

**Replace By Substitute
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1202

BY: Committee

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

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

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

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

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

23 (c) Any change in the existing bed complement of any
24 health care facility through the addition or conversion of any
25 beds or the alteration, modernizing or refurbishing of any unit or

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

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

- 50 (i) Open heart surgery services;
- 51 (ii) Cardiac catheterization services;
- 52 (iii) Comprehensive inpatient rehabilitation
53 services;
- 54 (iv) Licensed psychiatric services;
- 55 (v) Licensed chemical dependency services;
- 56 (vi) Radiation therapy services;

57 (vii) Diagnostic imaging services of an invasive
58 nature, i.e. invasive digital angiography;

59 (viii) Nursing home care as defined in
60 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

61 (ix) Home health services;

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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

68 (e) The relocation of one or more health services from
69 one physical facility or site to another physical facility or
70 site, unless such relocation, which does not involve a capital
71 expenditure by or on behalf of a health care facility, (i) is to a
72 physical facility or site within five thousand two hundred eighty
73 (5,280) feet from the main entrance of the health care facility
74 where the health care service is located, or (ii) is the result of
75 an order of a court of appropriate jurisdiction or a result of
76 pending litigation in such court, or by order of the State
77 Department of Health, or by order of any other agency or legal
78 entity of the state, the federal government, or any political
79 subdivision of either, whose order is also approved by the State
80 Department of Health;

81 (f) The acquisition or otherwise control of any major
82 medical equipment for the provision of medical services; provided,
83 however, (i) the acquisition of any major medical equipment used
84 only for research purposes, and (ii) the acquisition of major
85 medical equipment to replace medical equipment for which a
86 facility is already providing medical services and for which the
87 State Department of Health has been notified before the date of
88 such acquisition shall be exempt from this paragraph; an

89 acquisition for less than fair market value must be reviewed, if
90 the acquisition at fair market value would be subject to review;

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

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

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

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

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

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

125 (m) Reopening a health care facility that has ceased to
126 operate for a period of sixty (60) months or more, which reopening
127 requires a certificate of need for the establishment of a new
128 health care facility. Provided, however, that the reopening of
129 sixteen (16) acute care hospital beds in Kemper County for the
130 purpose of constructing the "John C. Stennis Memorial Hospital" to
131 be owned and operated by a two-hundred-fifteen-bed hospital
132 located in Lauderdale County shall not require the issuance of a
133 certificate of need, notwithstanding any provision in Section
134 41-7-171 et seq. to the contrary if the following conditions are
135 met: The facility shall agree to participate or contract to
136 participate in the Mississippi Trauma Care System Plan established
137 by the State Board of Health under Section 41-59-5, and there
138 shall be significant commencement of construction or conversion of
139 beds as hereinafter provided. If by July 1, 2009, there has been
140 no significant commencement of construction of the beds authorized
141 under this paragraph (m), or no significant action taken to
142 convert existing beds to the beds authorized under this paragraph
143 (m), then the authority to construct or convert beds in Kemper
144 County without the necessity of a certificate of need shall
145 expire. If the authority to construct or convert beds in Kemper
146 County expires, the department may accept applications for
147 issuance of a certificate of need from another applicant for the
148 beds authorized under this paragraph (m), and the department may
149 issue a certificate of need to authorize the construction,
150 expansion or conversion of the beds authorized under this
151 paragraph (m).

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

159 (a) The department may issue a certificate of need to
160 any person proposing the new construction of any health care
161 facility defined in subparagraphs (iv) and (vi) of Section
162 41-7-173(h) as part of a life care retirement facility, in any
163 county bordering on the Gulf of Mexico in which is located a
164 National Aeronautics and Space Administration facility, not to
165 exceed forty (40) beds. From and after July 1, 1999, there shall
166 be no prohibition or restrictions on participation in the Medicaid
167 program (Section 43-13-101 et seq.) for the beds in the health
168 care facility that were authorized under this paragraph (a).

