

## Senate Amendments to House Bill No. 1202

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

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

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

48           41-7-191. (1) No person shall engage in any of the  
49 following activities without obtaining the required certificate of  
50 need:

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

55           (b) The relocation of a health care facility or portion  
56 thereof, or major medical equipment, unless such relocation of a  
57 health care facility or portion thereof, or major medical  
58 equipment, which does not involve a capital expenditure by or on  
59 behalf of a health care facility, is within five thousand two  
60 hundred eighty (5,280) feet from the main entrance of the health  
61 care facility;

62           (c) Any change in the existing bed complement of any  
63 health care facility through the addition or conversion of any  
64 beds or the alteration, modernizing or refurbishing of any unit or  
65 department in which the beds may be located; however, if a health  
66 care facility has voluntarily delicensed some of its existing bed  
67 complement, it may later relicense some or all of its delicensed  
68 beds without the necessity of having to acquire a certificate of  
69 need. The State Department of Health shall maintain a record of  
70 the delicensing health care facility and its voluntarily  
71 delicensed beds and continue counting those beds as part of the

72 state's total bed count for health care planning purposes. If a  
73 health care facility that has voluntarily delicensed some of its  
74 beds later desires to relicense some or all of its voluntarily  
75 delicensed beds, it shall notify the State Department of Health of  
76 its intent to increase the number of its licensed beds. The State  
77 Department of Health shall survey the health care facility within  
78 thirty (30) days of that notice and, if appropriate, issue the  
79 health care facility a new license reflecting the new contingent  
80 of beds. However, in no event may a health care facility that has  
81 voluntarily delicensed some of its beds be reissued a license to  
82 operate beds in excess of its bed count before the voluntary  
83 delicensure of some of its beds without seeking certificate of  
84 need approval;

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

- 89 (i) Open heart surgery services;
- 90 (ii) Cardiac catheterization services;
- 91 (iii) Comprehensive inpatient rehabilitation  
92 services;
- 93 (iv) Licensed psychiatric services;
- 94 (v) Licensed chemical dependency services;
- 95 (vi) Radiation therapy services;
- 96 (vii) Diagnostic imaging services of an invasive  
97 nature, i.e. invasive digital angiography;
- 98 (viii) Nursing home care as defined in  
99 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 100 (ix) Home health services;
- 101 (x) Swing-bed services;
- 102 (xi) Ambulatory surgical services;
- 103 (xii) Magnetic resonance imaging services;
- 104 (xiii) [Deleted]
- 105 (xiv) Long-term care hospital services;
- 106 (xv) Positron Emission Tomography (PET) services;

107           (e) The relocation of one or more health services from  
108 one physical facility or site to another physical facility or  
109 site, unless such relocation, which does not involve a capital  
110 expenditure by or on behalf of a health care facility, (i) is to a  
111 physical facility or site within five thousand two hundred eighty  
112 (5,280) feet from the main entrance of the health care facility  
113 where the health care service is located, or (ii) is the result of  
114 an order of a court of appropriate jurisdiction or a result of  
115 pending litigation in such court, or by order of the State  
116 Department of Health, or by order of any other agency or legal  
117 entity of the state, the federal government, or any political  
118 subdivision of either, whose order is also approved by the State  
119 Department of Health;

120           (f) The acquisition or otherwise control of any major  
121 medical equipment for the provision of medical services; provided,  
122 however, (i) the acquisition of any major medical equipment used  
123 only for research purposes, and (ii) the acquisition of major  
124 medical equipment to replace medical equipment for which a  
125 facility is already providing medical services and for which the  
126 State Department of Health has been notified before the date of  
127 such acquisition shall be exempt from this paragraph; an  
128 acquisition for less than fair market value must be reviewed, if  
129 the acquisition at fair market value would be subject to review;

130           (g) Changes of ownership of existing health care  
131 facilities in which a notice of intent is not filed with the State  
132 Department of Health at least thirty (30) days prior to the date  
133 such change of ownership occurs, or a change in services or bed  
134 capacity as prescribed in paragraph (c) or (d) of this subsection  
135 as a result of the change of ownership; an acquisition for less  
136 than fair market value must be reviewed, if the acquisition at  
137 fair market value would be subject to review;

138           (h) The change of ownership of any health care facility  
139 defined in subparagraphs (iv), (vi) and (viii) of Section  
140 41-7-173(i), in which a notice of intent as described in paragraph  
141 (g) has not been filed and if the Executive Director, Division of

142 Medicaid, Office of the Governor, has not certified in writing  
143 that there will be no increase in allowable costs to Medicaid from  
144 revaluation of the assets or from increased interest and  
145 depreciation as a result of the proposed change of ownership;

146 (i) Any activity described in paragraphs (a) through  
147 (h) if undertaken by any person if that same activity would  
148 require certificate of need approval if undertaken by a health  
149 care facility;

150 (j) Any capital expenditure or deferred capital  
151 expenditure by or on behalf of a health care facility not covered  
152 by paragraphs (a) through (h);

153 (k) The contracting of a health care facility as  
154 defined in subparagraphs (i) through (viii) of Section 41-7-173(i)  
155 to establish a home office, subunit, or branch office in the space  
156 operated as a health care facility through a formal arrangement  
157 with an existing health care facility as defined in subparagraph  
158 (ix) of Section 41-7-173(i);

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

164 (m) Reopening a health care facility that has ceased to  
165 operate for a period of sixty (60) months or more, which reopening  
166 requires a certificate of need for the establishment of a new  
167 health care facility. Provided, however, that the reopening of  
168 sixteen (16) acute care hospital beds in Kemper County for the  
169 purpose of constructing the "John C. Stennis Memorial Hospital" to  
170 be owned and operated by a two-hundred-fifteen-bed hospital  
171 located in Lauderdale County shall not require the issuance of a  
172 certificate of need, notwithstanding any provision in Section  
173 41-7-171 et seq. to the contrary if the following conditions are  
174 met: The facility shall agree to participate or contract to  
175 participate in the Mississippi Trauma Care System Plan established  
176 by the State Board of Health under Section 41-59-5, and there

177 shall be significant commencement of construction or conversion of  
178 beds as hereinafter provided. If by July 1, 2009, there has been  
179 no significant commencement of construction of the beds authorized  
180 under this paragraph (m), or no significant action taken to  
181 convert existing beds to the beds authorized under this paragraph  
182 (m), then the authority to construct or convert beds in Kemper  
183 County without the necessity of a certificate of need shall  
184 expire. If the authority to construct or convert beds in Kemper  
185 County expires, the department may accept applications for  
186 issuance of a certificate of need from another applicant for the  
187 beds authorized under this paragraph (m), and the department may  
188 issue a certificate of need to authorize the construction,  
189 expansion or conversion of the beds authorized under this  
190 paragraph (m).

191 (2) The State Department of Health shall not grant approval  
192 for or issue a certificate of need to any person proposing the new  
193 construction of, addition to, or expansion of any health care  
194 facility defined in subparagraphs (iv) (skilled nursing facility)  
195 and (vi) (intermediate care facility) of Section 41-7-173(i) or  
196 the conversion of vacant hospital beds to provide skilled or  
197 intermediate nursing home care, except as hereinafter authorized:

198 (a) The department may issue a certificate of need to  
199 any person proposing the new construction of any health care  
200 facility defined in subparagraphs (iv) and (vi) of Section  
201 41-7-173(i) as part of a life care retirement facility, in any  
202 county bordering on the Gulf of Mexico in which is located a  
203 National Aeronautics and Space Administration facility, not to  
204 exceed forty (40) beds. From and after July 1, 1999, there shall  
205 be no prohibition or restrictions on participation in the Medicaid  
206 program (Section 43-13-101 et seq.) for the beds in the health  
207 care facility that were authorized under this paragraph (a).

208 (b) The department may issue certificates of need in  
209 Harrison County to provide skilled nursing home care for  
210 Alzheimer's disease patients and other patients, not to exceed one  
211 hundred fifty (150) beds. From and after July 1, 1999, there

212 shall be no prohibition or restrictions on participation in the  
213 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
214 nursing facilities that were authorized under this paragraph (b).

215 (c) The department may issue a certificate of need for  
216 the addition to or expansion of any skilled nursing facility that  
217 is part of an existing continuing care retirement community  
218 located in Madison County, provided that the recipient of the  
219 certificate of need agrees in writing that the skilled nursing  
220 facility will not at any time participate in the Medicaid program  
221 (Section 43-13-101 et seq.) or admit or keep any patients in the  
222 skilled nursing facility who are participating in the Medicaid  
223 program. This written agreement by the recipient of the  
224 certificate of need shall be fully binding on any subsequent owner  
225 of the skilled nursing facility, if the ownership of the facility  
226 is transferred at any time after the issuance of the certificate  
227 of need. Agreement that the skilled nursing facility will not  
228 participate in the Medicaid program shall be a condition of the  
229 issuance of a certificate of need to any person under this  
230 paragraph (c), and if such skilled nursing facility at any time  
231 after the issuance of the certificate of need, regardless of the  
232 ownership of the facility, participates in the Medicaid program or  
233 admits or keeps any patients in the facility who are participating  
234 in the Medicaid program, the State Department of Health shall  
235 revoke the certificate of need, if it is still outstanding, and  
236 shall deny or revoke the license of the skilled nursing facility,  
237 at the time that the department determines, after a hearing  
238 complying with due process, that the facility has failed to comply  
239 with any of the conditions upon which the certificate of need was  
240 issued, as provided in this paragraph and in the written agreement  
241 by the recipient of the certificate of need. The total number of  
242 beds that may be authorized under the authority of this paragraph  
243 (c) shall not exceed sixty (60) beds.

244 (d) The State Department of Health may issue a  
245 certificate of need to any hospital located in DeSoto County for  
246 the new construction of a skilled nursing facility, not to exceed

247 one hundred twenty (120) beds, in DeSoto County. From and after  
248 July 1, 1999, there shall be no prohibition or restrictions on  
249 participation in the Medicaid program (Section 43-13-101 et seq.)  
250 for the beds in the nursing facility that were authorized under  
251 this paragraph (d).

252 (e) The State Department of Health may issue a  
253 certificate of need for the construction of a nursing facility or  
254 the conversion of beds to nursing facility beds at a personal care  
255 facility for the elderly in Lowndes County that is owned and  
256 operated by a Mississippi nonprofit corporation, not to exceed  
257 sixty (60) beds. From and after July 1, 1999, there shall be no  
258 prohibition or restrictions on participation in the Medicaid  
259 program (Section 43-13-101 et seq.) for the beds in the nursing  
260 facility that were authorized under this paragraph (e).

