

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1202: CON; issue for construction of acute care hospital in Kemper County.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

5 **SECTION 1.** Section 41-7-191, Mississippi Code of 1972, is
6 brought forward as follows:

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

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

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

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

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

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

- 48 (i) Open heart surgery services;
- 49 (ii) Cardiac catheterization services;
- 50 (iii) Comprehensive inpatient rehabilitation
51 services;
- 52 (iv) Licensed psychiatric services;
- 53 (v) Licensed chemical dependency services;
- 54 (vi) Radiation therapy services;
- 55 (vii) Diagnostic imaging services of an invasive
56 nature, i.e. invasive digital angiography;

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

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

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

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

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

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

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

121 hospital complies with all applicable federal law and regulations
122 regarding such replacement or relocation;

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

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

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

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

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

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

180 (d) The State Department of Health may issue a
181 certificate of need to any hospital located in DeSoto County for
182 the new construction of a skilled nursing facility, not to exceed
183 one hundred twenty (120) beds, in DeSoto County. From and after
184 July 1, 1999, there shall be no prohibition or restrictions on

185 participation in the Medicaid program (Section 43-13-101 et seq.)
186 for the beds in the nursing facility that were authorized under
187 this paragraph (d).

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

197 (f) The State Department of Health may issue a
198 certificate of need for conversion of a county hospital facility
199 in Itawamba County to a nursing facility, not to exceed sixty (60)
200 beds, including any necessary construction, renovation or
201 expansion. 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 (f).

205 (g) The State Department of Health may issue a
206 certificate of need for the construction or expansion of nursing
207 facility beds or the conversion of other beds to nursing facility
208 beds in either Hinds, Madison or Rankin County, not to exceed
209 sixty (60) beds. 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 (g).

213 (h) 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 Hancock, Harrison or Jackson 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 facility
220 that were authorized under this paragraph (h).

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

249 the purposes of this paragraph. The total number of nursing
250 facility beds that may be authorized by any certificate of need
251 issued under this paragraph (i) shall not exceed sixty (60) beds.
252 If the skilled nursing facility authorized by the certificate of
253 need issued under this paragraph is not constructed and fully
254 operational within eighteen (18) months after July 1, 1994, the
255 State Department of Health, after a hearing complying with due
256 process, shall revoke the certificate of need, if it is still
257 outstanding, and shall not issue a license for the skilled nursing
258 facility at any time after the expiration of the eighteen-month
259 period.

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

271 (k) The department may issue a certificate of need for
272 the construction of a nursing facility at a continuing care
273 retirement community in Lowndes County. The total number of beds
274 that may be authorized under the authority of this paragraph (k)
275 shall not exceed sixty (60) beds. From and after July 1, 2001,
276 the prohibition on the facility participating in the Medicaid
277 program (Section 43-13-101 et seq.) that was a condition of
278 issuance of the certificate of need under this paragraph (k) shall
279 be revised as follows: The nursing facility may participate in
280 the Medicaid program from and after July 1, 2001, if the owner of

281 the facility on July 1, 2001, agrees in writing that no more than
282 thirty (30) of the beds at the facility will be certified for
283 participation in the Medicaid program, and that no claim will be
284 submitted for Medicaid reimbursement for more than thirty (30)
285 patients in the facility in any month or for any patient in the
286 facility who is in a bed that is not Medicaid-certified. This
287 written agreement by the owner of the facility shall be a
288 condition of licensure of the facility, and the agreement shall be
289 fully binding on any subsequent owner of the facility if the
290 ownership of the facility is transferred at any time after July 1,
291 2001. After this written agreement is executed, the Division of
292 Medicaid and the State Department of Health shall not certify more
293 than thirty (30) of the beds in the facility for participation in
294 the Medicaid program. If the facility violates the terms of the
295 written agreement by admitting or keeping in the facility on a
296 regular or continuing basis more than thirty (30) patients who are
297 participating in the Medicaid program, the State Department of
298 Health shall revoke the license of the facility, at the time that
299 the department determines, after a hearing complying with due
300 process, that the facility has violated the written agreement.