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

176 (c) The department may issue a certificate of need for
177 the addition to or expansion of any skilled nursing facility that
178 is part of an existing continuing care retirement community
179 located in Madison County, provided that the recipient of the
180 certificate of need agrees in writing that the skilled nursing
181 facility will not at any time participate in the Medicaid program
182 (Section 43-13-101 et seq.) or admit or keep any patients in the
183 skilled nursing facility who are participating in the Medicaid

184 program. This written agreement by the recipient of the
185 certificate of need shall be fully binding on any subsequent owner
186 of the skilled nursing facility, if the ownership of the facility
187 is transferred at any time after the issuance of the certificate
188 of need. Agreement that the skilled nursing facility will not
189 participate in the Medicaid program shall be a condition of the
190 issuance of a certificate of need to any person under this
191 paragraph (c), and if such skilled nursing facility at any time
192 after the issuance of the certificate of need, regardless of the
193 ownership of the facility, participates in the Medicaid program or
194 admits or keeps any patients in the facility who are participating
195 in the Medicaid program, the State Department of Health shall
196 revoke the certificate of need, if it is still outstanding, and
197 shall deny or revoke the license of the skilled nursing facility,
198 at the time that the department determines, after a hearing
199 complying with due process, that the facility has failed to comply
200 with any of the conditions upon which the certificate of need was
201 issued, as provided in this paragraph and in the written agreement
202 by the recipient of the certificate of need. The total number of
203 beds that may be authorized under the authority of this paragraph
204 (c) shall not exceed sixty (60) beds.

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

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

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

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

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

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

246 (i) The department may issue a certificate of need for
247 the new construction of a skilled nursing facility in Leake

248 County, provided that the recipient of the certificate of need
249 agrees in writing that the skilled nursing facility will not at
250 any time participate in the Medicaid program (Section 43-13-101 et
251 seq.) or admit or keep any patients in the skilled nursing
252 facility who are participating in the Medicaid program. This
253 written agreement by the recipient of the certificate of need
254 shall be fully binding on any subsequent owner of the skilled
255 nursing facility, if the ownership of the facility is transferred
256 at any time after the issuance of the certificate of need.
257 Agreement that the skilled nursing facility will not participate
258 in the Medicaid program shall be a condition of the issuance of a
259 certificate of need to any person under this paragraph (i), and if
260 such skilled nursing facility at any time after the issuance of
261 the certificate of need, regardless of the ownership of the
262 facility, participates in the Medicaid program or admits or keeps
263 any patients in the facility who are participating in the Medicaid
264 program, the State Department of Health shall revoke the
265 certificate of need, if it is still outstanding, and shall deny or
266 revoke the license of the skilled nursing facility, at the time
267 that the department determines, after a hearing complying with due
268 process, that the facility has failed to comply with any of the
269 conditions upon which the certificate of need was issued, as
270 provided in this paragraph and in the written agreement by the
271 recipient of the certificate of need. The provision of Section
272 43-7-193(1) regarding substantial compliance of the projection of
273 need as reported in the current State Health Plan is waived for
274 the purposes of this paragraph. The total number of nursing
275 facility beds that may be authorized by any certificate of need
276 issued under this paragraph (i) shall not exceed sixty (60) beds.
277 If the skilled nursing facility authorized by the certificate of
278 need issued under this paragraph is not constructed and fully
279 operational within eighteen (18) months after July 1, 1994, the

280 State Department of Health, after a hearing complying with due
281 process, shall revoke the certificate of need, if it is still
282 outstanding, and shall not issue a license for the skilled nursing
283 facility at any time after the expiration of the eighteen-month
284 period.

285 (j) The department may issue certificates of need to
286 allow any existing freestanding long-term care facility in
287 Tishomingo County and Hancock County that on July 1, 1995, is
288 licensed with fewer than sixty (60) beds. For the purposes of
289 this paragraph (j), the provision of Section 41-7-193(1) requiring
290 substantial compliance with the projection of need as reported in
291 the current State Health Plan is waived. From and after July 1,
292 1999, there shall be no prohibition or restrictions on
293 participation in the Medicaid program (Section 43-13-101 et seq.)
294 for the beds in the long-term care facilities that were authorized
295 under this paragraph (j).

296 (k) The department may issue a certificate of need for
297 the construction of a nursing facility at a continuing care
298 retirement community in Lowndes County. The total number of beds
299 that may be authorized under the authority of this paragraph (k)
300 shall not exceed sixty (60) beds. From and after July 1, 2001,
301 the prohibition on the facility participating in the Medicaid
302 program (Section 43-13-101 et seq.) that was a condition of
303 issuance of the certificate of need under this paragraph (k) shall
304 be revised as follows: The nursing facility may participate in
305 the Medicaid program from and after July 1, 2001, if the owner of
306 the facility on July 1, 2001, agrees in writing that no more than
307 thirty (30) of the beds at the facility will be certified for
308 participation in the Medicaid program, and that no claim will be
309 submitted for Medicaid reimbursement for more than thirty (30)
310 patients in the facility in any month or for any patient in the
311 facility who is in a bed that is not Medicaid-certified. This