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

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

277 (h) The State Department of Health may issue a  
278 certificate of need for the construction or expansion of nursing  
279 facility beds or the conversion of other beds to nursing facility  
280 beds in either Hancock, Harrison or Jackson County, not to exceed  
281 sixty (60) beds. From and after July 1, 1999, there shall be no

282 prohibition or restrictions on participation in the Medicaid  
283 program (Section 43-13-101 et seq.) for the beds in the facility  
284 that were authorized under this paragraph (h).

285 (i) The department may issue a certificate of need for  
286 the new construction of a skilled nursing facility in Leake  
287 County, provided that the recipient of the certificate of need  
288 agrees in writing that the skilled nursing facility will not at  
289 any time participate in the Medicaid program (Section 43-13-101 et  
290 seq.) or admit or keep any patients in the skilled nursing  
291 facility who are participating in the Medicaid program. This  
292 written agreement by the recipient of the certificate of need  
293 shall be fully binding on any subsequent owner of the skilled  
294 nursing facility, if the ownership of the facility is transferred  
295 at any time after the issuance of the certificate of need.

296 Agreement that the skilled nursing facility will not participate  
297 in the Medicaid program shall be a condition of the issuance of a  
298 certificate of need to any person under this paragraph (i), and if  
299 such skilled nursing facility at any time after the issuance of  
300 the certificate of need, regardless of the ownership of the  
301 facility, participates in the Medicaid program or admits or keeps  
302 any patients in the facility who are participating in the Medicaid  
303 program, the State Department of Health shall revoke the  
304 certificate of need, if it is still outstanding, and shall deny or  
305 revoke the license of the skilled nursing facility, at the time  
306 that the department determines, after a hearing complying with due  
307 process, that the facility has failed to comply with any of the  
308 conditions upon which the certificate of need was issued, as  
309 provided in this paragraph and in the written agreement by the  
310 recipient of the certificate of need. The provision of Section  
311 43-7-193(1) regarding substantial compliance of the projection of  
312 need as reported in the current State Health Plan is waived for  
313 the purposes of this paragraph. The total number of nursing  
314 facility beds that may be authorized by any certificate of need  
315 issued under this paragraph (i) shall not exceed sixty (60) beds.  
316 If the skilled nursing facility authorized by the certificate of



317 need issued under this paragraph is not constructed and fully  
318 operational within eighteen (18) months after July 1, 1994, the  
319 State Department of Health, after a hearing complying with due  
320 process, shall revoke the certificate of need, if it is still  
321 outstanding, and shall not issue a license for the skilled nursing  
322 facility at any time after the expiration of the eighteen-month  
323 period.

324 (j) The department may issue certificates of need to  
325 allow any existing freestanding long-term care facility in  
326 Tishomingo County and Hancock County that on July 1, 1995, is  
327 licensed with fewer than sixty (60) beds. For the purposes of  
328 this paragraph (j), the provision of Section 41-7-193(1) requiring  
329 substantial compliance with the projection of need as reported in  
330 the current State Health Plan is waived. From and after July 1,  
331 1999, there shall be no prohibition or restrictions on  
332 participation in the Medicaid program (Section 43-13-101 et seq.)  
333 for the beds in the long-term care facilities that were authorized  
334 under this paragraph (j).

335 (k) The department may issue a certificate of need for  
336 the construction of a nursing facility at a continuing care  
337 retirement community in Lowndes County. The total number of beds  
338 that may be authorized under the authority of this paragraph (k)  
339 shall not exceed sixty (60) beds. From and after July 1, 2001,  
340 the prohibition on the facility participating in the Medicaid  
341 program (Section 43-13-101 et seq.) that was a condition of  
342 issuance of the certificate of need under this paragraph (k) shall  
343 be revised as follows: The nursing facility may participate in  
344 the Medicaid program from and after July 1, 2001, if the owner of  
345 the facility on July 1, 2001, agrees in writing that no more than  
346 thirty (30) of the beds at the facility will be certified for  
347 participation in the Medicaid program, and that no claim will be  
348 submitted for Medicaid reimbursement for more than thirty (30)  
349 patients in the facility in any month or for any patient in the  
350 facility who is in a bed that is not Medicaid-certified. This  
351 written agreement by the owner of the facility shall be a

352 condition of licensure of the facility, and the agreement shall be  
353 fully binding on any subsequent owner of the facility if the  
354 ownership of the facility is transferred at any time after July 1,  
355 2001. After this written agreement is executed, the Division of  
356 Medicaid and the State Department of Health shall not certify more  
357 than thirty (30) of the beds in the facility for participation in  
358 the Medicaid program. If the facility violates the terms of the  
359 written agreement by admitting or keeping in the facility on a  
360 regular or continuing basis more than thirty (30) patients who are  
361 participating in the Medicaid program, the State Department of  
362 Health shall revoke the license of the facility, at the time that  
363 the department determines, after a hearing complying with due  
364 process, that the facility has violated the written agreement.

365 (l) Provided that funds are specifically appropriated  
366 therefor by the Legislature, the department may issue a  
367 certificate of need to a rehabilitation hospital in Hinds County  
368 for the construction of a sixty-bed long-term care nursing  
369 facility dedicated to the care and treatment of persons with  
370 severe disabilities including persons with spinal cord and  
371 closed-head injuries and ventilator-dependent patients. The  
372 provision of Section 41-7-193(1) regarding substantial compliance  
373 with projection of need as reported in the current State Health  
374 Plan is hereby waived for the purpose of this paragraph.

375 (m) The State Department of Health may issue a  
376 certificate of need to a county-owned hospital in the Second  
377 Judicial District of Panola County for the conversion of not more  
378 than seventy-two (72) hospital beds to nursing facility beds,  
379 provided that the recipient of the certificate of need agrees in  
380 writing that none of the beds at the nursing facility will be  
381 certified for participation in the Medicaid program (Section  
382 43-13-101 et seq.), and that no claim will be submitted for  
383 Medicaid reimbursement in the nursing facility in any day or for  
384 any patient in the nursing facility. This written agreement by  
385 the recipient of the certificate of need shall be a condition of  
386 the issuance of the certificate of need under this paragraph, and

387 the agreement shall be fully binding on any subsequent owner of  
388 the nursing facility if the ownership of the nursing facility is  
389 transferred at any time after the issuance of the certificate of  
390 need. After this written agreement is executed, the Division of  
391 Medicaid and the State Department of Health shall not certify any  
392 of the beds in the nursing facility for participation in the  
393 Medicaid program. If the nursing facility violates the terms of  
394 the written agreement by admitting or keeping in the nursing  
395 facility on a regular or continuing basis any patients who are  
396 participating in the Medicaid program, the State Department of  
397 Health shall revoke the license of the nursing facility, at the  
398 time that the department determines, after a hearing complying  
399 with due process, that the nursing facility has violated the  
400 condition upon which the certificate of need was issued, as  
401 provided in this paragraph and in the written agreement. If the  
402 certificate of need authorized under this paragraph is not issued  
403 within twelve (12) months after July 1, 2001, the department shall  
404 deny the application for the certificate of need and shall not  
405 issue the certificate of need at any time after the twelve-month  
406 period, unless the issuance is contested. If the certificate of  
407 need is issued and substantial construction of the nursing  
408 facility beds has not commenced within eighteen (18) months after  
409 July 1, 2001, the State Department of Health, after a hearing  
410 complying with due process, shall revoke the certificate of need  
411 if it is still outstanding, and the department shall not issue a  
412 license for the nursing facility at any time after the  
413 eighteen-month period. Provided, however, that if the issuance of  
414 the certificate of need is contested, the department shall require  
415 substantial construction of the nursing facility beds within six  
416 (6) months after final adjudication on the issuance of the  
417 certificate of need.

418 (n) The department may issue a certificate of need for  
419 the new construction, addition or conversion of skilled nursing  
420 facility beds in Madison County, provided that the recipient of  
421 the certificate of need agrees in writing that the skilled nursing

422 facility will not at any time participate in the Medicaid program  
423 (Section 43-13-101 et seq.) or admit or keep any patients in the  
424 skilled nursing facility who are participating in the Medicaid  
425 program. This written agreement by the recipient of the  
426 certificate of need shall be fully binding on any subsequent owner  
427 of the skilled nursing facility, if the ownership of the facility  
428 is transferred at any time after the issuance of the certificate  
429 of need. Agreement that the skilled nursing facility will not  
430 participate in the Medicaid program shall be a condition of the  
431 issuance of a certificate of need to any person under this  
432 paragraph (n), and if such skilled nursing facility at any time  
433 after the issuance of the certificate of need, regardless of the  
434 ownership of the facility, participates in the Medicaid program or  
435 admits or keeps any patients in the facility who are participating  
436 in the Medicaid program, the State Department of Health shall  
437 revoke the certificate of need, if it is still outstanding, and  
438 shall deny or revoke the license of the skilled nursing facility,  
439 at the time that the department determines, after a hearing  
440 complying with due process, that the facility has failed to comply  
441 with any of the conditions upon which the certificate of need was  
442 issued, as provided in this paragraph and in the written agreement  
443 by the recipient of the certificate of need. The total number of  
444 nursing facility beds that may be authorized by any certificate of  
445 need issued under this paragraph (n) shall not exceed sixty (60)  
446 beds. If the certificate of need authorized under this paragraph  
447 is not issued within twelve (12) months after July 1, 1998, the  
448 department shall deny the application for the certificate of need  
449 and shall not issue the certificate of need at any time after the  
450 twelve-month period, unless the issuance is contested. If the  
451 certificate of need is issued and substantial construction of the  
452 nursing facility beds has not commenced within eighteen (18)  
453 months after the effective date of July 1, 1998, the State  
454 Department of Health, after a hearing complying with due process,  
455 shall revoke the certificate of need if it is still outstanding,  
456 and the department shall not issue a license for the nursing

457 facility at any time after the eighteen-month period. Provided,  
458 however, that if the issuance of the certificate of need is  
459 contested, the department shall require substantial construction  
460 of the nursing facility beds within six (6) months after final  
461 adjudication on the issuance of the certificate of need.