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

311 (m) The State Department of Health may issue a
312 certificate of need to a county-owned hospital in the Second

313 Judicial District of Panola County for the conversion of not more
314 than seventy-two (72) hospital beds to nursing facility beds,
315 provided that the recipient of the certificate of need agrees in
316 writing that none of the beds at the nursing facility will be
317 certified for participation in the Medicaid program (Section
318 43-13-101 et seq.), and that no claim will be submitted for
319 Medicaid reimbursement in the nursing facility in any day or for
320 any patient in the nursing facility. This written agreement by
321 the recipient of the certificate of need shall be a condition of
322 the issuance of the certificate of need under this paragraph, and
323 the agreement shall be fully binding on any subsequent owner of
324 the nursing facility if the ownership of the nursing facility is
325 transferred at any time after the issuance of the certificate of
326 need. After this written agreement is executed, the Division of
327 Medicaid and the State Department of Health shall not certify any
328 of the beds in the nursing facility for participation in the
329 Medicaid program. If the nursing facility violates the terms of
330 the written agreement by admitting or keeping in the nursing
331 facility on a regular or continuing basis any patients who are
332 participating in the Medicaid program, the State Department of
333 Health shall revoke the license of the nursing facility, at the
334 time that the department determines, after a hearing complying
335 with due process, that the nursing facility has violated the
336 condition upon which the certificate of need was issued, as
337 provided in this paragraph and in the written agreement. If the
338 certificate of need authorized under this paragraph is not issued
339 within twelve (12) months after July 1, 2001, the department shall
340 deny the application for the certificate of need and shall not
341 issue the certificate of need at any time after the twelve-month
342 period, unless the issuance is contested. If the certificate of
343 need is issued and substantial construction of the nursing
344 facility beds has not commenced within eighteen (18) months after

345 July 1, 2001, the State Department of Health, after a hearing
346 complying with due process, shall revoke the certificate of need
347 if it is still outstanding, and the department shall not issue a
348 license for the nursing facility at any time after the
349 eighteen-month period. Provided, however, that if the issuance of
350 the certificate of need is contested, the department shall require
351 substantial construction of the nursing facility beds within six
352 (6) months after final adjudication on the issuance of the
353 certificate of need.

354 (n) The department may issue a certificate of need for
355 the new construction, addition or conversion of skilled nursing
356 facility beds in Madison County, provided that the recipient of
357 the certificate of need agrees in writing that the skilled nursing
358 facility will not at any time participate in the Medicaid program
359 (Section 43-13-101 et seq.) or admit or keep any patients in the
360 skilled nursing facility who are participating in the Medicaid
361 program. This written agreement by the recipient of the
362 certificate of need shall be fully binding on any subsequent owner
363 of the skilled nursing facility, if the ownership of the facility
364 is transferred at any time after the issuance of the certificate
365 of need. Agreement that the skilled nursing facility will not
366 participate in the Medicaid program shall be a condition of the
367 issuance of a certificate of need to any person under this
368 paragraph (n), and if such skilled nursing facility at any time
369 after the issuance of the certificate of need, regardless of the
370 ownership of the facility, participates in the Medicaid program or
371 admits or keeps any patients in the facility who are participating
372 in the Medicaid program, the State Department of Health shall
373 revoke the certificate of need, if it is still outstanding, and
374 shall deny or revoke the license of the skilled nursing facility,
375 at the time that the department determines, after a hearing
376 complying with due process, that the facility has failed to comply

377 with any of the conditions upon which the certificate of need was
378 issued, as provided in this paragraph and in the written agreement
379 by the recipient of the certificate of need. The total number of
380 nursing facility beds that may be authorized by any certificate of
381 need issued under this paragraph (n) shall not exceed sixty (60)
382 beds. If the certificate of need authorized under this paragraph
383 is not issued within twelve (12) months after July 1, 1998, the
384 department shall deny the application for the certificate of need
385 and shall not issue the certificate of need at any time after the
386 twelve-month period, unless the issuance is contested. If the
387 certificate of need is issued and substantial construction of the
388 nursing facility beds has not commenced within eighteen (18)
389 months after the effective date of July 1, 1998, the State
390 Department of Health, after a hearing complying with due process,
391 shall revoke the certificate of need if it is still outstanding,
392 and the department shall not issue a license for the nursing
393 facility at any time after the eighteen-month period. Provided,
394 however, that if the issuance of the certificate of need is
395 contested, the department shall require substantial construction
396 of the nursing facility beds within six (6) months after final
397 adjudication on the issuance of the certificate of need.