312 written agreement by the owner of the facility shall be a
313 condition of licensure of the facility, and the agreement shall be
314 fully binding on any subsequent owner of the facility if the
315 ownership of the facility is transferred at any time after July 1,
316 2001. After this written agreement is executed, the Division of
317 Medicaid and the State Department of Health shall not certify more
318 than thirty (30) of the beds in the facility for participation in
319 the Medicaid program. If the facility violates the terms of the
320 written agreement by admitting or keeping in the facility on a
321 regular or continuing basis more than thirty (30) patients who are
322 participating in the Medicaid program, the State Department of
323 Health shall revoke the license of the facility, at the time that
324 the department determines, after a hearing complying with due
325 process, that the facility has violated the written agreement.

326 (l) Provided that funds are specifically appropriated
327 therefor by the Legislature, the department may issue a
328 certificate of need to a rehabilitation hospital in Hinds County
329 for the construction of a sixty-bed long-term care nursing
330 facility dedicated to the care and treatment of persons with
331 severe disabilities including persons with spinal cord and
332 closed-head injuries and ventilator-dependent patients. The
333 provision of Section 41-7-193(1) regarding substantial compliance
334 with projection of need as reported in the current State Health
335 Plan is hereby waived for the purpose of this paragraph.

336 (m) The State Department of Health may issue a
337 certificate of need to a county-owned hospital in the Second
338 Judicial District of Panola County for the conversion of not more
339 than seventy-two (72) hospital beds to nursing facility beds,
340 provided that the recipient of the certificate of need agrees in
341 writing that none of the beds at the nursing facility will be
342 certified for participation in the Medicaid program (Section
343 43-13-101 et seq.), and that no claim will be submitted for

344 Medicaid reimbursement in the nursing facility in any day or for
345 any patient in the nursing facility. This written agreement by
346 the recipient of the certificate of need shall be a condition of
347 the issuance of the certificate of need under this paragraph, and
348 the agreement shall be fully binding on any subsequent owner of
349 the nursing facility if the ownership of the nursing facility is
350 transferred at any time after the issuance of the certificate of
351 need. After this written agreement is executed, the Division of
352 Medicaid and the State Department of Health shall not certify any
353 of the beds in the nursing facility for participation in the
354 Medicaid program. If the nursing facility violates the terms of
355 the written agreement by admitting or keeping in the nursing
356 facility on a regular or continuing basis any patients who are
357 participating in the Medicaid program, the State Department of
358 Health shall revoke the license of the nursing facility, at the
359 time that the department determines, after a hearing complying
360 with due process, that the nursing facility has violated the
361 condition upon which the certificate of need was issued, as
362 provided in this paragraph and in the written agreement. If the
363 certificate of need authorized under this paragraph is not issued
364 within twelve (12) months after July 1, 2001, the department shall
365 deny the application for the certificate of need and shall not
366 issue the certificate of need at any time after the twelve-month
367 period, unless the issuance is contested. If the certificate of
368 need is issued and substantial construction of the nursing
369 facility beds has not commenced within eighteen (18) months after
370 July 1, 2001, the State Department of Health, after a hearing
371 complying with due process, shall revoke the certificate of need
372 if it is still outstanding, and the department shall not issue a
373 license for the nursing facility at any time after the
374 eighteen-month period. Provided, however, that if the issuance of
375 the certificate of need is contested, the department shall require

376 substantial construction of the nursing facility beds within six
377 (6) months after final adjudication on the issuance of the
378 certificate of need.

379 (n) The department may issue a certificate of need for
380 the new construction, addition or conversion of skilled nursing
381 facility beds in Madison County, provided that the recipient of
382 the certificate of need agrees in writing that the skilled nursing
383 facility will not at any time participate in the Medicaid program
384 (Section 43-13-101 et seq.) or admit or keep any patients in the
385 skilled nursing facility who are participating in the Medicaid
386 program. This written agreement by the recipient of the
387 certificate of need shall be fully binding on any subsequent owner
388 of the skilled nursing facility, if the ownership of the facility
389 is transferred at any time after the issuance of the certificate
390 of need. Agreement that the skilled nursing facility will not
391 participate in the Medicaid program shall be a condition of the
392 issuance of a certificate of need to any person under this
393 paragraph (n), and if such skilled nursing facility at any time
394 after the issuance of the certificate of need, regardless of the
395 ownership of the facility, participates in the Medicaid program or
396 admits or keeps any patients in the facility who are participating
397 in the Medicaid program, the State Department of Health shall
398 revoke the certificate of need, if it is still outstanding, and
399 shall deny or revoke the license of the skilled nursing facility,
400 at the time that the department determines, after a hearing
401 complying with due process, that the facility has failed to comply
402 with any of the conditions upon which the certificate of need was
403 issued, as provided in this paragraph and in the written agreement
404 by the recipient of the certificate of need. The total number of
405 nursing facility beds that may be authorized by any certificate of
406 need issued under this paragraph (n) shall not exceed sixty (60)
407 beds. If the certificate of need authorized under this paragraph