462 (o) The department may issue a certificate of need for  
463 the new construction, addition or conversion of skilled nursing  
464 facility beds in Leake County, provided that the recipient of the  
465 certificate of need agrees in writing that the skilled nursing  
466 facility will not at any time participate in the Medicaid program  
467 (Section 43-13-101 et seq.) or admit or keep any patients in the  
468 skilled nursing facility who are participating in the Medicaid  
469 program. This written agreement by the recipient of the  
470 certificate of need shall be fully binding on any subsequent owner  
471 of the skilled nursing facility, if the ownership of the facility  
472 is transferred at any time after the issuance of the certificate  
473 of need. Agreement that the skilled nursing facility will not  
474 participate in the Medicaid program shall be a condition of the  
475 issuance of a certificate of need to any person under this  
476 paragraph (o), and if such skilled nursing facility at any time  
477 after the issuance of the certificate of need, regardless of the  
478 ownership of the facility, participates in the Medicaid program or  
479 admits or keeps any patients in the facility who are participating  
480 in the Medicaid program, the State Department of Health shall  
481 revoke the certificate of need, if it is still outstanding, and  
482 shall deny or revoke the license of the skilled nursing facility,  
483 at the time that the department determines, after a hearing  
484 complying with due process, that the facility has failed to comply  
485 with any of the conditions upon which the certificate of need was  
486 issued, as provided in this paragraph and in the written agreement  
487 by the recipient of the certificate of need. The total number of  
488 nursing facility beds that may be authorized by any certificate of  
489 need issued under this paragraph (o) shall not exceed sixty (60)  
490 beds. If the certificate of need authorized under this paragraph  
491 is not issued within twelve (12) months after July 1, 2001, the

492 department shall deny the application for the certificate of need  
493 and shall not issue the certificate of need at any time after the  
494 twelve-month period, unless the issuance is contested. If the  
495 certificate of need is issued and substantial construction of the  
496 nursing facility beds has not commenced within eighteen (18)  
497 months after the effective date of July 1, 2001, the State  
498 Department of Health, after a hearing complying with due process,  
499 shall revoke the certificate of need if it is still outstanding,  
500 and the department shall not issue a license for the nursing  
501 facility at any time after the eighteen-month period. Provided,  
502 however, that if the issuance of the certificate of need is  
503 contested, the department shall require substantial construction  
504 of the nursing facility beds within six (6) months after final  
505 adjudication on the issuance of the certificate of need.

506 (p) The department may issue a certificate of need for  
507 the construction of a municipally owned nursing facility within  
508 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
509 beds, provided that the recipient of the certificate of need  
510 agrees in writing that the skilled nursing facility will not at  
511 any time participate in the Medicaid program (Section 43-13-101 et  
512 seq.) or admit or keep any patients in the skilled nursing  
513 facility who are participating in the Medicaid program. This  
514 written agreement by the recipient of the certificate of need  
515 shall be fully binding on any subsequent owner of the skilled  
516 nursing facility, if the ownership of the facility is transferred  
517 at any time after the issuance of the certificate of need.  
518 Agreement that the skilled nursing facility will not participate  
519 in the Medicaid program shall be a condition of the issuance of a  
520 certificate of need to any person under this paragraph (p), and if  
521 such skilled nursing facility at any time after the issuance of  
522 the certificate of need, regardless of the ownership of the  
523 facility, participates in the Medicaid program or admits or keeps  
524 any patients in the facility who are participating in the Medicaid  
525 program, the State Department of Health shall revoke the  
526 certificate of need, if it is still outstanding, and shall deny or

527 revoke the license of the skilled nursing facility, at the time  
528 that the department determines, after a hearing complying with due  
529 process, that the facility has failed to comply with any of the  
530 conditions upon which the certificate of need was issued, as  
531 provided in this paragraph and in the written agreement by the  
532 recipient of the certificate of need. The provision of Section  
533 43-7-193(1) regarding substantial compliance of the projection of  
534 need as reported in the current State Health Plan is waived for  
535 the purposes of this paragraph. If the certificate of need  
536 authorized under this paragraph is not issued within twelve (12)  
537 months after July 1, 1998, the department shall deny the  
538 application for the certificate of need and shall not issue the  
539 certificate of need at any time after the twelve-month period,  
540 unless the issuance is contested. If the certificate of need is  
541 issued and substantial construction of the nursing facility beds  
542 has not commenced within eighteen (18) months after July 1, 1998,  
543 the State Department of Health, after a hearing complying with due  
544 process, shall revoke the certificate of need if it is still  
545 outstanding, and the department shall not issue a license for the  
546 nursing facility at any time after the eighteen-month period.  
547 Provided, however, that if the issuance of the certificate of need  
548 is contested, the department shall require substantial  
549 construction of the nursing facility beds within six (6) months  
550 after final adjudication on the issuance of the certificate of  
551 need.

552 (q) (i) Beginning on July 1, 1999, the State  
553 Department of Health shall issue certificates of need during each  
554 of the next four (4) fiscal years for the construction or  
555 expansion of nursing facility beds or the conversion of other beds  
556 to nursing facility beds in each county in the state having a need  
557 for fifty (50) or more additional nursing facility beds, as shown  
558 in the fiscal year 1999 State Health Plan, in the manner provided  
559 in this paragraph (q). The total number of nursing facility beds  
560 that may be authorized by any certificate of need authorized under  
561 this paragraph (q) shall not exceed sixty (60) beds.

562                   (ii) Subject to the provisions of subparagraph  
563 (v), during each of the next four (4) fiscal years, the department  
564 shall issue six (6) certificates of need for new nursing facility  
565 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
566 (1) certificate of need shall be issued for new nursing facility  
567 beds in the county in each of the four (4) Long-Term Care Planning  
568 Districts designated in the fiscal year 1999 State Health Plan  
569 that has the highest need in the district for those beds; and two  
570 (2) certificates of need shall be issued for new nursing facility  
571 beds in the two (2) counties from the state at large that have the  
572 highest need in the state for those beds, when considering the  
573 need on a statewide basis and without regard to the Long-Term Care  
574 Planning Districts in which the counties are located. During  
575 fiscal year 2003, one (1) certificate of need shall be issued for  
576 new nursing facility beds in any county having a need for fifty  
577 (50) or more additional nursing facility beds, as shown in the  
578 fiscal year 1999 State Health Plan, that has not received a  
579 certificate of need under this paragraph (q) during the three (3)  
580 previous fiscal years. During fiscal year 2000, in addition to  
581 the six (6) certificates of need authorized in this subparagraph,  
582 the department also shall issue a certificate of need for new  
583 nursing facility beds in Amite County and a certificate of need  
584 for new nursing facility beds in Carroll County.

585                   (iii) Subject to the provisions of subparagraph  
586 (v), the certificate of need issued under subparagraph (ii) for  
587 nursing facility beds in each Long-Term Care Planning District  
588 during each fiscal year shall first be available for nursing  
589 facility beds in the county in the district having the highest  
590 need for those beds, as shown in the fiscal year 1999 State Health  
591 Plan. If there are no applications for a certificate of need for  
592 nursing facility beds in the county having the highest need for  
593 those beds by the date specified by the department, then the  
594 certificate of need shall be available for nursing facility beds  
595 in other counties in the district in descending order of the need  
596 for those beds, from the county with the second highest need to



597 the county with the lowest need, until an application is received  
598 for nursing facility beds in an eligible county in the district.

599 (iv) Subject to the provisions of subparagraph  
600 (v), the certificate of need issued under subparagraph (ii) for  
601 nursing facility beds in the two (2) counties from the state at  
602 large during each fiscal year shall first be available for nursing  
603 facility beds in the two (2) counties that have the highest need  
604 in the state for those beds, as shown in the fiscal year 1999  
605 State Health Plan, when considering the need on a statewide basis  
606 and without regard to the Long-Term Care Planning Districts in  
607 which the counties are located. If there are no applications for  
608 a certificate of need for nursing facility beds in either of the  
609 two (2) counties having the highest need for those beds on a  
610 statewide basis by the date specified by the department, then the  
611 certificate of need shall be available for nursing facility beds  
612 in other counties from the state at large in descending order of  
613 the need for those beds on a statewide basis, from the county with  
614 the second highest need to the county with the lowest need, until  
615 an application is received for nursing facility beds in an  
616 eligible county from the state at large.

617 (v) If a certificate of need is authorized to be  
618 issued under this paragraph (q) for nursing facility beds in a  
619 county on the basis of the need in the Long-Term Care Planning  
620 District during any fiscal year of the four-year period, a  
621 certificate of need shall not also be available under this  
622 paragraph (q) for additional nursing facility beds in that county  
623 on the basis of the need in the state at large, and that county  
624 shall be excluded in determining which counties have the highest  
625 need for nursing facility beds in the state at large for that  
626 fiscal year. After a certificate of need has been issued under  
627 this paragraph (q) for nursing facility beds in a county during  
628 any fiscal year of the four-year period, a certificate of need  
629 shall not be available again under this paragraph (q) for  
630 additional nursing facility beds in that county during the  
631 four-year period, and that county shall be excluded in determining

632 which counties have the highest need for nursing facility beds in  
633 succeeding fiscal years.

634 (vi) If more than one (1) application is made for  
635 a certificate of need for nursing home facility beds available  
636 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
637 County, and one (1) of the applicants is a county-owned hospital  
638 located in the county where the nursing facility beds are  
639 available, the department shall give priority to the county-owned  
640 hospital in granting the certificate of need if the following  
641 conditions are met:

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

645 2. The county-owned hospital's qualifications  
646 for the certificate of need, as shown in its application and as  
647 determined by the department, are at least equal to the  
648 qualifications of the other applicants for the certificate of  
649 need.

650 (r) (i) Beginning on July 1, 1999, the State  
651 Department of Health shall issue certificates of need during each  
652 of the next two (2) fiscal years for the construction or expansion  
653 of nursing facility beds or the conversion of other beds to  
654 nursing facility beds in each of the four (4) Long-Term Care  
655 Planning Districts designated in the fiscal year 1999 State Health  
656 Plan, to provide care exclusively to patients with Alzheimer's  
657 disease.

658 (ii) Not more than twenty (20) beds may be  
659 authorized by any certificate of need issued under this paragraph  
660 (r), and not more than a total of sixty (60) beds may be  
661 authorized in any Long-Term Care Planning District by all  
662 certificates of need issued under this paragraph (r). However,  
663 the total number of beds that may be authorized by all  
664 certificates of need issued under this paragraph (r) during any  
665 fiscal year shall not exceed one hundred twenty (120) beds, and  
666 the total number of beds that may be authorized in any Long-Term

667 Care Planning District during any fiscal year shall not exceed  
668 forty (40) beds. Of the certificates of need that are issued for  
669 each Long-Term Care Planning District during the next two (2)  
670 fiscal years, at least one (1) shall be issued for beds in the  
671 northern part of the district, at least one (1) shall be issued  
672 for beds in the central part of the district, and at least one (1)  
673 shall be issued for beds in the southern part of the district.