398 (o) The department may issue a certificate of need for
399 the new construction, addition or conversion of skilled nursing
400 facility beds in Leake County, provided that the recipient of the
401 certificate of need agrees in writing that the skilled nursing
402 facility will not at any time participate in the Medicaid program
403 (Section 43-13-101 et seq.) or admit or keep any patients in the
404 skilled nursing facility who are participating in the Medicaid
405 program. This written agreement by the recipient of the
406 certificate of need shall be fully binding on any subsequent owner
407 of the skilled nursing facility, if the ownership of the facility
408 is transferred at any time after the issuance of the certificate

409 of need. Agreement that the skilled nursing facility will not
410 participate in the Medicaid program shall be a condition of the
411 issuance of a certificate of need to any person under this
412 paragraph (o), and if such skilled nursing facility at any time
413 after the issuance of the certificate of need, regardless of the
414 ownership of the facility, participates in the Medicaid program or
415 admits or keeps any patients in the facility who are participating
416 in the Medicaid program, the State Department of Health shall
417 revoke the certificate of need, if it is still outstanding, and
418 shall deny or revoke the license of the skilled nursing facility,
419 at the time that the department determines, after a hearing
420 complying with due process, that the facility has failed to comply
421 with any of the conditions upon which the certificate of need was
422 issued, as provided in this paragraph and in the written agreement
423 by the recipient of the certificate of need. The total number of
424 nursing facility beds that may be authorized by any certificate of
425 need issued under this paragraph (o) shall not exceed sixty (60)
426 beds. If the certificate of need authorized under this paragraph
427 is not issued within twelve (12) months after July 1, 2001, the
428 department shall deny the application for the certificate of need
429 and shall not issue the certificate of need at any time after the
430 twelve-month period, unless the issuance is contested. If the
431 certificate of need is issued and substantial construction of the
432 nursing facility beds has not commenced within eighteen (18)
433 months after the effective date of July 1, 2001, the State
434 Department of Health, after a hearing complying with due process,
435 shall revoke the certificate of need if it is still outstanding,
436 and the department shall not issue a license for the nursing
437 facility at any time after the eighteen-month period. Provided,
438 however, that if the issuance of the certificate of need is
439 contested, the department shall require substantial construction

440 of the nursing facility beds within six (6) months after final
441 adjudication on the issuance of the certificate of need.

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

454 Agreement that the skilled nursing facility will not participate
455 in the Medicaid program shall be a condition of the issuance of a
456 certificate of need to any person under this paragraph (p), and if
457 such skilled nursing facility at any time after the issuance of
458 the certificate of need, regardless of the ownership of the
459 facility, participates in the Medicaid program or admits or keeps
460 any patients in the facility who are participating in the Medicaid
461 program, the State Department of Health shall revoke the
462 certificate of need, if it is still outstanding, and shall deny or
463 revoke the license of the skilled nursing facility, at the time
464 that the department determines, after a hearing complying with due
465 process, that the facility has failed to comply with any of the
466 conditions upon which the certificate of need was issued, as
467 provided in this paragraph and in the written agreement by the
468 recipient of the certificate of need. The provision of Section
469 43-7-193(1) regarding substantial compliance of the projection of
470 need as reported in the current State Health Plan is waived for
471 the purposes of this paragraph. If the certificate of need

472 authorized under this paragraph is not issued within twelve (12)
473 months after July 1, 1998, the department shall deny the
474 application for the certificate of need and shall not issue the
475 certificate of need at any time after the twelve-month period,
476 unless the issuance is contested. If the certificate of need is
477 issued and substantial construction of the nursing facility beds
478 has not commenced within eighteen (18) months after July 1, 1998,
479 the State Department of Health, after a hearing complying with due
480 process, shall revoke the certificate of need if it is still
481 outstanding, and the department shall not issue a license for the
482 nursing facility at any time after the eighteen-month period.
483 Provided, however, that if the issuance of the certificate of need
484 is contested, the department shall require substantial
485 construction of the nursing facility beds within six (6) months
486 after final adjudication on the issuance of the certificate of
487 need.

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

498 (ii) Subject to the provisions of subparagraph
499 (v), during each of the next four (4) fiscal years, the department
500 shall issue six (6) certificates of need for new nursing facility
501 beds, as follows: During fiscal years 2000, 2001 and 2002, one
502 (1) certificate of need shall be issued for new nursing facility
503 beds in the county in each of the four (4) Long-Term Care Planning

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

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

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

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

567 four-year period, and that county shall be excluded in determining
568 which counties have the highest need for nursing facility beds in
569 succeeding fiscal years.