408 is not issued within twelve (12) months after July 1, 1998, the
409 department shall deny the application for the certificate of need
410 and shall not issue the certificate of need at any time after the
411 twelve-month period, unless the issuance is contested. If the
412 certificate of need is issued and substantial construction of the
413 nursing facility beds has not commenced within eighteen (18)
414 months after the effective date of July 1, 1998, the State
415 Department of Health, after a hearing complying with due process,
416 shall revoke the certificate of need if it is still outstanding,
417 and the department shall not issue a license for the nursing
418 facility at any time after the eighteen-month period. Provided,
419 however, that if the issuance of the certificate of need is
420 contested, the department shall require substantial construction
421 of the nursing facility beds within six (6) months after final
422 adjudication on the issuance of the certificate of need.

423 (o) The department may issue a certificate of need for
424 the new construction, addition or conversion of skilled nursing
425 facility beds in Leake County, provided that the recipient of the
426 certificate of need agrees in writing that the skilled nursing
427 facility will not at any time participate in the Medicaid program
428 (Section 43-13-101 et seq.) or admit or keep any patients in the
429 skilled nursing facility who are participating in the Medicaid
430 program. This written agreement by the recipient of the
431 certificate of need shall be fully binding on any subsequent owner
432 of the skilled nursing facility, if the ownership of the facility
433 is transferred at any time after the issuance of the certificate
434 of need. Agreement that the skilled nursing facility will not
435 participate in the Medicaid program shall be a condition of the
436 issuance of a certificate of need to any person under this
437 paragraph (o), and if such skilled nursing facility at any time
438 after the issuance of the certificate of need, regardless of the
439 ownership of the facility, participates in the Medicaid program or

440 admits or keeps any patients in the facility who are participating
441 in the Medicaid program, the State Department of Health shall
442 revoke the certificate of need, if it is still outstanding, and
443 shall deny or revoke the license of the skilled nursing facility,
444 at the time that the department determines, after a hearing
445 complying with due process, that the facility has failed to comply
446 with any of the conditions upon which the certificate of need was
447 issued, as provided in this paragraph and in the written agreement
448 by the recipient of the certificate of need. The total number of
449 nursing facility beds that may be authorized by any certificate of
450 need issued under this paragraph (o) shall not exceed sixty (60)
451 beds. If the certificate of need authorized under this paragraph
452 is not issued within twelve (12) months after July 1, 2001, the
453 department shall deny the application for the certificate of need
454 and shall not issue the certificate of need at any time after the
455 twelve-month period, unless the issuance is contested. If the
456 certificate of need is issued and substantial construction of the
457 nursing facility beds has not commenced within eighteen (18)
458 months after the effective date of July 1, 2001, the State
459 Department of Health, after a hearing complying with due process,
460 shall revoke the certificate of need if it is still outstanding,
461 and the department shall not issue a license for the nursing
462 facility at any time after the eighteen-month period. Provided,
463 however, that if the issuance of the certificate of need is
464 contested, the department shall require substantial construction
465 of the nursing facility beds within six (6) months after final
466 adjudication on the issuance of the certificate of need.

467 (p) The department may issue a certificate of need for
468 the construction of a municipally owned nursing facility within
469 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
470 beds, provided that the recipient of the certificate of need
471 agrees in writing that the skilled nursing facility will not at