674 (iii) The State Department of Health, in  
675 consultation with the Department of Mental Health and the Division  
676 of Medicaid, shall develop and prescribe the staffing levels,  
677 space requirements and other standards and requirements that must  
678 be met with regard to the nursing facility beds authorized under  
679 this paragraph (r) to provide care exclusively to patients with  
680 Alzheimer's disease.

681 (s) The State Department of Health may issue a  
682 certificate of need to a nonprofit skilled nursing facility using  
683 the Green House model of skilled nursing care and located in Yazoo  
684 City, Yazoo County, Mississippi, for the construction, expansion  
685 or conversion of not more than nineteen (19) nursing facility  
686 beds. For purposes of this paragraph (s), the provisions of  
687 Section 41-7-193(1) requiring substantial compliance with the  
688 projection of need as reported in the current State Health Plan  
689 and the provisions of Section 41-7-197 requiring a formal  
690 certificate of need hearing process are waived. There shall be no  
691 prohibition or restrictions on participation in the Medicaid  
692 program for the person receiving the certificate of need  
693 authorized under this paragraph (s).

694 (t) The State Department of Health shall issue  
695 certificates of need to the owner of a nursing facility in  
696 operation at the time of Hurricane Katrina in Hancock County that  
697 was not operational on December 31, 2005, because of damage  
698 sustained from Hurricane Katrina to authorize the following: (i)  
699 the construction of a new nursing facility in Harrison County;  
700 (ii) the relocation of forty-nine (49) nursing facility beds from  
701 the Hancock County facility to the new Harrison County facility;

702 (iii) the establishment of not more than twenty (20) non-Medicaid  
703 nursing facility beds at the Hancock County facility; and (iv) the  
704 establishment of not more than twenty (20) non-Medicaid beds at  
705 the new Harrison County facility. The certificates of need that  
706 authorize the non-Medicaid nursing facility beds under  
707 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
708 subject to the following conditions: The owner of the Hancock  
709 County facility and the new Harrison County facility must agree in  
710 writing that no more than fifty (50) of the beds at the Hancock  
711 County facility and no more than forty-nine (49) of the beds at  
712 the Harrison County facility will be certified for participation  
713 in the Medicaid program, and that no claim will be submitted for  
714 Medicaid reimbursement for more than fifty (50) patients in the  
715 Hancock County facility in any month, or for more than forty-nine  
716 (49) patients in the Harrison County facility in any month, or for  
717 any patient in either facility who is in a bed that is not  
718 Medicaid-certified. This written agreement by the owner of the  
719 nursing facilities shall be a condition of the issuance of the  
720 certificates of need under this paragraph (t), and the agreement  
721 shall be fully binding on any later owner or owners of either  
722 facility if the ownership of either facility is transferred at any  
723 time after the certificates of need are issued. After this  
724 written agreement is executed, the Division of Medicaid and the  
725 State Department of Health shall not certify more than fifty (50)  
726 of the beds at the Hancock County facility or more than forty-nine  
727 (49) of the beds at the Harrison County facility for participation  
728 in the Medicaid program. If the Hancock County facility violates  
729 the terms of the written agreement by admitting or keeping in the  
730 facility on a regular or continuing basis more than fifty (50)  
731 patients who are participating in the Medicaid program, or if the  
732 Harrison County facility violates the terms of the written  
733 agreement by admitting or keeping in the facility on a regular or  
734 continuing basis more than forty-nine (49) patients who are  
735 participating in the Medicaid program, the State Department of  
736 Health shall revoke the license of the facility that is in

737 violation of the agreement, at the time that the department  
738 determines, after a hearing complying with due process, that the  
739 facility has violated the agreement.

740 (u) The State Department of Health shall issue a  
741 certificate of need for the construction of a nursing facility in  
742 Hinds County, not to exceed sixty (60) beds, to a legal entity  
743 using the Green House model of skilled nursing care. For purposes  
744 of this paragraph (u), the provisions of Section 41-7-193(1)  
745 requiring substantial compliance with the projection of need as  
746 reported in the current State Health Plan and the provisions of  
747 Section 41-7-197 requiring a formal certificate of need hearing  
748 process are waived. There shall be no prohibition or restrictions  
749 on participation in the Medicaid program for the person receiving  
750 the certificate of need authorized under this paragraph (u). It  
751 is the intention of the Legislature that this nursing facility be  
752 located in an underserved minority zip code area located in Hinds  
753 County in which not less than seventy-five percent (75%) of the  
754 population in the zip code area are racial minorities. If by July  
755 1, 2009, there has been no significant commencement of  
756 construction of the beds authorized under this paragraph, or no  
757 significant action taken to convert existing beds to the beds  
758 authorized under this paragraph, then the certificate of need that  
759 was previously issued under this paragraph shall expire and the  
760 department shall revoke the certificate of need if it is still  
761 outstanding. This condition by the recipient of the certificate  
762 of need shall be fully binding on any subsequent owner of the  
763 certificate of need if the ownership is transferred at any time  
764 after the issuance of the certificate of need. If the previously  
765 issued certificate of need expires, the department may accept  
766 applications for issuance of another certificate of need for the  
767 beds authorized under this paragraph, and may issue a certificate  
768 of need to authorize the construction expansion or conversion of  
769 the beds authorized under this paragraph under the same  
770 conditions.

771           (v) (i) The State Department of Health shall issue  
772 certificates of need for long-term care beds in each of the four  
773 (4) Long-Term Care Planning Districts designated in the fiscal  
774 year 2006 State Health Plan, to provide care exclusively to  
775 patients with Alzheimer's disease. In issuing the certificates of  
776 need under this paragraph (v), the department shall give  
777 preference to existing facilities that could accommodate  
778 Alzheimer's patients without the construction of new facilities  
779 and to providers that have shown positive performance in providing  
780 long-term care to patients with Alzheimer's disease or dementia.

781           (ii) Not more than twenty (20) beds may be  
782 authorized by any certificate of need issued under this paragraph  
783 (v), and not more than a total of forty (40) beds may be  
784 authorized in any Long-Term Care Planning District by all  
785 certificates of need issued under this paragraph (v).

786           (iii) The State Department of Health, in  
787 consultation with the Department of Mental Health and the Division  
788 of Medicaid, shall develop and prescribe the staffing levels,  
789 space requirements and other standards and requirements that must  
790 be met with regard to the beds authorized under this paragraph (v)  
791 to provide care exclusively to patients with Alzheimer's disease.

792           (w) The State Department of Health shall authorize the  
793 transfer and relocation of nursing facility beds licensed to Hotel  
794 Reed Nursing Center in Hancock County under License Number 452 as  
795 follows: the ninety-eight (98) licensed beds shall be transferred  
796 to Jackson County for the construction of the facility authorized  
797 under this paragraph (w). The certificate of need for said  
798 transfers shall be issued by the State Department of Health within  
799 ten (10) working days of submission of the application therefor.  
800 If the certificate of need is not issued within this period, it  
801 shall be considered issued by action of law. The department shall  
802 issue a certificate of need for the new construction, addition or  
803 conversion of skilled nursing facility beds in Jackson County, for  
804 the ninety-eight (98) licensed beds transferred from Hancock  
805 County, plus an additional twenty-two (22) beds for the same

806 facility for a total not to exceed one hundred twenty (120) beds.  
807 There shall be no restriction on the location of the facility  
808 within the county. For purposes of this paragraph (w), the  
809 provisions of Section 41-7-193(1) requiring substantial compliance  
810 with the projection of need as reported in the current State  
811 Health Plan and the provisions of Section 41-7-197 requiring a  
812 formal certificate of need hearing process are waived. There  
813 shall be no prohibition or restrictions on participation in the  
814 Medicaid program for the person receiving the certificate of need  
815 authorized under this paragraph (w).

816 (x) The department shall issue a certificate of need  
817 for the new construction, addition or conversion of skilled  
818 nursing facility beds in Lamar County, not to exceed twenty (20)  
819 additional beds to be added to an existing 40-bed certificate of  
820 need in Lamar County which has been issued but for which the beds  
821 have not been licensed, for a total not to exceed sixty (60) beds.  
822 There shall be no restriction on the location of the facility  
823 within the county. For purposes of this paragraph (x), the  
824 provisions of Section 41-7-193(1) requiring substantial compliance  
825 with the projection of need as reported in the current State  
826 Health Plan and the provisions of Section 41-7-197 requiring a  
827 formal certificate of need hearing process are waived. There  
828 shall be no prohibition or restrictions on participation in the  
829 Medicaid program for the person receiving the certificate of need  
830 authorized under this paragraph (x).

831 (y) The department shall issue a certificate of need  
832 for the new construction, addition or conversion of skilled  
833 nursing facility beds in Stone County, not to exceed forty (40)  
834 beds to be added to an existing 20-bed certificate of need for  
835 Alzheimer patients that is currently licensed in Stone County, for  
836 a total not to exceed sixty (60) beds. Such beds shall not be  
837 required to be qualified to serve Alzheimer patients. For  
838 purposes of this paragraph (y), the provisions of Section  
839 41-7-193(1) requiring substantial compliance with the projection  
840 of need as reported in the current State Health Plan and the

841 provisions of Section 41-7-197 requiring a formal certificate of  
842 need hearing process are waived. There shall be no prohibition or  
843 restrictions on participation in the Medicaid program for the  
844 person receiving the certificate of need authorized under this  
845 paragraph (y).

846 (z) The State Department of Health may issue one or  
847 more certificates of need to any continuing care retirement  
848 community (CCRC) which was licensed and operating as of January  
849 11, 2007, for the conversion of non-Medicaid participating nursing  
850 facility beds to Medicaid-certified nursing facility beds,  
851 provided that (i) the conversion of these beds shall be  
852 accomplished through the relocation to the CCRC of nursing  
853 facility beds which were licensed and Medicaid-certified in  
854 another nursing facility in the state, as of January 1, 2007, and  
855 (ii) the total number of Medicaid-certified beds in any CCRC shall  
856 not exceed forty (40). For purposes of this subsection and any  
857 certificates of need issued hereunder, the Medicaid-certified  
858 nursing facility beds may be relocated to the CCRC from any  
859 licensed nursing facility in the state, notwithstanding the  
860 Long-Term Care Planning Districts or other provisions in the State  
861 Health Plan. Additionally, for purposes of this subsection, the  
862 provisions of Section 41-1-193(1) requiring substantial compliance  
863 with the projection of need as reported in the current State  
864 Health Plan are waived.

