

By: Senator(s) Jackson (32nd)

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2878

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT THE REOPENING OF 16 ACUTE CARE HOSPITAL BEDS IN KEMPER
3 COUNTY FOR THE CONSTRUCTION OF "THE JOHN C. STENNIS MEMORIAL
4 HOSPITAL" FROM THE REQUIREMENT OF A CERTIFICATE OF NEED; AND FOR
5 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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

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

69 one physical facility or site to another physical facility or

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

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

72 physical facility or site within five thousand two hundred eighty

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

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

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

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

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

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

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

80 Department of Health;

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

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

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

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

85 medical equipment to replace medical equipment for which a

86 facility is already providing medical services and for which the

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

88 such acquisition shall be exempt from this paragraph; an

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

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

91 (g) Changes of ownership of existing health care

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

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

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

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

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

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

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

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

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

125 (m) Reopening a health care facility that has ceased to
126 operate for a period of sixty (60) months or more, which reopening
127 requires a certificate of need for the establishment of a new

128 health care facility. Provided, however, that the reopening of
129 sixteen (16) acute care hospital beds in Kemper County for the
130 purpose of constructing the "John C. Stennis Memorial Hospital" to
131 be owned and operated by a two-hundred-fifteen-bed hospital
132 located in Lauderdale County shall not require the issuance of a
133 certificate of need, notwithstanding any provision in Section
134 41-7-171 et seq. to the contrary.

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

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

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

159 (c) The department may issue a certificate of need for
160 the addition to or expansion of any skilled nursing facility that

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

742 (c) Of the total number of beds authorized under this
743 subsection, the department shall issue a certificate of need to a
744 hospital currently operating Medicaid-certified acute psychiatric
745 beds for adolescents in DeSoto County, for the establishment of a
746 forty-bed psychiatric residential treatment facility in DeSoto
747 County, provided that the hospital agrees in writing (i) that the
748 hospital shall give priority for the use of those forty (40) beds
749 to Mississippi residents who are presently being treated in
750 out-of-state facilities, and (ii) that no more than fifteen (15)
751 of the beds at the psychiatric residential treatment facility will
752 be certified for participation in the Medicaid program (Section
753 43-13-101 et seq.), and that no claim will be submitted for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

985 hospital who are participating in the Medicaid program. This
986 written agreement by the recipient of the certificate of need
987 shall be fully binding on any subsequent owner of the long-term
988 care hospital, if the ownership of the facility is transferred at
989 any time after the issuance of the certificate of need. Agreement
990 that the long-term care hospital will not participate in the
991 Medicaid program shall be a condition of the issuance of a
992 certificate of need to any person under this subsection (6), and
993 if such long-term care hospital at any time after the issuance of
994 the certificate of need, regardless of the ownership of the
995 facility, participates in the Medicaid program or admits or keeps
996 any patients in the facility who are participating in the Medicaid
997 program, the State Department of Health shall revoke the
998 certificate of need, if it is still outstanding, and shall deny or
999 revoke the license of the long-term care hospital, at the time
1000 that the department determines, after a hearing complying with due
1001 process, that the facility has failed to comply with any of the
1002 conditions upon which the certificate of need was issued, as
1003 provided in this subsection and in the written agreement by the
1004 recipient of the certificate of need. For purposes of this
1005 subsection, the provision of Section 41-7-193(1) requiring
1006 substantial compliance with the projection of need as reported in
1007 the current State Health Plan is hereby waived.

1008 (7) The State Department of Health may issue a certificate
1009 of need to any hospital in the state to utilize a portion of its
1010 beds for the "swing-bed" concept. Any such hospital must be in
1011 conformance with the federal regulations regarding such swing-bed
1012 concept at the time it submits its application for a certificate
1013 of need to the State Department of Health, except that such
1014 hospital may have more licensed beds or a higher average daily
1015 census (ADC) than the maximum number specified in federal
1016 regulations for participation in the swing-bed program. Any
1017 hospital meeting all federal requirements for participation in the

1018 swing-bed program which receives such certificate of need shall
1019 render services provided under the swing-bed concept to any
1020 patient eligible for Medicare (Title XVIII of the Social Security
1021 Act) who is certified by a physician to be in need of such
1022 services, and no such hospital shall permit any patient who is
1023 eligible for both Medicaid and Medicare or eligible only for
1024 Medicaid to stay in the swing beds of the hospital for more than
1025 thirty (30) days per admission unless the hospital receives prior
1026 approval for such patient from the Division of Medicaid, Office of
1027 the Governor. Any hospital having more licensed beds or a higher
1028 average daily census (ADC) than the maximum number specified in
1029 federal regulations for participation in the swing-bed program
1030 which receives such certificate of need shall develop a procedure
1031 to insure that before a patient is allowed to stay in the swing
1032 beds of the hospital, there are no vacant nursing home beds
1033 available for that patient located within a fifty-mile radius of
1034 the hospital. When any such hospital has a patient staying in the
1035 swing beds of the hospital and the hospital receives notice from a
1036 nursing home located within such radius that there is a vacant bed
1037 available for that patient, the hospital shall transfer the
1038 patient to the nursing home within a reasonable time after receipt
1039 of the notice. Any hospital which is subject to the requirements
1040 of the two (2) preceding sentences of this subsection may be
1041 suspended from participation in the swing-bed program for a
1042 reasonable period of time by the State Department of Health if the
1043 department, after a hearing complying with due process, determines
1044 that the hospital has failed to comply with any of those
1045 requirements.