472 any time participate in the Medicaid program (Section 43-13-101 et
473 seq.) or admit or keep any patients in the skilled nursing
474 facility who are participating in the Medicaid program. This
475 written agreement by the recipient of the certificate of need
476 shall be fully binding on any subsequent owner of the skilled
477 nursing facility, if the ownership of the facility is transferred
478 at any time after the issuance of the certificate of need.
479 Agreement that the skilled nursing facility will not participate
480 in the Medicaid program shall be a condition of the issuance of a
481 certificate of need to any person under this paragraph (p), and if
482 such skilled nursing facility at any time after the issuance of
483 the certificate of need, regardless of the ownership of the
484 facility, participates in the Medicaid program or admits or keeps
485 any patients in the facility who are participating in the Medicaid
486 program, the State Department of Health shall revoke the
487 certificate of need, if it is still outstanding, and shall deny or
488 revoke the license of the skilled nursing facility, at the time
489 that the department determines, after a hearing complying with due
490 process, that the facility has failed to comply with any of the
491 conditions upon which the certificate of need was issued, as
492 provided in this paragraph and in the written agreement by the
493 recipient of the certificate of need. The provision of Section
494 43-7-193(1) regarding substantial compliance of the projection of
495 need as reported in the current State Health Plan is waived for
496 the purposes of this paragraph. If the certificate of need
497 authorized under this paragraph is not issued within twelve (12)
498 months after July 1, 1998, the department shall deny the
499 application for the certificate of need and shall not issue the
500 certificate of need at any time after the twelve-month period,
501 unless the issuance is contested. If the certificate of need is
502 issued and substantial construction of the nursing facility beds
503 has not commenced within eighteen (18) months after July 1, 1998,

504 the State Department of Health, after a hearing complying with due
505 process, shall revoke the certificate of need if it is still
506 outstanding, and the department shall not issue a license for the
507 nursing facility at any time after the eighteen-month period.
508 Provided, however, that if the issuance of the certificate of need
509 is contested, the department shall require substantial
510 construction of the nursing facility beds within six (6) months
511 after final adjudication on the issuance of the certificate of
512 need.

513 (q) (i) Beginning on July 1, 1999, the State
514 Department of Health shall issue certificates of need during each
515 of the next four (4) fiscal years for the construction or
516 expansion of nursing facility beds or the conversion of other beds
517 to nursing facility beds in each county in the state having a need
518 for fifty (50) or more additional nursing facility beds, as shown
519 in the fiscal year 1999 State Health Plan, in the manner provided
520 in this paragraph (q). The total number of nursing facility beds
521 that may be authorized by any certificate of need authorized under
522 this paragraph (q) shall not exceed sixty (60) beds.

523 (ii) Subject to the provisions of subparagraph
524 (v), during each of the next four (4) fiscal years, the department
525 shall issue six (6) certificates of need for new nursing facility
526 beds, as follows: During fiscal years 2000, 2001 and 2002, one
527 (1) certificate of need shall be issued for new nursing facility
528 beds in the county in each of the four (4) Long-Term Care Planning
529 Districts designated in the fiscal year 1999 State Health Plan
530 that has the highest need in the district for those beds; and two
531 (2) certificates of need shall be issued for new nursing facility
532 beds in the two (2) counties from the state at large that have the
533 highest need in the state for those beds, when considering the
534 need on a statewide basis and without regard to the Long-Term Care
535 Planning Districts in which the counties are located. During

536 fiscal year 2003, one (1) certificate of need shall be issued for
537 new nursing facility beds in any county having a need for fifty
538 (50) or more additional nursing facility beds, as shown in the
539 fiscal year 1999 State Health Plan, that has not received a
540 certificate of need under this paragraph (q) during the three (3)
541 previous fiscal years. During fiscal year 2000, in addition to
542 the six (6) certificates of need authorized in this subparagraph,
543 the department also shall issue a certificate of need for new
544 nursing facility beds in Amite County and a certificate of need
545 for new nursing facility beds in Carroll County.

546 (iii) Subject to the provisions of subparagraph
547 (v), the certificate of need issued under subparagraph (ii) for
548 nursing facility beds in each Long-Term Care Planning District
549 during each fiscal year shall first be available for nursing
550 facility beds in the county in the district having the highest
551 need for those beds, as shown in the fiscal year 1999 State Health
552 Plan. If there are no applications for a certificate of need for
553 nursing facility beds in the county having the highest need for
554 those beds by the date specified by the department, then the
555 certificate of need shall be available for nursing facility beds
556 in other counties in the district in descending order of the need
557 for those beds, from the county with the second highest need to
558 the county with the lowest need, until an application is received
559 for nursing facility beds in an eligible county in the district.

560 (iv) Subject to the provisions of subparagraph
561 (v), the certificate of need issued under subparagraph (ii) for
562 nursing facility beds in the two (2) counties from the state at
563 large during each fiscal year shall first be available for nursing
564 facility beds in the two (2) counties that have the highest need
565 in the state for those beds, as shown in the fiscal year 1999
566 State Health Plan, when considering the need on a statewide basis
567 and without regard to the Long-Term Care Planning Districts in

568 which the counties are located. If there are no applications for
569 a certificate of need for nursing facility beds in either of the
570 two (2) counties having the highest need for those beds on a
571 statewide basis by the date specified by the department, then the
572 certificate of need shall be available for nursing facility beds
573 in other counties from the state at large in descending order of
574 the need for those beds on a statewide basis, from the county with
575 the second highest need to the county with the lowest need, until
576 an application is received for nursing facility beds in an
577 eligible county from the state at large.