865 (aa) The department shall issue a certificate of need  
866 for the new construction, addition or conversion of skilled  
867 nursing facility beds to Trace Regional Hospital in Houston,  
868 Mississippi, not to exceed ten (10) additional beds. There shall  
869 be no restriction on the location of the facility within the  
870 county. For purposes of this paragraph (aa), the provisions of  
871 Section 41-7-193(1) requiring substantial compliance with the  
872 projection of need as reported in the current State Health Plan  
873 and the provisions of Section 41-7-197 requiring a formal  
874 certificate of need hearing process are waived. There shall be no  
875 prohibition or restrictions on participation in the Medicaid



876 program for the person receiving the certificate of need  
877 authorized under this paragraph (aa).

878 (3) The State Department of Health may grant approval for  
879 and issue certificates of need to any person proposing the new  
880 construction of, addition to, conversion of beds of or expansion  
881 of any health care facility defined in subparagraph (x)  
882 (psychiatric residential treatment facility) of Section  
883 41-7-173(i). The total number of beds which may be authorized by  
884 such certificates of need shall not exceed three hundred  
885 forty-eight (348) beds for the entire state.

886 (a) Of the total number of beds authorized under this  
887 subsection, the department shall issue a certificate of need to a  
888 privately-owned psychiatric residential treatment facility in  
889 Simpson County for the conversion of sixteen (16) intermediate  
890 care facility for the mentally retarded (ICF-MR) beds to  
891 psychiatric residential treatment facility beds, provided that  
892 facility agrees in writing that the facility shall give priority  
893 for the use of those sixteen (16) beds to Mississippi residents  
894 who are presently being treated in out-of-state facilities.

895 (b) Of the total number of beds authorized under this  
896 subsection, the department may issue a certificate or certificates  
897 of need for the construction or expansion of psychiatric  
898 residential treatment facility beds or the conversion of other  
899 beds to psychiatric residential treatment facility beds in Warren  
900 County, not to exceed sixty (60) psychiatric residential treatment  
901 facility beds, provided that the facility agrees in writing that  
902 no more than thirty (30) of the beds at the psychiatric  
903 residential treatment facility will be certified for participation  
904 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
905 any patients other than those who are participating only in the  
906 Medicaid program of another state, and that no claim will be  
907 submitted to the Division of Medicaid for Medicaid reimbursement  
908 for more than thirty (30) patients in the psychiatric residential  
909 treatment facility in any day or for any patient in the  
910 psychiatric residential treatment facility who is in a bed that is

911 not Medicaid-certified. This written agreement by the recipient  
912 of the certificate of need shall be a condition of the issuance of  
913 the certificate of need under this paragraph, and the agreement  
914 shall be fully binding on any subsequent owner of the psychiatric  
915 residential treatment facility if the ownership of the facility is  
916 transferred at any time after the issuance of the certificate of  
917 need. After this written agreement is executed, the Division of  
918 Medicaid and the State Department of Health shall not certify more  
919 than thirty (30) of the beds in the psychiatric residential  
920 treatment facility for participation in the Medicaid program for  
921 the use of any patients other than those who are participating  
922 only in the Medicaid program of another state. If the psychiatric  
923 residential treatment facility violates the terms of the written  
924 agreement by admitting or keeping in the facility on a regular or  
925 continuing basis more than thirty (30) patients who are  
926 participating in the Mississippi Medicaid program, the State  
927 Department of Health shall revoke the license of the facility, at  
928 the time that the department determines, after a hearing complying  
929 with due process, that the facility has violated the condition  
930 upon which the certificate of need was issued, as provided in this  
931 paragraph and in the written agreement.

932       The State Department of Health, on or before July 1, 2002,  
933 shall transfer the certificate of need authorized under the  
934 authority of this paragraph (b) to 3531 Lakeland Drive in Flowood  
935 (Rankin County), Mississippi, for the construction, expansion or  
936 conversion of psychiatric residential treatment beds in Rankin  
937 County. For purposes of this paragraph (b), the provisions of  
938 Section 41-7-193(1) requiring substantial compliance with the  
939 projection of need as reported in the current State Health Plan  
940 and the provisions of Section 41-7-197 requiring a formal  
941 certificate of need hearing process are waived. The total number  
942 of beds that may be authorized under the authority of this  
943 paragraph (b) shall not exceed sixty (60) beds, no more than  
944 thirty (30) of which will be certified for participation in the  
945 Medicaid program, as specified in this paragraph (b). For

946 purposes of the relocation of beds authorized by Section  
947 41-7-191(3)(b), the State Department of Health shall treat the  
948 beds so authorized as if they were licensed and operating, even if  
949 the beds are not yet licensed and operating, and the department  
950 shall issue an amendment for the relocation of all beds authorized  
951 by said section. If by July 1, 2009, there has been no  
952 significant commencement of construction of the beds authorized  
953 under this paragraph, or no significant action taken to convert  
954 existing beds to the beds authorized under this paragraph, then  
955 the certificate of need that was previously issued under this  
956 paragraph shall expire and the department shall revoke the  
957 certificate of need if it is still outstanding. This condition by  
958 the recipient of the certificate of need shall be fully binding on  
959 any subsequent owner of the certificate of need if the ownership  
960 is transferred at any time after the issuance of the certificate  
961 of need. If the previously issued certificate of need expires,  
962 the department may accept applications for issuance of another  
963 certificate of need for the beds authorized under this paragraph,  
964 and may issue a certificate of need to authorize the construction  
965 expansion or conversion of the beds authorized under this  
966 paragraph under the same conditions.

967 (c) Of the total number of beds authorized under this  
968 subsection, the department shall issue a certificate of need to a  
969 hospital currently operating Medicaid-certified acute psychiatric  
970 beds for adolescents in DeSoto County, for the establishment of a  
971 forty-bed psychiatric residential treatment facility in DeSoto  
972 County, provided that the hospital agrees in writing (i) that the  
973 hospital shall give priority for the use of those forty (40) beds  
974 to Mississippi residents who are presently being treated in  
975 out-of-state facilities, and (ii) that no more than fifteen (15)  
976 of the beds at the psychiatric residential treatment facility will  
977 be certified for participation in the Medicaid program (Section  
978 43-13-101 et seq.), and that no claim will be submitted for  
979 Medicaid reimbursement for more than fifteen (15) patients in the  
980 psychiatric residential treatment facility in any day or for any

981 patient in the psychiatric residential treatment facility who is  
982 in a bed that is not Medicaid-certified. This written agreement  
983 by the recipient of the certificate of need shall be a condition  
984 of the issuance of the certificate of need under this paragraph,  
985 and the agreement shall be fully binding on any subsequent owner  
986 of the psychiatric residential treatment facility if the ownership  
987 of the facility is transferred at any time after the issuance of  
988 the certificate of need. After this written agreement is  
989 executed, the Division of Medicaid and the State Department of  
990 Health shall not certify more than fifteen (15) of the beds in the  
991 psychiatric residential treatment facility for participation in  
992 the Medicaid program. If the psychiatric residential treatment  
993 facility violates the terms of the written agreement by admitting  
994 or keeping in the facility on a regular or continuing basis more  
995 than fifteen (15) patients who are participating in the Medicaid  
996 program, the State Department of Health shall revoke the license  
997 of the facility, at the time that the department determines, after  
998 a hearing complying with due process, that the facility has  
999 violated the condition upon which the certificate of need was  
1000 issued, as provided in this paragraph and in the written  
1001 agreement.

1002 (d) Of the total number of beds authorized under this  
1003 subsection, the department may issue a certificate or certificates  
1004 of need for the construction or expansion of psychiatric  
1005 residential treatment facility beds or the conversion of other  
1006 beds to psychiatric treatment facility beds, not to exceed thirty  
1007 (30) psychiatric residential treatment facility beds, in either  
1008 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1009 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1010 (e) Of the total number of beds authorized under this  
1011 subsection (3) the department shall issue a certificate of need to  
1012 a privately-owned, nonprofit psychiatric residential treatment  
1013 facility in Hinds County for an eight-bed expansion of the  
1014 facility, provided that the facility agrees in writing that the  
1015 facility shall give priority for the use of those eight (8) beds

1016 to Mississippi residents who are presently being treated in  
1017 out-of-state facilities.

1018 (f) The department shall issue a certificate of need to  
1019 a one-hundred-thirty-four-bed specialty hospital located on  
1020 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
1021 at 5900 Highway 39 North in Meridian (Lauderdale County),  
1022 Mississippi, for the addition, construction or expansion of  
1023 child/adolescent psychiatric residential treatment facility beds  
1024 in Lauderdale County. As a condition of issuance of the  
1025 certificate of need under this paragraph, the facility shall give  
1026 priority in admissions to the child/adolescent psychiatric  
1027 residential treatment facility beds authorized under this  
1028 paragraph to patients who otherwise would require out-of-state  
1029 placement. The Division of Medicaid, in conjunction with the  
1030 Department of Human Services, shall furnish the facility a list of  
1031 all out-of-state patients on a quarterly basis. Furthermore,  
1032 notice shall also be provided to the parent, custodial parent or  
1033 guardian of each out-of-state patient notifying them of the  
1034 priority status granted by this paragraph. For purposes of this  
1035 paragraph, the provisions of Section 41-7-193(1) requiring  
1036 substantial compliance with the projection of need as reported in  
1037 the current State Health Plan are waived. The total number of  
1038 child/adolescent psychiatric residential treatment facility beds  
1039 that may be authorized under the authority of this paragraph shall  
1040 be sixty (60) beds. There shall be no prohibition or restrictions  
1041 on participation in the Medicaid program (Section 43-13-101 et  
1042 seq.) for the person receiving the certificate of need authorized  
1043 under this paragraph or for the beds converted pursuant to the  
1044 authority of that certificate of need.