1046 (8) The Department of Health shall not grant approval for or
1047 issue a certificate of need to any person proposing the new
1048 construction of, addition to or expansion of a health care
1049 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1050 except as hereinafter provided: The department may issue a

1051 certificate of need to a nonprofit corporation located in Madison
1052 County, Mississippi, for the construction, expansion or conversion
1053 of not more than twenty (20) beds in a community living program
1054 for developmentally disabled adults in a facility as defined in
1055 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1056 subsection (8), the provisions of Section 41-7-193(1) requiring
1057 substantial compliance with the projection of need as reported in
1058 the current State Health Plan and the provisions of Section
1059 41-7-197 requiring a formal certificate of need hearing process
1060 are waived. There shall be no prohibition or restrictions on
1061 participation in the Medicaid program for the person receiving the
1062 certificate of need authorized under this subsection (8).

1063 (9) The Department of Health shall not grant approval for or
1064 issue a certificate of need to any person proposing the
1065 establishment of, or expansion of the currently approved territory
1066 of, or the contracting to establish a home office, subunit or
1067 branch office within the space operated as a health care facility
1068 as defined in Section 41-7-173(h)(i) through (viii) by a health
1069 care facility as defined in subparagraph (ix) of Section
1070 41-7-173(h).

1071 (10) Health care facilities owned and/or operated by the
1072 state or its agencies are exempt from the restraints in this
1073 section against issuance of a certificate of need if such addition
1074 or expansion consists of repairing or renovation necessary to
1075 comply with the state licensure law. This exception shall not
1076 apply to the new construction of any building by such state
1077 facility. This exception shall not apply to any health care
1078 facilities owned and/or operated by counties, municipalities,
1079 districts, unincorporated areas, other defined persons, or any
1080 combination thereof.

1081 (11) The new construction, renovation or expansion of or
1082 addition to any health care facility defined in subparagraph (ii)
1083 (psychiatric hospital), subparagraph (iv) (skilled nursing

1084 facility), subparagraph (vi) (intermediate care facility),
1085 subparagraph (viii) (intermediate care facility for the mentally
1086 retarded) and subparagraph (x) (psychiatric residential treatment
1087 facility) of Section 41-7-173(h) which is owned by the State of
1088 Mississippi and under the direction and control of the State
1089 Department of Mental Health, and the addition of new beds or the
1090 conversion of beds from one category to another in any such
1091 defined health care facility which is owned by the State of
1092 Mississippi and under the direction and control of the State
1093 Department of Mental Health, shall not require the issuance of a
1094 certificate of need under Section 41-7-171 et seq.,
1095 notwithstanding any provision in Section 41-7-171 et seq. to the
1096 contrary.

1097 (12) The new construction, renovation or expansion of or
1098 addition to any veterans homes or domiciliaries for eligible
1099 veterans of the State of Mississippi as authorized under Section
1100 35-1-19 shall not require the issuance of a certificate of need,
1101 notwithstanding any provision in Section 41-7-171 et seq. to the
1102 contrary.

1103 (13) The new construction of a nursing facility or nursing
1104 facility beds or the conversion of other beds to nursing facility
1105 beds shall not require the issuance of a certificate of need,
1106 notwithstanding any provision in Section 41-7-171 et seq. to the
1107 contrary, if the conditions of this subsection are met.

1108 (a) Before any construction or conversion may be
1109 undertaken without a certificate of need, the owner of the nursing
1110 facility, in the case of an existing facility, or the applicant to
1111 construct a nursing facility, in the case of new construction,
1112 first must file a written notice of intent and sign a written
1113 agreement with the State Department of Health that the entire
1114 nursing facility will not at any time participate in or have any
1115 beds certified for participation in the Medicaid program (Section
1116 43-13-101 et seq.), will not admit or keep any patients in the

1117 nursing facility who are participating in the Medicaid program,
1118 and will not submit any claim for Medicaid reimbursement for any
1119 patient in the facility. This written agreement by the owner or
1120 applicant shall be a condition of exercising the authority under
1121 this subsection without a certificate of need, and the agreement
1122 shall be fully binding on any subsequent owner of the nursing
1123 facility if the ownership of the facility is transferred at any
1124 time after the agreement is signed. After the written agreement
1125 is signed, the Division of Medicaid and the State Department of
1126 Health shall not certify any beds in the nursing facility for
1127 participation in the Medicaid program. If the nursing facility
1128 violates the terms of the written agreement by participating in
1129 the Medicaid program, having any beds certified for participation
1130 in the Medicaid program, admitting or keeping any patient in the
1131 facility who is participating in the Medicaid program, or
1132 submitting any claim for Medicaid reimbursement for any patient in
1133 the facility, the State Department of Health shall revoke the
1134 license of the nursing facility at the time that the department
1135 determines, after a hearing complying with due process, that the
1136 facility has violated the terms of the written agreement.