578 (v) If a certificate of need is authorized to be
579 issued under this paragraph (q) for nursing facility beds in a
580 county on the basis of the need in the Long-Term Care Planning
581 District during any fiscal year of the four-year period, a
582 certificate of need shall not also be available under this
583 paragraph (q) for additional nursing facility beds in that county
584 on the basis of the need in the state at large, and that county
585 shall be excluded in determining which counties have the highest
586 need for nursing facility beds in the state at large for that
587 fiscal year. After a certificate of need has been issued under
588 this paragraph (q) for nursing facility beds in a county during
589 any fiscal year of the four-year period, a certificate of need
590 shall not be available again under this paragraph (q) for
591 additional nursing facility beds in that county during the
592 four-year period, and that county shall be excluded in determining
593 which counties have the highest need for nursing facility beds in
594 succeeding fiscal years.

595 (vi) If more than one (1) application is made for
596 a certificate of need for nursing home facility beds available
597 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
598 County, and one (1) of the applicants is a county-owned hospital
599 located in the county where the nursing facility beds are

600 available, the department shall give priority to the county-owned
601 hospital in granting the certificate of need if the following
602 conditions are met:

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

606 2. The county-owned hospital's qualifications
607 for the certificate of need, as shown in its application and as
608 determined by the department, are at least equal to the
609 qualifications of the other applicants for the certificate of
610 need.

611 (r) (i) Beginning on July 1, 1999, the State
612 Department of Health shall issue certificates of need during each
613 of the next two (2) fiscal years for the construction or expansion
614 of nursing facility beds or the conversion of other beds to
615 nursing facility beds in each of the four (4) Long-Term Care
616 Planning Districts designated in the fiscal year 1999 State Health
617 Plan, to provide care exclusively to patients with Alzheimer's
618 disease.

619 (ii) Not more than twenty (20) beds may be
620 authorized by any certificate of need issued under this paragraph
621 (r), and not more than a total of sixty (60) beds may be
622 authorized in any Long-Term Care Planning District by all
623 certificates of need issued under this paragraph (r). However,
624 the total number of beds that may be authorized by all
625 certificates of need issued under this paragraph (r) during any
626 fiscal year shall not exceed one hundred twenty (120) beds, and
627 the total number of beds that may be authorized in any Long-Term
628 Care Planning District during any fiscal year shall not exceed
629 forty (40) beds. Of the certificates of need that are issued for
630 each Long-Term Care Planning District during the next two (2)
631 fiscal years, at least one (1) shall be issued for beds in the

632 northern part of the district, at least one (1) shall be issued
633 for beds in the central part of the district, and at least one (1)
634 shall be issued for beds in the southern part of the district.

635 (iii) The State Department of Health, in
636 consultation with the Department of Mental Health and the Division
637 of Medicaid, shall develop and prescribe the staffing levels,
638 space requirements and other standards and requirements that must
639 be met with regard to the nursing facility beds authorized under
640 this paragraph (r) to provide care exclusively to patients with
641 Alzheimer's disease.

642 (s) The State Department of Health may issue a
643 certificate of need to a nonprofit skilled nursing facility using
644 the Green House model of skilled nursing care and located in Yazoo
645 City, Yazoo County, Mississippi, for the construction, expansion
646 or conversion of not more than nineteen (19) nursing facility
647 beds. For purposes of this paragraph (s), the provisions of
648 Section 41-7-193(1) requiring substantial compliance with the
649 projection of need as reported in the current State Health Plan
650 and the provisions of Section 41-7-197 requiring a formal
651 certificate of need hearing process are waived. There shall be no
652 prohibition or restrictions on participation in the Medicaid
653 program for the person receiving the certificate of need
654 authorized under this paragraph (s).