1045 (g) Of the total number of beds authorized under this  
1046 subsection, the department shall issue a certificate of need to a  
1047 privately owned psychiatric residential treatment facility (PRTF)  
1048 in Simpson County for the construction, expansion or conversion of  
1049 fourteen (14) psychiatric residential treatment facility (PRTF)  
1050 beds to be used to develop a specialized unit for the subacute

1051 treatment of children and adolescents, provided that the facility  
1052 agrees in writing that the facility shall give priority for the  
1053 use of those fourteen (14) beds to Mississippi residents who are  
1054 presently being treated in out-of-state facilities. For purposes  
1055 of this paragraph (g), the provisions of Section 41-7-193(1)  
1056 requiring substantial compliance with the projection of need as  
1057 reported in the current State Health Plan and the provisions of  
1058 Section 41-7-197 requiring a formal certificate of need hearing  
1059 process are waived. There shall be no prohibition or restrictions  
1060 on participation in the Medicaid program (Section 43-13-101 et  
1061 seq.) for the person receiving the certificate of need pursuant to  
1062 the authority of the certificate of need authorized under this  
1063 paragraph (g). If by July 1, 2009, there has been no significant  
1064 commencement of construction of the beds authorized under this  
1065 paragraph, or no significant action taken to convert existing beds  
1066 to the beds authorized under this paragraph, then the certificate  
1067 of need that was previously issued under this paragraph shall  
1068 expire and the department shall revoke the certificate of need if  
1069 it is still outstanding. This condition by the recipient of the  
1070 certificate of need shall be fully binding on any subsequent owner  
1071 of the certificate of need if the ownership is transferred at any  
1072 time after the issuance of the certificate of need. If the  
1073 previously issued certificate of need expires, the department may  
1074 accept applications for issuance of another certificate of need  
1075 for the beds authorized under this paragraph, and may issue a  
1076 certificate of need to authorize the construction expansion or  
1077 conversion of the beds authorized under this paragraph under the  
1078 same conditions.

1079       (4) (a) From and after July 1, 1993, the department shall  
1080 not issue a certificate of need to any person for the new  
1081 construction of any hospital, psychiatric hospital or chemical  
1082 dependency hospital that will contain any child/adolescent  
1083 psychiatric or child/adolescent chemical dependency beds, or for  
1084 the conversion of any other health care facility to a hospital,  
1085 psychiatric hospital or chemical dependency hospital that will

1086 contain any child/adolescent psychiatric or child/adolescent  
1087 chemical dependency beds, or for the addition of any  
1088 child/adolescent psychiatric or child/adolescent chemical  
1089 dependency beds in any hospital, psychiatric hospital or chemical  
1090 dependency hospital, or for the conversion of any beds of another  
1091 category in any hospital, psychiatric hospital or chemical  
1092 dependency hospital to child/adolescent psychiatric or  
1093 child/adolescent chemical dependency beds, except as hereinafter  
1094 authorized:

1095                   (i) The department may issue certificates of need  
1096 to any person for any purpose described in this subsection,  
1097 provided that the hospital, psychiatric hospital or chemical  
1098 dependency hospital does not participate in the Medicaid program  
1099 (Section 43-13-101 et seq.) at the time of the application for the  
1100 certificate of need and the owner of the hospital, psychiatric  
1101 hospital or chemical dependency hospital agrees in writing that  
1102 the hospital, psychiatric hospital or chemical dependency hospital  
1103 will not at any time participate in the Medicaid program or admit  
1104 or keep any patients who are participating in the Medicaid program  
1105 in the hospital, psychiatric hospital or chemical dependency  
1106 hospital. This written agreement by the recipient of the  
1107 certificate of need shall be fully binding on any subsequent owner  
1108 of the hospital, psychiatric hospital or chemical dependency  
1109 hospital, if the ownership of the facility is transferred at any  
1110 time after the issuance of the certificate of need. Agreement  
1111 that the hospital, psychiatric hospital or chemical dependency  
1112 hospital will not participate in the Medicaid program shall be a  
1113 condition of the issuance of a certificate of need to any person  
1114 under this subparagraph \* \* \* (i), and if such hospital,  
1115 psychiatric hospital or chemical dependency hospital at any time  
1116 after the issuance of the certificate of need, regardless of the  
1117 ownership of the facility, participates in the Medicaid program or  
1118 admits or keeps any patients in the hospital, psychiatric hospital  
1119 or chemical dependency hospital who are participating in the  
1120 Medicaid program, the State Department of Health shall revoke the

1121 certificate of need, if it is still outstanding, and shall deny or  
1122 revoke the license of the hospital, psychiatric hospital or  
1123 chemical dependency hospital, at the time that the department  
1124 determines, after a hearing complying with due process, that the  
1125 hospital, psychiatric hospital or chemical dependency hospital has  
1126 failed to comply with any of the conditions upon which the  
1127 certificate of need was issued, as provided in this subparagraph  
1128 (i) and in the written agreement by the recipient of the  
1129 certificate of need.

1130                   (ii) The department may issue a certificate of  
1131 need for the conversion of existing beds in a county hospital in  
1132 Choctaw County from acute care beds to child/adolescent chemical  
1133 dependency beds. For purposes of this subparagraph (ii), the  
1134 provisions of Section 41-7-193(1) requiring substantial compliance  
1135 with the projection of need as reported in the current State  
1136 Health Plan is waived. The total number of beds that may be  
1137 authorized under authority of this subparagraph shall not exceed  
1138 twenty (20) beds. There shall be no prohibition or restrictions  
1139 on participation in the Medicaid program (Section 43-13-101 et  
1140 seq.) for the hospital receiving the certificate of need  
1141 authorized under this subparagraph \* \* \* or for the beds converted  
1142 pursuant to the authority of that certificate of need.

1143                   (iii) The department may issue a certificate or  
1144 certificates of need for the construction or expansion of  
1145 child/adolescent psychiatric beds or the conversion of other beds  
1146 to child/adolescent psychiatric beds in Warren County. For  
1147 purposes of this subparagraph (iii), the provisions of Section  
1148 41-7-193(1) requiring substantial compliance with the projection  
1149 of need as reported in the current State Health Plan are waived.  
1150 The total number of beds that may be authorized under the  
1151 authority of this subparagraph shall not exceed twenty (20) beds.  
1152 There shall be no prohibition or restrictions on participation in  
1153 the Medicaid program (Section 43-13-101 et seq.) for the person  
1154 receiving the certificate of need authorized under this



1155 subparagraph \* \* \* or for the beds converted pursuant to the  
1156 authority of that certificate of need.

1157 \* \* \*

1158 The State Department of Health, on or before July 1, 2007,  
1159 shall transfer the certificate of need authorized under the  
1160 authority of this paragraph (a)(iii) to 5900 Highway 39 North in  
1161 Meridian (Lauderdale County), Mississippi, for the addition,  
1162 construction or expansion of child/adolescent psychiatric  
1163 residential treatment facility beds in Lauderdale County. For  
1164 purposes of this subparagraph, the provisions of Section  
1165 41-7-193(1) requiring substantial compliance with the projection  
1166 of need as reported in the current State Health Plan and the  
1167 provisions of Section 41-7-197 requiring a formal certificate of  
1168 need hearing process are waived. The total number of beds that  
1169 may be authorized under the authority of this subparagraph shall  
1170 not exceed twenty (20) beds. There shall be no prohibition or  
1171 restrictions on participation in the Medicaid program (Section  
1172 43-13-101 et seq.) for the hospital receiving the certificate of  
1173 need authorized under this subparagraph (a)(iii) or for the beds  
1174 covered pursuant to the authority of that certificate of need.  
1175 For purposes of the relocation of beds authorized by Section  
1176 41-7-191(4)(a)(iii), the State Department of Health shall treat  
1177 the beds so authorized as if they were licensed and operating,  
1178 even if the beds are not yet licensed and operating, and the  
1179 department shall issue an amendment for the relocation of all beds  
1180 authorized by said section. If by July 1, 2009, there has been no  
1181 significant commencement of construction of the beds authorized  
1182 under this paragraph, or no significant action taken to convert  
1183 existing beds to the beds authorized under this paragraph, then  
1184 the certificate of need that was previously issued under this  
1185 paragraph shall expire and the department shall revoke the  
1186 certificate of need if it is still outstanding. This condition by  
1187 the recipient of the certificate of need shall be fully binding on  
1188 any subsequent owner of the certificate of need if the ownership  
1189 is transferred at any time after the issuance of the certificate

1190 of need. If the previously issued certificate of need expires,  
1191 the department may accept applications for issuance of another  
1192 certificate of need for the beds authorized under this paragraph,  
1193 and may issue a certificate of need to authorize the construction  
1194 expansion or conversion of the beds authorized under this  
1195 paragraph under the same conditions.

1196 (iv) The department shall issue a certificate of  
1197 need to the Region 7 Mental Health/Retardation Commission for the  
1198 construction or expansion of child/adolescent psychiatric beds or  
1199 the conversion of other beds to child/adolescent psychiatric beds  
1200 in any of the counties served by the commission. For purposes of  
1201 this subparagraph (iv), the provisions of Section 41-7-193(1)  
1202 requiring substantial compliance with the projection of need as  
1203 reported in the current State Health Plan is waived. The total  
1204 number of beds that may be authorized under the authority of this  
1205 subparagraph shall not exceed twenty (20) beds. There shall be no  
1206 prohibition or restrictions on participation in the Medicaid  
1207 program (Section 43-13-101 et seq.) for the person receiving the  
1208 certificate of need authorized under this subparagraph \* \* \* or  
1209 for the beds converted pursuant to the authority of that  
1210 certificate of need.

1211 (v) The department may issue a certificate of need  
1212 to any county hospital located in Leflore County for the  
1213 construction or expansion of adult psychiatric beds or the  
1214 conversion of other beds to adult psychiatric beds, not to exceed  
1215 twenty (20) beds, provided that the recipient of the certificate  
1216 of need agrees in writing that the adult psychiatric beds will not  
1217 at any time be certified for participation in the Medicaid program  
1218 and that the hospital will not admit or keep any patients who are  
1219 participating in the Medicaid program in any of such adult  
1220 psychiatric beds. This written agreement by the recipient of the  
1221 certificate of need shall be fully binding on any subsequent owner  
1222 of the hospital if the ownership of the hospital is transferred at  
1223 any time after the issuance of the certificate of need. Agreement  
1224 that the adult psychiatric beds will not be certified for

1225 participation in the Medicaid program shall be a condition of the  
1226 issuance of a certificate of need to any person under this  
1227 subparagraph \* \* \* (v), and if such hospital at any time after the  
1228 issuance of the certificate of need, regardless of the ownership  
1229 of the hospital, has any of such adult psychiatric beds certified  
1230 for participation in the Medicaid program or admits or keeps any  
1231 Medicaid patients in such adult psychiatric beds, the State  
1232 Department of Health shall revoke the certificate of need, if it  
1233 is still outstanding, and shall deny or revoke the license of the  
1234 hospital at the time that the department determines, after a  
1235 hearing complying with due process, that the hospital has failed  
1236 to comply with any of the conditions upon which the certificate of  
1237 need was issued, as provided in this subparagraph and in the  
1238 written agreement by the recipient of the certificate of need.