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

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

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

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

594 (ii) Not more than twenty (20) beds may be
595 authorized by any certificate of need issued under this paragraph
596 (r), and not more than a total of sixty (60) beds may be
597 authorized in any Long-Term Care Planning District by all
598 certificates of need issued under this paragraph (r). However,

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

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

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

630 (t) The State Department of Health shall issue
631 certificates of need to the owner of a nursing facility in
632 operation at the time of Hurricane Katrina in Hancock County that
633 was not operational on December 31, 2005, because of damage
634 sustained from Hurricane Katrina to authorize the following: (i)
635 the construction of a new nursing facility in Harrison County;
636 (ii) the relocation of forty-nine (49) nursing facility beds from
637 the Hancock County facility to the new Harrison County facility;
638 (iii) the establishment of not more than twenty (20) non-Medicaid
639 nursing facility beds at the Hancock County facility; and (iv) the
640 establishment of not more than twenty (20) non-Medicaid beds at
641 the new Harrison County facility. The certificates of need that
642 authorize the non-Medicaid nursing facility beds under
643 subparagraphs (iii) and (iv) of this paragraph (t) shall be
644 subject to the following conditions: The owner of the Hancock
645 County facility and the new Harrison County facility must agree in
646 writing that no more than fifty (50) of the beds at the Hancock
647 County facility and no more than forty-nine (49) of the beds at
648 the Harrison County facility will be certified for participation
649 in the Medicaid program, and that no claim will be submitted for
650 Medicaid reimbursement for more than fifty (50) patients in the
651 Hancock County facility in any month, or for more than forty-nine
652 (49) patients in the Harrison County facility in any month, or for
653 any patient in either facility who is in a bed that is not
654 Medicaid-certified. This written agreement by the owner of the
655 nursing facilities shall be a condition of the issuance of the
656 certificates of need under this paragraph (t), and the agreement
657 shall be fully binding on any later owner or owners of either
658 facility if the ownership of either facility is transferred at any
659 time after the certificates of need are issued. After this
660 written agreement is executed, the Division of Medicaid and the
661 State Department of Health shall not certify more than fifty (50)

662 of the beds at the Hancock County facility or more than forty-nine
663 (49) of the beds at the Harrison County facility for participation
664 in the Medicaid program. If the Hancock County facility violates
665 the terms of the written agreement by admitting or keeping in the
666 facility on a regular or continuing basis more than fifty (50)
667 patients who are participating in the Medicaid program, or if the
668 Harrison County facility violates the terms of the written
669 agreement by admitting or keeping in the facility on a regular or
670 continuing basis more than forty-nine (49) patients who are
671 participating in the Medicaid program, the State Department of
672 Health shall revoke the license of the facility that is in
673 violation of the agreement, at the time that the department
674 determines, after a hearing complying with due process, that the
675 facility has violated the agreement.

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

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

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

725 Department of Health shall revoke the license of the facility, at
726 the time that the department determines, after a hearing complying
727 with due process, that the facility has violated the condition
728 upon which the certificate of need was issued, as provided in this
729 paragraph and in the written agreement.

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

734 (c) Of the total number of beds authorized under this
735 subsection, the department shall issue a certificate of need to a
736 hospital currently operating Medicaid-certified acute psychiatric
737 beds for adolescents in DeSoto County, for the establishment of a
738 forty-bed psychiatric residential treatment facility in DeSoto
739 County, provided that the hospital agrees in writing (i) that the
740 hospital shall give priority for the use of those forty (40) beds
741 to Mississippi residents who are presently being treated in
742 out-of-state facilities, and (ii) that no more than fifteen (15)
743 of the beds at the psychiatric residential treatment facility will
744 be certified for participation in the Medicaid program (Section
745 43-13-101 et seq.), and that no claim will be submitted for
746 Medicaid reimbursement for more than fifteen (15) patients in the
747 psychiatric residential treatment facility in any day or for any
748 patient in the psychiatric residential treatment facility who is
749 in a bed that is not Medicaid-certified. This written agreement
750 by the recipient of the certificate of need shall be a condition
751 of the issuance of the certificate of need under this paragraph,
752 and the agreement shall be fully binding on any subsequent owner
753 of the psychiatric residential treatment facility if the ownership
754 of the facility is transferred at any time after the issuance of
755 the certificate of need. After this written agreement is
756 executed, the Division of Medicaid and the State Department of

757 Health shall not certify more than fifteen (15) of the beds in the
758 psychiatric residential treatment facility for participation in
759 the Medicaid program. If the psychiatric residential treatment
760 facility violates the terms of the written agreement by admitting
761 or keeping in the facility on a regular or continuing basis more
762 than fifteen (15) patients who are participating in the Medicaid
763 program, the State Department of Health shall revoke the license
764 of the facility, at the time that the department determines, after
765 a hearing complying with due process, that the facility has
766 violated the condition upon which the certificate of need was
767 issued, as provided in this paragraph and in the written
768 agreement.