655 (t) The State Department of Health shall issue
656 certificates of need to the owner of a nursing facility in
657 operation at the time of Hurricane Katrina in Hancock County that
658 was not operational on December 31, 2005, because of damage
659 sustained from Hurricane Katrina to authorize the following: (i)
660 the construction of a new nursing facility in Harrison County;
661 (ii) the relocation of forty-nine (49) nursing facility beds from
662 the Hancock County facility to the new Harrison County facility;
663 (iii) the establishment of not more than twenty (20) non-Medicaid

664 nursing facility beds at the Hancock County facility; and (iv) the
665 establishment of not more than twenty (20) non-Medicaid beds at
666 the new Harrison County facility. The certificates of need that
667 authorize the non-Medicaid nursing facility beds under
668 subparagraphs (iii) and (iv) of this paragraph (t) shall be
669 subject to the following conditions: The owner of the Hancock
670 County facility and the new Harrison County facility must agree in
671 writing that no more than fifty (50) of the beds at the Hancock
672 County facility and no more than forty-nine (49) of the beds at
673 the Harrison County facility will be certified for participation
674 in the Medicaid program, and that no claim will be submitted for
675 Medicaid reimbursement for more than fifty (50) patients in the
676 Hancock County facility in any month, or for more than forty-nine
677 (49) patients in the Harrison County facility in any month, or for
678 any patient in either facility who is in a bed that is not
679 Medicaid-certified. This written agreement by the owner of the
680 nursing facilities shall be a condition of the issuance of the
681 certificates of need under this paragraph (t), and the agreement
682 shall be fully binding on any later owner or owners of either
683 facility if the ownership of either facility is transferred at any
684 time after the certificates of need are issued. After this
685 written agreement is executed, the Division of Medicaid and the
686 State Department of Health shall not certify more than fifty (50)
687 of the beds at the Hancock County facility or more than forty-nine
688 (49) of the beds at the Harrison County facility for participation
689 in the Medicaid program. If the Hancock County facility violates
690 the terms of the written agreement by admitting or keeping in the
691 facility on a regular or continuing basis more than fifty (50)
692 patients who are participating in the Medicaid program, or if the
693 Harrison County facility violates the terms of the written
694 agreement by admitting or keeping in the facility on a regular or
695 continuing basis more than forty-nine (49) patients who are

696 participating in the Medicaid program, the State Department of
697 Health shall revoke the license of the facility that is in
698 violation of the agreement, at the time that the department
699 determines, after a hearing complying with due process, that the
700 facility has violated the agreement.

701 (3) The State Department of Health may grant approval for
702 and issue certificates of need to any person proposing the new
703 construction of, addition to, conversion of beds of or expansion
704 of any health care facility defined in subparagraph (x)
705 (psychiatric residential treatment facility) of Section
706 41-7-173(h). The total number of beds which may be authorized by
707 such certificates of need shall not exceed three hundred
708 thirty-four (334) beds for the entire state.

709 (a) Of the total number of beds authorized under this
710 subsection, the department shall issue a certificate of need to a
711 privately-owned psychiatric residential treatment facility in
712 Simpson County for the conversion of sixteen (16) intermediate
713 care facility for the mentally retarded (ICF-MR) beds to
714 psychiatric residential treatment facility beds, provided that
715 facility agrees in writing that the facility shall give priority
716 for the use of those sixteen (16) beds to Mississippi residents
717 who are presently being treated in out-of-state facilities.

718 (b) Of the total number of beds authorized under this
719 subsection, the department may issue a certificate or certificates
720 of need for the construction or expansion of psychiatric
721 residential treatment facility beds or the conversion of other
722 beds to psychiatric residential treatment facility beds in Warren
723 County, not to exceed sixty (60) psychiatric residential treatment
724 facility beds, provided that the facility agrees in writing that
725 no more than thirty (30) of the beds at the psychiatric
726 residential treatment facility will be certified for participation
727 in the Medicaid program (Section 43-13-101 et seq.) for the use of

728 any patients other than those who are participating only in the
729 Medicaid program of another state, and that no claim will be
730 submitted to the Division of Medicaid for Medicaid reimbursement
731 for more than thirty (30) patients in the psychiatric residential
732 treatment facility in any day or for any patient in the
733 psychiatric residential treatment facility who is in a bed that is
734 not Medicaid-certified. This written agreement by the recipient
735 of the certificate of need shall be a condition of the issuance of
736 the certificate of need under this paragraph, and the agreement
737 shall be fully binding on any subsequent owner of the psychiatric
738 residential treatment facility if the ownership of the facility is
739 transferred at any time after the issuance of the certificate of
740 need. After this written agreement is executed, the Division of
741 Medicaid and the State Department of Health shall not certify more
742 than thirty (30) of the beds in the psychiatric residential
743 treatment facility for participation in the Medicaid program for
744 the use of any patients other than those who are participating
745 only in the Medicaid program of another state. If the psychiatric
746 residential treatment facility violates the terms of the written
747 agreement by admitting or keeping in the facility on a regular or
748 continuing basis more than thirty (30) patients who are
749 participating in the Mississippi Medicaid program, the State
750 Department of Health shall revoke the license of the facility, at
751 the time that the department determines, after a hearing complying
752 with due process, that the facility has violated the condition
753 upon which the certificate of need was issued, as provided in this
754 paragraph and in the written agreement.