1239           (vi) The department may issue a certificate or  
1240 certificates of need for the expansion of child psychiatric beds  
1241 or the conversion of other beds to child psychiatric beds at the  
1242 University of Mississippi Medical Center. For purposes of this  
1243 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
1244 requiring substantial compliance with the projection of need as  
1245 reported in the current State Health Plan is waived. The total  
1246 number of beds that may be authorized under the authority of this  
1247 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
1248 shall be no prohibition or restrictions on participation in the  
1249 Medicaid program (Section 43-13-101 et seq.) for the hospital  
1250 receiving the certificate of need authorized under this  
1251 subparagraph \* \* \* or for the beds converted pursuant to the  
1252 authority of that certificate of need.

1253           (b) From and after July 1, 1990, no hospital,  
1254 psychiatric hospital or chemical dependency hospital shall be  
1255 authorized to add any child/adolescent psychiatric or  
1256 child/adolescent chemical dependency beds or convert any beds of  
1257 another category to child/adolescent psychiatric or  
1258 child/adolescent chemical dependency beds without a certificate of  
1259 need under the authority of subsection (1)(c) of this section.

1260           (5) The department may issue a certificate of need to a  
1261 county hospital in Winston County for the conversion of fifteen  
1262 (15) acute care beds to geriatric psychiatric care beds.

1263           (6) The State Department of Health shall issue a certificate  
1264 of need to a Mississippi corporation qualified to manage a  
1265 long-term care hospital as defined in Section 41-7-173(i)(xii) in  
1266 Harrison County, not to exceed eighty (80) beds, including any  
1267 necessary renovation or construction required for licensure and  
1268 certification, provided that the recipient of the certificate of  
1269 need agrees in writing that the long-term care hospital will not  
1270 at any time participate in the Medicaid program (Section 43-13-101  
1271 et seq.) or admit or keep any patients in the long-term care  
1272 hospital who are participating in the Medicaid program. This  
1273 written agreement by the recipient of the certificate of need  
1274 shall be fully binding on any subsequent owner of the long-term  
1275 care hospital, if the ownership of the facility is transferred at  
1276 any time after the issuance of the certificate of need. Agreement  
1277 that the long-term care hospital will not participate in the  
1278 Medicaid program shall be a condition of the issuance of a  
1279 certificate of need to any person under this subsection (6), and  
1280 if such long-term care hospital at any time after the issuance of  
1281 the certificate of need, regardless of the ownership of the  
1282 facility, participates in the Medicaid program or admits or keeps  
1283 any patients in the facility who are participating in the Medicaid  
1284 program, the State Department of Health shall revoke the  
1285 certificate of need, if it is still outstanding, and shall deny or  
1286 revoke the license of the long-term care hospital, at the time  
1287 that the department determines, after a hearing complying with due  
1288 process, that the facility has failed to comply with any of the  
1289 conditions upon which the certificate of need was issued, as  
1290 provided in this subsection and in the written agreement by the  
1291 recipient of the certificate of need. For purposes of this  
1292 subsection, the provision of Section 41-7-193(1) requiring  
1293 substantial compliance with the projection of need as reported in  
1294 the current State Health Plan is hereby waived.

1295           (7) The State Department of Health may issue a certificate  
1296 of need to any hospital in the state to utilize a portion of its  
1297 beds for the "swing-bed" concept. Any such hospital must be in  
1298 conformance with the federal regulations regarding such swing-bed  
1299 concept at the time it submits its application for a certificate  
1300 of need to the State Department of Health, except that such  
1301 hospital may have more licensed beds or a higher average daily  
1302 census (ADC) than the maximum number specified in federal  
1303 regulations for participation in the swing-bed program. Any  
1304 hospital meeting all federal requirements for participation in the  
1305 swing-bed program which receives such certificate of need shall  
1306 render services provided under the swing-bed concept to any  
1307 patient eligible for Medicare (Title XVIII of the Social Security  
1308 Act) who is certified by a physician to be in need of such  
1309 services, and no such hospital shall permit any patient who is  
1310 eligible for both Medicaid and Medicare or eligible only for  
1311 Medicaid to stay in the swing beds of the hospital for more than  
1312 thirty (30) days per admission unless the hospital receives prior  
1313 approval for such patient from the Division of Medicaid, Office of  
1314 the Governor. Any hospital having more licensed beds or a higher  
1315 average daily census (ADC) than the maximum number specified in  
1316 federal regulations for participation in the swing-bed program  
1317 which receives such certificate of need shall develop a procedure  
1318 to insure that before a patient is allowed to stay in the swing  
1319 beds of the hospital, there are no vacant nursing home beds  
1320 available for that patient located within a fifty-mile radius of  
1321 the hospital. When any such hospital has a patient staying in the  
1322 swing beds of the hospital and the hospital receives notice from a  
1323 nursing home located within such radius that there is a vacant bed  
1324 available for that patient, the hospital shall transfer the  
1325 patient to the nursing home within a reasonable time after receipt  
1326 of the notice. Any hospital which is subject to the requirements  
1327 of the two (2) preceding sentences of this subsection may be  
1328 suspended from participation in the swing-bed program for a  
1329 reasonable period of time by the State Department of Health if the

1330 department, after a hearing complying with due process, determines  
1331 that the hospital has failed to comply with any of those  
1332 requirements.

1333 (8) The Department of Health shall not grant approval for or  
1334 issue a certificate of need to any person proposing the new  
1335 construction of, addition to or expansion of a health care  
1336 facility as defined in subparagraph (viii) of Section 41-7-173(i),  
1337 except as hereinafter provided: The department may issue a  
1338 certificate of need to a nonprofit corporation located in Madison  
1339 County, Mississippi, for the construction, expansion or conversion  
1340 of not more than twenty (20) beds in a community living program  
1341 for developmentally disabled adults in a facility as defined in  
1342 subparagraph (viii) of Section 41-7-173(i). For purposes of this  
1343 subsection (8), the provisions of Section 41-7-193(1) requiring  
1344 substantial compliance with the projection of need as reported in  
1345 the current State Health Plan and the provisions of Section  
1346 41-7-197 requiring a formal certificate of need hearing process  
1347 are waived. There shall be no prohibition or restrictions on  
1348 participation in the Medicaid program for the person receiving the  
1349 certificate of need authorized under this subsection (8).

1350 (9) The Department of Health shall not grant approval for or  
1351 issue a certificate of need to any person proposing the  
1352 establishment of, or expansion of the currently approved territory  
1353 of, or the contracting to establish a home office, subunit or  
1354 branch office within the space operated as a health care facility  
1355 as defined in Section 41-7-173(i)(i) through (viii) by a health  
1356 care facility as defined in subparagraph (ix) of Section  
1357 41-7-173(i).

1358 (10) Health care facilities owned and/or operated by the  
1359 state or its agencies are exempt from the restraints in this  
1360 section against issuance of a certificate of need if such addition  
1361 or expansion consists of repairing or renovation necessary to  
1362 comply with the state licensure law. This exception shall not  
1363 apply to the new construction of any building by such state  
1364 facility. This exception shall not apply to any health care

1365 facilities owned and/or operated by counties, municipalities,  
1366 districts, unincorporated areas, other defined persons, or any  
1367 combination thereof.

1368 (11) The new construction, renovation or expansion of or  
1369 addition to any health care facility defined in subparagraph (ii)  
1370 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1371 facility), subparagraph (vi) (intermediate care facility),  
1372 subparagraph (viii) (intermediate care facility for the mentally  
1373 retarded) and subparagraph (x) (psychiatric residential treatment  
1374 facility) of Section 41-7-173(i) which is owned by the State of  
1375 Mississippi and under the direction and control of the State  
1376 Department of Mental Health, and the addition of new beds or the  
1377 conversion of beds from one category to another in any such  
1378 defined health care facility which is owned by the State of  
1379 Mississippi and under the direction and control of the State  
1380 Department of Mental Health, shall not require the issuance of a  
1381 certificate of need under Section 41-7-171 et seq.,  
1382 notwithstanding any provision in Section 41-7-171 et seq. to the  
1383 contrary.

1384 (12) The new construction, renovation or expansion of or  
1385 addition to any veterans homes or domiciliaries for eligible  
1386 veterans of the State of Mississippi as authorized under Section  
1387 35-1-19 shall not require the issuance of a certificate of need,  
1388 notwithstanding any provision in Section 41-7-171 et seq. to the  
1389 contrary.

1390 (13) The new construction of a nursing facility or nursing  
1391 facility beds or the conversion of other beds to nursing facility  
1392 beds shall not require the issuance of a certificate of need,  
1393 notwithstanding any provision in Section 41-7-171 et seq. to the  
1394 contrary, if the conditions of this subsection are met.

1395 (a) Before any construction or conversion may be  
1396 undertaken without a certificate of need, the owner of the nursing  
1397 facility, in the case of an existing facility, or the applicant to  
1398 construct a nursing facility, in the case of new construction,  
1399 first must file a written notice of intent and sign a written

1400 agreement with the State Department of Health that the entire  
1401 nursing facility will not at any time participate in or have any  
1402 beds certified for participation in the Medicaid program (Section  
1403 43-13-101 et seq.), will not admit or keep any patients in the  
1404 nursing facility who are participating in the Medicaid program,  
1405 and will not submit any claim for Medicaid reimbursement for any  
1406 patient in the facility. This written agreement by the owner or  
1407 applicant shall be a condition of exercising the authority under  
1408 this subsection without a certificate of need, and the agreement  
1409 shall be fully binding on any subsequent owner of the nursing  
1410 facility if the ownership of the facility is transferred at any  
1411 time after the agreement is signed. After the written agreement  
1412 is signed, the Division of Medicaid and the State Department of  
1413 Health shall not certify any beds in the nursing facility for  
1414 participation in the Medicaid program. If the nursing facility  
1415 violates the terms of the written agreement by participating in  
1416 the Medicaid program, having any beds certified for participation  
1417 in the Medicaid program, admitting or keeping any patient in the  
1418 facility who is participating in the Medicaid program, or  
1419 submitting any claim for Medicaid reimbursement for any patient in  
1420 the facility, the State Department of Health shall revoke the  
1421 license of the nursing facility at the time that the department  
1422 determines, after a hearing complying with due process, that the  
1423 facility has violated the terms of the written agreement.