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

777 (e) Of the total number of beds authorized under this
778 subsection (3) the department shall issue a certificate of need to
779 a privately-owned, nonprofit psychiatric residential treatment
780 facility in Hinds County for an eight-bed expansion of the
781 facility, provided that the facility agrees in writing that the
782 facility shall give priority for the use of those eight (8) beds
783 to Mississippi residents who are presently being treated in
784 out-of-state facilities.

785 (f) The department shall issue a certificate of need to
786 a one-hundred-thirty-four-bed specialty hospital located on
787 twenty-nine and forty-four one-hundredths (29.44) commercial acres
788 at 5900 Highway 39 North in Meridian (Lauderdale County),

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

812 (4) (a) From and after July 1, 1993, the department shall
813 not issue a certificate of need to any person for the new
814 construction of any hospital, psychiatric hospital or chemical
815 dependency hospital that will contain any child/adolescent
816 psychiatric or child/adolescent chemical dependency beds, or for
817 the conversion of any other health care facility to a hospital,
818 psychiatric hospital or chemical dependency hospital that will
819 contain any child/adolescent psychiatric or child/adolescent
820 chemical dependency beds, or for the addition of any

821 child/adolescent psychiatric or child/adolescent chemical
822 dependency beds in any hospital, psychiatric hospital or chemical
823 dependency hospital, or for the conversion of any beds of another
824 category in any hospital, psychiatric hospital or chemical
825 dependency hospital to child/adolescent psychiatric or
826 child/adolescent chemical dependency beds, except as hereinafter
827 authorized:

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

853 Medicaid program, the State Department of Health shall revoke the
854 certificate of need, if it is still outstanding, and shall deny or
855 revoke the license of the hospital, psychiatric hospital or
856 chemical dependency hospital, at the time that the department
857 determines, after a hearing complying with due process, that the
858 hospital, psychiatric hospital or chemical dependency hospital has
859 failed to comply with any of the conditions upon which the
860 certificate of need was issued, as provided in this subparagraph
861 (i) and in the written agreement by the recipient of the
862 certificate of need.

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

876 (iii) The department may issue a certificate or
877 certificates of need for the construction or expansion of
878 child/adolescent psychiatric beds or the conversion of other beds
879 to child/adolescent psychiatric beds in Warren County. For
880 purposes of this subparagraph (iii), the provisions of Section
881 41-7-193(1) requiring substantial compliance with the projection
882 of need as reported in the current State Health Plan are waived.
883 The total number of beds that may be authorized under the
884 authority of this subparagraph shall not exceed twenty (20) beds.

885 There shall be no prohibition or restrictions on participation in
886 the Medicaid program (Section 43-13-101 et seq.) for the person
887 receiving the certificate of need authorized under this
888 subparagraph * * * or for the beds converted pursuant to the
889 authority of that certificate of need.

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

901 (iv) The department shall issue a certificate of
902 need to the Region 7 Mental Health/Retardation Commission for the
903 construction or expansion of child/adolescent psychiatric beds or
904 the conversion of other beds to child/adolescent psychiatric beds
905 in any of the counties served by the commission. For purposes of
906 this subparagraph (iv), the provisions of Section 41-7-193(1)
907 requiring substantial compliance with the projection of need as
908 reported in the current State Health Plan is waived. The total
909 number of beds that may be authorized under the authority of this
910 subparagraph shall not exceed twenty (20) beds. There shall be no
911 prohibition or restrictions on participation in the Medicaid
912 program (Section 43-13-101 et seq.) for the person receiving the
913 certificate of need authorized under this subparagraph * * * or
914 for the beds converted pursuant to the authority of that
915 certificate of need.