1137 (b) For the purposes of this subsection, participation
1138 in the Medicaid program by a nursing facility includes Medicaid
1139 reimbursement of coinsurance and deductibles for recipients who
1140 are qualified Medicare beneficiaries and/or those who are dually
1141 eligible. Any nursing facility exercising the authority under
1142 this subsection may not bill or submit a claim to the Division of
1143 Medicaid for services to qualified Medicare beneficiaries and/or
1144 those who are dually eligible.

1145 (c) The new construction of a nursing facility or
1146 nursing facility beds or the conversion of other beds to nursing
1147 facility beds described in this section must be either a part of a
1148 completely new continuing care retirement community, as described
1149 in the latest edition of the Mississippi State Health Plan, or an

1150 addition to existing personal care and independent living
1151 components, and so that the completed project will be a continuing
1152 care retirement community, containing (i) independent living
1153 accommodations, (ii) personal care beds, and (iii) the nursing
1154 home facility beds. The three (3) components must be located on a
1155 single site and be operated as one (1) inseparable facility. The
1156 nursing facility component must contain a minimum of thirty (30)
1157 beds. Any nursing facility beds authorized by this section will
1158 not be counted against the bed need set forth in the State Health
1159 Plan, as identified in Section 41-7-171 et seq.

1160 This subsection (13) shall stand repealed from and after July
1161 1, 2005.

1162 (14) The State Department of Health shall issue a
1163 certificate of need to any hospital which is currently licensed
1164 for two hundred fifty (250) or more acute care beds and is located
1165 in any general hospital service area not having a comprehensive
1166 cancer center, for the establishment and equipping of such a
1167 center which provides facilities and services for outpatient
1168 radiation oncology therapy, outpatient medical oncology therapy,
1169 and appropriate support services including the provision of
1170 radiation therapy services. The provision of Section 41-7-193(1)
1171 regarding substantial compliance with the projection of need as
1172 reported in the current State Health Plan is waived for the
1173 purpose of this subsection.

1174 (15) The State Department of Health may authorize the
1175 transfer of hospital beds, not to exceed sixty (60) beds, from the
1176 North Panola Community Hospital to the South Panola Community
1177 Hospital. The authorization for the transfer of those beds shall
1178 be exempt from the certificate of need review process.

1179 (16) The State Department of Health shall issue any
1180 certificates of need necessary for Mississippi State University
1181 and a public or private health care provider to jointly acquire
1182 and operate a linear accelerator and a magnetic resonance imaging

1183 unit. Those certificates of need shall cover all capital
1184 expenditures related to the project between Mississippi State
1185 University and the health care provider, including, but not
1186 limited to, the acquisition of the linear accelerator, the
1187 magnetic resonance imaging unit and other radiological modalities;
1188 the offering of linear accelerator and magnetic resonance imaging
1189 services; and the cost of construction of facilities in which to
1190 locate these services. The linear accelerator and the magnetic
1191 resonance imaging unit shall be (a) located in the City of
1192 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1193 Mississippi State University and the public or private health care
1194 provider selected by Mississippi State University through a
1195 request for proposals (RFP) process in which Mississippi State
1196 University selects, and the Board of Trustees of State
1197 Institutions of Higher Learning approves, the health care provider
1198 that makes the best overall proposal; (c) available to Mississippi
1199 State University for research purposes two-thirds (2/3) of the
1200 time that the linear accelerator and magnetic resonance imaging
1201 unit are operational; and (d) available to the public or private
1202 health care provider selected by Mississippi State University and
1203 approved by the Board of Trustees of State Institutions of Higher
1204 Learning one-third (1/3) of the time for clinical, diagnostic and
1205 treatment purposes. For purposes of this subsection, the
1206 provisions of Section 41-7-193(1) requiring substantial compliance
1207 with the projection of need as reported in the current State
1208 Health Plan are waived.

1209 (17) Nothing in this section or in any other provision of
1210 Section 41-7-171 et seq. shall prevent any nursing facility from
1211 designating an appropriate number of existing beds in the facility
1212 as beds for providing care exclusively to patients with
1213 Alzheimer's disease.

1214 **SECTION 2.** This act shall take effect and be in force from
1215 and after its passage.