1424 (b) For the purposes of this subsection, participation  
1425 in the Medicaid program by a nursing facility includes Medicaid  
1426 reimbursement of coinsurance and deductibles for recipients who  
1427 are qualified Medicare beneficiaries and/or those who are dually  
1428 eligible. Any nursing facility exercising the authority under  
1429 this subsection may not bill or submit a claim to the Division of  
1430 Medicaid for services to qualified Medicare beneficiaries and/or  
1431 those who are dually eligible.

1432 (c) The new construction of a nursing facility or  
1433 nursing facility beds or the conversion of other beds to nursing  
1434 facility beds described in this section must be either a part of a



1435 completely new continuing care retirement community, as described  
1436 in the latest edition of the Mississippi State Health Plan, or an  
1437 addition to existing personal care and independent living  
1438 components, and so that the completed project will be a continuing  
1439 care retirement community, containing (i) independent living  
1440 accommodations, (ii) personal care beds, and (iii) the nursing  
1441 home facility beds. The three (3) components must be located on a  
1442 single site and be operated as one (1) inseparable facility. The  
1443 nursing facility component must contain a minimum of thirty (30)  
1444 beds. Any nursing facility beds authorized by this section will  
1445 not be counted against the bed need set forth in the State Health  
1446 Plan, as identified in Section 41-7-171 et seq.

1447 \* \* \*

1448 (14) The State Department of Health shall issue a  
1449 certificate of need to any hospital which is currently licensed  
1450 for two hundred fifty (250) or more acute care beds and is located  
1451 in any general hospital service area not having a comprehensive  
1452 cancer center, for the establishment and equipping of such a  
1453 center which provides facilities and services for outpatient  
1454 radiation oncology therapy, outpatient medical oncology therapy,  
1455 and appropriate support services including the provision of  
1456 radiation therapy services. The provision of Section 41-7-193(1)  
1457 regarding substantial compliance with the projection of need as  
1458 reported in the current State Health Plan is waived for the  
1459 purpose of this subsection.

1460 (15) The State Department of Health may authorize the  
1461 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1462 North Panola Community Hospital to the South Panola Community  
1463 Hospital. The authorization for the transfer of those beds shall  
1464 be exempt from the certificate of need review process.

1465 (16) The State Department of Health shall issue any  
1466 certificates of need necessary for Mississippi State University  
1467 and a public or private health care provider to jointly acquire  
1468 and operate a linear accelerator and a magnetic resonance imaging  
1469 unit. Those certificates of need shall cover all capital

1470 expenditures related to the project between Mississippi State  
1471 University and the health care provider, including, but not  
1472 limited to, the acquisition of the linear accelerator, the  
1473 magnetic resonance imaging unit and other radiological modalities;  
1474 the offering of linear accelerator and magnetic resonance imaging  
1475 services; and the cost of construction of facilities in which to  
1476 locate these services. The linear accelerator and the magnetic  
1477 resonance imaging unit shall be (a) located in the City of  
1478 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1479 Mississippi State University and the public or private health care  
1480 provider selected by Mississippi State University through a  
1481 request for proposals (RFP) process in which Mississippi State  
1482 University selects, and the Board of Trustees of State  
1483 Institutions of Higher Learning approves, the health care provider  
1484 that makes the best overall proposal; (c) available to Mississippi  
1485 State University for research purposes two-thirds (2/3) of the  
1486 time that the linear accelerator and magnetic resonance imaging  
1487 unit are operational; and (d) available to the public or private  
1488 health care provider selected by Mississippi State University and  
1489 approved by the Board of Trustees of State Institutions of Higher  
1490 Learning one-third (1/3) of the time for clinical, diagnostic and  
1491 treatment purposes. For purposes of this subsection, the  
1492 provisions of Section 41-7-193(1) requiring substantial compliance  
1493 with the projection of need as reported in the current State  
1494 Health Plan are waived.

1495 (17) Nothing in this section or in any other provision of  
1496 Section 41-7-171 et seq. shall prevent any nursing facility from  
1497 designating an appropriate number of existing beds in the facility  
1498 as beds for providing care exclusively to patients with  
1499 Alzheimer's disease.

1500 (18) The State Department of Health shall issue a  
1501 certificate of need for the construction, addition or conversion  
1502 of acute care hospital beds in a county located in a standard  
1503 metropolitan statistical area (SMSA) as defined in the latest  
1504 federal decennial census which shall experience a population

1505 growth of five percent (5%) or more, not to exceed one hundred  
1506 (100) beds. The recipient of such certificate of need shall be a  
1507 hospital which has continuous participation, or agrees to contract  
1508 to participate, in the Mississippi Trauma Care System Plan  
1509 established by the State Board of Health under Section 41-59-5.  
1510 For purposes of this subsection (18), "five percent (5%) or more  
1511 population growth" shall be defined by the Mississippi population  
1512 projections for 2010-2015 prepared by the Office of Policy  
1513 Research and Planning of the State Institutions of Higher  
1514 Learning. For purposes of this subsection (18), the provisions of  
1515 Section 41-7-193(1) requiring substantial compliance with the  
1516 projection of need as reported in the current State Health Plan  
1517 and the provisions of Section 41-7-197 requiring a formal  
1518 certificate of need hearing process are waived. There shall be no  
1519 prohibition or restrictions on participation in the Medicaid  
1520 program for the person receiving the certificate of need  
1521 authorized under this subsection (18). If by July 1, 2009, there  
1522 has been no significant commencement of construction of the beds  
1523 authorized under this paragraph, or no significant action taken to  
1524 convert existing beds to the beds authorized under this paragraph,  
1525 then the certificate of need that was previously issued under this  
1526 paragraph shall expire and the department shall revoke the  
1527 certificate of need if it is still outstanding. This condition by  
1528 the recipient of the certificate of need shall be fully binding on  
1529 any subsequent owner of the certificate of need if the ownership  
1530 is transferred at any time after the issuance of the certificate  
1531 of need. If the previously issued certificate of need expires,  
1532 the department may accept applications for issuance of another  
1533 certificate of need for the beds authorized under this paragraph,  
1534 and may issue a certificate of need to authorize the construction  
1535 expansion or conversion of the beds authorized under this  
1536 paragraph under the same conditions.

1537 **SECTION 2.** This act shall take effect and be in force from  
1538 and after its passage.

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

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; TO DIRECT  
5 THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR  
6 THE CONSTRUCTION OF ACUTE CARE HOSPITAL BEDS IN ANY COUNTY LOCATED  
7 IN A METROPOLITAN STATISTICAL AREA WHICH HAS EXPERIENCED A  
8 POPULATION GROWTH OF 5% OR MORE ACCORDING TO THE PROJECTIONS OF  
9 THE STATE INSTITUTIONS OF HIGHER LEARNING OFFICE OF POLICY  
10 RESEARCH AND PLANNING TO ANY HOSPITAL WHICH HAS CONTINUOUS  
11 PARTICIPATION IN THE MISSISSIPPI TRAUMA CARE SYSTEM PLAN; TO  
12 RESTORE THE PROCEDURE UNDER THE CERTIFICATE OF NEED LAW WHICH  
13 EXEMPTS THE NEW CONSTRUCTION OR ADDITION OF PRIVATE-PAY NURSING  
14 FACILITY BEDS WHICH ARE A PART OF A CONTINUING CARE RETIREMENT  
15 COMMUNITY CONTAINING INDEPENDENT LIVING ACCOMMODATIONS FROM THE  
16 CERTIFICATE OF NEED REQUIREMENT; TO PROVIDE THAT THE STATE  
17 DEPARTMENT OF HEALTH SHALL TRANSFER A CERTIFICATE OF NEED FOR  
18 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS FROM WARREN COUNTY  
19 TO RANKIN COUNTY; TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF  
20 HEALTH TO ISSUE A CERTIFICATE OF NEED FOR 14 PSYCHIATRIC  
21 RESIDENTIAL TREATMENT FACILITY (PRTF) BEDS IN SIMPSON COUNTY FOR A  
22 SPECIALIZED UNIT FOR THE SUBACUTE TREATMENT OF CHILDREN AND  
23 ADOLESCENTS; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL  
24 TRANSFER A CERTIFICATE OF NEED FOR CHILD/ADOLESCENT PSYCHIATRIC  
25 BEDS FROM WARREN COUNTY TO LAUDERDALE COUNTY; TO AUTHORIZE THE  
26 ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR THE CONSTRUCTION  
27 OF A 60-BED NURSING FACILITY IN HINDS COUNTY; TO DIRECT THE STATE  
28 DEPARTMENT OF HEALTH TO ISSUE CERTIFICATES OF NEED IN EACH OF THE  
29 FOUR LONG-TERM CARE PLANNING DISTRICTS TO PROVIDE ALZHEIMER'S  
30 DISEASE CARE; TO DIRECT THE STATE DEPARTMENT OF HEALTH TO TRANSFER  
31 CERTAIN NURSING FACILITY BEDS FROM HANCOCK COUNTY TO JACKSON  
32 COUNTY AND TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF HEALTH  
33 TO ISSUE A CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW  
34 NURSING FACILITY IN JACKSON COUNTY; TO AUTHORIZE AND DIRECT THE  
35 STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR  
36 NURSING FACILITY BEDS IN LAMAR COUNTY TO BE ADDED TO AN EXISTING  
37 CERTIFICATE OF NEED; TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT  
38 OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR NURSING FACILITY BEDS  
39 IN STONE COUNTY TO BE ADDED TO AN EXISTING CERTIFICATE OF NEED; TO  
40 AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR THE CONVERSION  
41 OF NON-MEDICAID BEDS TO MEDICAID-CERTIFIED BEDS AT CERTAIN  
42 CONTINUING CARE RETIREMENT FACILITIES; TO AUTHORIZE THE ISSUANCE  
43 OF A CERTIFICATE OF NEED TO TRACE REGIONAL HOSPITAL FOR ADDITIONAL  
44 NURSING FACILITY BEDS; AND FOR RELATED PURPOSES.

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John O. Gilbert  
Secretary of the Senate