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

944 (vi) The department may issue a certificate or
945 certificates of need for the expansion of child psychiatric beds
946 or the conversion of other beds to child psychiatric beds at the
947 University of Mississippi Medical Center. For purposes of this

948 subparagraph * * * (vi), the provision of Section 41-7-193(1)
949 requiring substantial compliance with the projection of need as
950 reported in the current State Health Plan is waived. The total
951 number of beds that may be authorized under the authority of this
952 subparagraph * * * shall not exceed fifteen (15) beds. There
953 shall be no prohibition or restrictions on participation in the
954 Medicaid program (Section 43-13-101 et seq.) for the hospital
955 receiving the certificate of need authorized under this
956 subparagraph * * * or for the beds converted pursuant to the
957 authority of that certificate of need.

958 (b) From and after July 1, 1990, no hospital,
959 psychiatric hospital or chemical dependency hospital shall be
960 authorized to add any child/adolescent psychiatric or
961 child/adolescent chemical dependency beds or convert any beds of
962 another category to child/adolescent psychiatric or
963 child/adolescent chemical dependency beds without a certificate of
964 need under the authority of subsection (1)(c) of this section.

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

968 (6) The State Department of Health shall issue a certificate
969 of need to a Mississippi corporation qualified to manage a
970 long-term care hospital as defined in Section 41-7-173(h)(xii) in
971 Harrison County, not to exceed eighty (80) beds, including any
972 necessary renovation or construction required for licensure and
973 certification, provided that the recipient of the certificate of
974 need agrees in writing that the long-term care hospital will not
975 at any time participate in the Medicaid program (Section 43-13-101
976 et seq.) or admit or keep any patients in the long-term care
977 hospital who are participating in the Medicaid program. This
978 written agreement by the recipient of the certificate of need
979 shall be fully binding on any subsequent owner of the long-term

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

1000 (7) The State Department of Health may issue a certificate
1001 of need to any hospital in the state to utilize a portion of its
1002 beds for the "swing-bed" concept. Any such hospital must be in
1003 conformance with the federal regulations regarding such swing-bed
1004 concept at the time it submits its application for a certificate
1005 of need to the State Department of Health, except that such
1006 hospital may have more licensed beds or a higher average daily
1007 census (ADC) than the maximum number specified in federal
1008 regulations for participation in the swing-bed program. Any
1009 hospital meeting all federal requirements for participation in the
1010 swing-bed program which receives such certificate of need shall
1011 render services provided under the swing-bed concept to any

1012 patient eligible for Medicare (Title XVIII of the Social Security
1013 Act) who is certified by a physician to be in need of such
1014 services, and no such hospital shall permit any patient who is
1015 eligible for both Medicaid and Medicare or eligible only for
1016 Medicaid to stay in the swing beds of the hospital for more than
1017 thirty (30) days per admission unless the hospital receives prior
1018 approval for such patient from the Division of Medicaid, Office of
1019 the Governor. Any hospital having more licensed beds or a higher
1020 average daily census (ADC) than the maximum number specified in
1021 federal regulations for participation in the swing-bed program
1022 which receives such certificate of need shall develop a procedure
1023 to insure that before a patient is allowed to stay in the swing
1024 beds of the hospital, there are no vacant nursing home beds
1025 available for that patient located within a fifty-mile radius of
1026 the hospital. When any such hospital has a patient staying in the
1027 swing beds of the hospital and the hospital receives notice from a
1028 nursing home located within such radius that there is a vacant bed
1029 available for that patient, the hospital shall transfer the
1030 patient to the nursing home within a reasonable time after receipt
1031 of the notice. Any hospital which is subject to the requirements
1032 of the two (2) preceding sentences of this subsection may be
1033 suspended from participation in the swing-bed program for a
1034 reasonable period of time by the State Department of Health if the
1035 department, after a hearing complying with due process, determines
1036 that the hospital has failed to comply with any of those
1037 requirements.

1038 (8) The Department of Health shall not grant approval for or
1039 issue a certificate of need to any person proposing the new
1040 construction of, addition to or expansion of a health care
1041 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1042 except as hereinafter provided: The department may issue a
1043 certificate of need to a nonprofit corporation located in Madison

1044 County, Mississippi, for the construction, expansion or conversion
1045 of not more than twenty (20) beds in a community living program
1046 for developmentally disabled adults in a facility as defined in
1047 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1048 subsection (8), the provisions of Section 41-7-193(1) requiring
1049 substantial compliance with the projection of need as reported in
1050 the current State Health Plan and the provisions of Section
1051 41-7-197 requiring a formal certificate of need hearing process
1052 are waived. There shall be no prohibition or restrictions on
1053 participation in the Medicaid program for the person receiving the
1054 certificate of need authorized under this subsection (8).

