resonance imaging

1181 unit. Those certificates of need shall cover all capital  
1182 expenditures related to the project between Mississippi State  
1183 University and the health care provider, including, but not  
1184 limited to, the acquisition of the linear accelerator, the  
1185 magnetic resonance imaging unit and other radiological modalities;  
1186 the offering of linear accelerator and magnetic resonance imaging  
1187 services; and the cost of construction of facilities in which to  
1188 locate these services. The linear accelerator and the magnetic  
1189 resonance imaging unit shall be (a) located in the City of  
1190 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1191 Mississippi State University and the public or private health care  
1192 provider selected by Mississippi State University through a  
1193 request for proposals (RFP) process in which Mississippi State  
1194 University selects, and the Board of Trustees of State  
1195 Institutions of Higher Learning approves, the health care provider  
1196 that makes the best overall proposal; (c) available to Mississippi  
1197 State University for research purposes two-thirds (2/3) of the  
1198 time that the linear accelerator and magnetic resonance imaging  
1199 unit are operational; and (d) available to the public or private  
1200 health care provider selected by Mississippi State University and  
1201 approved by the Board of Trustees of State Institutions of Higher  
1202 Learning one-third (1/3) of the time for clinical, diagnostic and  
1203 treatment purposes. For purposes of this subsection, the  
1204 provisions of Section 41-7-193(1) requiring substantial compliance  
1205 with the projection of need as reported in the current State  
1206 Health Plan are waived.

1207 (17) Nothing in this section or in any other provision of  
1208 Section 41-7-171 et seq. shall prevent any nursing facility from  
1209 designating an appropriate number of existing beds in the facility  
1210 as beds for providing care exclusively to patients with  
1211 Alzheimer's disease.

1212 (18) The State Department of Health shall issue a  
1213 certificate of need for the construction, addition or conversion

1214 of acute care hospital beds in a county located in a standard  
1215 metropolitan statistical area (SMSA) as defined in the latest  
1216 federal decennial census which shall experience a population  
1217 growth of five percent (5%) or more, not to exceed one hundred  
1218 (100) beds. The recipient of such certificate of need shall be a  
1219 hospital which has continuous participation, or agrees to contract  
1220 to participate, in the Mississippi Trauma Care System Plan  
1221 established by the State Board of Health under Section 41-59-5.  
1222 For purposes of this subsection (18), "five percent (5%) or more  
1223 population growth" shall be defined by the Mississippi population  
1224 projections for 2010-2015 prepared by the Office of Policy  
1225 Research and Planning of the State Institutions of Higher  
1226 Learning. For purposes of this subsection (18), the provisions of  
1227 Section 41-7-193(1) requiring substantial compliance with the  
1228 projection of need as reported in the current State Health Plan  
1229 and the provisions of Section 41-7-197 requiring a formal  
1230 certificate of need hearing process are waived. There shall be no  
1231 prohibition or restrictions on participation in the Medicaid  
1232 program for the person receiving the certificate of need  
1233 authorized under this subsection (18).

1234       **SECTION 2.** This act shall take effect and be in force from  
1235 and after its passage.