1055 (9) The Department of Health shall not grant approval for or
1056 issue a certificate of need to any person proposing the
1057 establishment of, or expansion of the currently approved territory
1058 of, or the contracting to establish a home office, subunit or
1059 branch office within the space operated as a health care facility
1060 as defined in Section 41-7-173(h)(i) through (viii) by a health
1061 care facility as defined in subparagraph (ix) of Section
1062 41-7-173(h).

1063 (10) Health care facilities owned and/or operated by the
1064 state or its agencies are exempt from the restraints in this
1065 section against issuance of a certificate of need if such addition
1066 or expansion consists of repairing or renovation necessary to
1067 comply with the state licensure law. This exception shall not
1068 apply to the new construction of any building by such state
1069 facility. This exception shall not apply to any health care
1070 facilities owned and/or operated by counties, municipalities,
1071 districts, unincorporated areas, other defined persons, or any
1072 combination thereof.

1073 (11) The new construction, renovation or expansion of or
1074 addition to any health care facility defined in subparagraph (ii)
1075 (psychiatric hospital), subparagraph (iv) (skilled nursing

1076 facility), subparagraph (vi) (intermediate care facility),
1077 subparagraph (viii) (intermediate care facility for the mentally
1078 retarded) and subparagraph (x) (psychiatric residential treatment
1079 facility) of Section 41-7-173(h) which is owned by the State of
1080 Mississippi and under the direction and control of the State
1081 Department of Mental Health, and the addition of new beds or the
1082 conversion of beds from one category to another in any such
1083 defined health care facility which is owned by the State of
1084 Mississippi and under the direction and control of the State
1085 Department of Mental Health, shall not require the issuance of a
1086 certificate of need under Section 41-7-171 et seq.,
1087 notwithstanding any provision in Section 41-7-171 et seq. to the
1088 contrary.

1089 (12) The new construction, renovation or expansion of or
1090 addition to any veterans homes or domiciliaries for eligible
1091 veterans of the State of Mississippi as authorized under Section
1092 35-1-19 shall not require the issuance of a certificate of need,
1093 notwithstanding any provision in Section 41-7-171 et seq. to the
1094 contrary.

1095 (13) The new construction of a nursing facility or nursing
1096 facility beds or the conversion of other beds to nursing facility
1097 beds shall not require the issuance of a certificate of need,
1098 notwithstanding any provision in Section 41-7-171 et seq. to the
1099 contrary, if the conditions of this subsection are met.

1100 (a) Before any construction or conversion may be
1101 undertaken without a certificate of need, the owner of the nursing
1102 facility, in the case of an existing facility, or the applicant to
1103 construct a nursing facility, in the case of new construction,
1104 first must file a written notice of intent and sign a written
1105 agreement with the State Department of Health that the entire
1106 nursing facility will not at any time participate in or have any
1107 beds certified for participation in the Medicaid program (Section

1108 43-13-101 et seq.), will not admit or keep any patients in the
1109 nursing facility who are participating in the Medicaid program,
1110 and will not submit any claim for Medicaid reimbursement for any
1111 patient in the facility. This written agreement by the owner or
1112 applicant shall be a condition of exercising the authority under
1113 this subsection without a certificate of need, and the agreement
1114 shall be fully binding on any subsequent owner of the nursing
1115 facility if the ownership of the facility is transferred at any
1116 time after the agreement is signed. After the written agreement
1117 is signed, the Division of Medicaid and the State Department of
1118 Health shall not certify any beds in the nursing facility for
1119 participation in the Medicaid program. If the nursing facility
1120 violates the terms of the written agreement by participating in
1121 the Medicaid program, having any beds certified for participation
1122 in the Medicaid program, admitting or keeping any patient in the
1123 facility who is participating in the Medicaid program, or
1124 submitting any claim for Medicaid reimbursement for any patient in
1125 the facility, the State Department of Health shall revoke the
1126 license of the nursing facility at the time that the department
1127 determines, after a hearing complying with due process, that the
1128 facility has violated the terms of the written agreement.

1129 (b) For the purposes of this subsection, participation
1130 in the Medicaid program by a nursing facility includes Medicaid
1131 reimbursement of coinsurance and deductibles for recipients who
1132 are qualified Medicare beneficiaries and/or those who are dually
1133 eligible. Any nursing facility exercising the authority under
1134 this subsection may not bill or submit a claim to the Division of
1135 Medicaid for services to qualified Medicare beneficiaries and/or
1136 those who are dually eligible.

1137 (c) The new construction of a nursing facility or
1138 nursing facility beds or the conversion of other beds to nursing
1139 facility beds described in this section must be either a part of a

1140 completely new continuing care retirement community, as described
1141 in the latest edition of the Mississippi State Health Plan, or an
1142 addition to existing personal care and independent living
1143 components, and so that the completed project will be a continuing
1144 care retirement community, containing (i) independent living
1145 accommodations, (ii) personal care beds, and (iii) the nursing
1146 home facility beds. The three (3) components must be located on a
1147 single site and be operated as one (1) inseparable facility. The
1148 nursing facility component must contain a minimum of thirty (30)
1149 beds. Any nursing facility beds authorized by this section will
1150 not be counted against the bed need set forth in the State Health
1151 Plan, as identified in Section 41-7-171 et seq.

1152 This subsection (13) shall stand repealed from and after July
1153 1, 2005.

1154 (14) The State Department of Health shall issue a
1155 certificate of need to any hospital which is currently licensed
1156 for two hundred fifty (250) or more acute care beds and is located
1157 in any general hospital service area not having a comprehensive
1158 cancer center, for the establishment and equipping of such a
1159 center which provides facilities and services for outpatient
1160 radiation oncology therapy, outpatient medical oncology therapy,
1161 and appropriate support services including the provision of
1162 radiation therapy services. The provision of Section 41-7-193(1)
1163 regarding substantial compliance with the projection of need as
1164 reported in the current State Health Plan is waived for the
1165 purpose of this subsection.

1166 (15) The State Department of Health may authorize the
1167 transfer of hospital beds, not to exceed sixty (60) beds, from the
1168 North Panola Community Hospital to the South Panola Community
1169 Hospital. The authorization for the transfer of those beds shall
1170 be exempt from the certificate of need review process.

1171 (16) The State Department of Health shall issue any
1172 certificates of need necessary for Mississippi State University
1173 and a public or private health care provider to jointly acquire
1174 and operate a linear accelerator and a magnetic resonance imaging
1175 unit. Those certificates of need shall cover all capital
1176 expenditures related to the project between Mississippi State
1177 University and the health care provider, including, but not
1178 limited to, the acquisition of the linear accelerator, the
1179 magnetic resonance imaging unit and other radiological modalities;
1180 the offering of linear accelerator and magnetic resonance imaging
1181 services; and the cost of construction of facilities in which to
1182 locate these services. The linear accelerator and the magnetic
1183 resonance imaging unit shall be (a) located in the City of
1184 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1185 Mississippi State University and the public or private health care
1186 provider selected by Mississippi State University through a
1187 request for proposals (RFP) process in which Mississippi State
1188 University selects, and the Board of Trustees of State
1189 Institutions of Higher Learning approves, the health care provider
1190 that makes the best overall proposal; (c) available to Mississippi
1191 State University for research purposes two-thirds (2/3) of the
1192 time that the linear accelerator and magnetic resonance imaging
1193 unit are operational; and (d) available to the public or private
1194 health care provider selected by Mississippi State University and
1195 approved by the Board of Trustees of State Institutions of Higher
1196 Learning one-third (1/3) of the time for clinical, diagnostic and
1197 treatment purposes. For purposes of this subsection, the
1198 provisions of Section 41-7-193(1) requiring substantial compliance
1199 with the projection of need as reported in the current State
1200 Health Plan are waived.

1201 (17) Nothing in this section or in any other provision of
1202 Section 41-7-171 et seq. shall prevent any nursing facility from

1203 designating an appropriate number of existing beds in the facility
1204 as beds for providing care exclusively to patients with
1205 Alzheimer's disease.

1206 **SECTION 2.** This act shall take effect and be in force from
1207 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO BRING FORWARD SECTION 41-7-191, MISSISSIPPI CODE OF
2 1972, WHICH IS THE HEALTH CARE CERTIFICATE OF NEED LAW; AND FOR
3 RELATED PURPOSES.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X (SIGNED)
Holland

X (SIGNED)
Nunnelee

(NOT SIGNED)
Fredericks

X (SIGNED)
Gordon

X (SIGNED)
Flaggs

X (SIGNED)
Hyde-Smith