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

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

791 violated the condition upon which the certificate of need was
792 issued, as provided in this paragraph and in the written
793 agreement.

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

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

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

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

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

853 (i) The department may issue certificates of need
854 to any person for any purpose described in this subsection,

855 provided that the hospital, psychiatric hospital or chemical
856 dependency hospital does not participate in the Medicaid program
857 (Section 43-13-101 et seq.) at the time of the application for the
858 certificate of need and the owner of the hospital, psychiatric
859 hospital or chemical dependency hospital agrees in writing that
860 the hospital, psychiatric hospital or chemical dependency hospital
861 will not at any time participate in the Medicaid program or admit
862 or keep any patients who are participating in the Medicaid program
863 in the hospital, psychiatric hospital or chemical dependency
864 hospital. This written agreement by the recipient of the
865 certificate of need shall be fully binding on any subsequent owner
866 of the hospital, psychiatric hospital or chemical dependency
867 hospital, if the ownership of the facility is transferred at any
868 time after the issuance of the certificate of need. Agreement
869 that the hospital, psychiatric hospital or chemical dependency
870 hospital will not participate in the Medicaid program shall be a
871 condition of the issuance of a certificate of need to any person
872 under this subparagraph * * * (i), and if such hospital,
873 psychiatric hospital or chemical dependency hospital at any time
874 after the issuance of the certificate of need, regardless of the
875 ownership of the facility, participates in the Medicaid program or
876 admits or keeps any patients in the hospital, psychiatric hospital
877 or chemical dependency hospital who are participating in the
878 Medicaid program, the State Department of Health shall revoke the
879 certificate of need, if it is still outstanding, and shall deny or
880 revoke the license of the hospital, psychiatric hospital or
881 chemical dependency hospital, at the time that the department
882 determines, after a hearing complying with due process, that the
883 hospital, psychiatric hospital or chemical dependency hospital has
884 failed to comply with any of the conditions upon which the
885 certificate of need was issued, as provided in this subparagraph

886 (i) and in the written agreement by the recipient of the
887 certificate of need.

888 (ii) The department may issue a certificate of
889 need for the conversion of existing beds in a county hospital in
890 Choctaw County from acute care beds to child/adolescent chemical
891 dependency beds. For purposes of this subparagraph (ii), the
892 provisions of Section 41-7-193(1) requiring substantial compliance
893 with the projection of need as reported in the current State
894 Health Plan is waived. The total number of beds that may be
895 authorized under authority of this subparagraph shall not exceed
896 twenty (20) beds. There shall be no prohibition or restrictions
897 on participation in the Medicaid program (Section 43-13-101 et
898 seq.) for the hospital receiving the certificate of need
899 authorized under this subparagraph * * * or for the beds converted
900 pursuant to the authority of that certificate of need.

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

915 If by January 1, 2002, there has been no significant
916 commencement of construction of the beds authorized under this
917 subparagraph * * * (iii), or no significant action taken to

918 convert existing beds to the beds authorized under this
919 subparagraph, then the certificate of need that was previously
920 issued under this subparagraph shall expire. If the previously
921 issued certificate of need expires, the department may accept
922 applications for issuance of another certificate of need for the
923 beds authorized under this subparagraph, and may issue a
924 certificate of need to authorize the construction, expansion or
925 conversion of the beds authorized under this subparagraph.

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

941 (v) The department may issue a certificate of need
942 to any county hospital located in Leflore County for the
943 construction or expansion of adult psychiatric beds or the
944 conversion of other beds to adult psychiatric beds, not to exceed
945 twenty (20) beds, provided that the recipient of the certificate
946 of need agrees in writing that the adult psychiatric beds will not
947 at any time be certified for participation in the Medicaid program
948 and that the hospital will not admit or keep any patients who are
949 participating in the Medicaid program in any of such adult

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

969 (vi) The department may issue a certificate or
970 certificates of need for the expansion of child psychiatric beds
971 or the conversion of other beds to child psychiatric beds at the
972 University of Mississippi Medical Center. For purposes of this
973 subparagraph * * * (vi), the provision of Section 41-7-193(1)
974 requiring substantial compliance with the projection of need as
975 reported in the current State Health Plan is waived. The total
976 number of beds that may be authorized under the authority of this
977 subparagraph * * * shall not exceed fifteen (15) beds. There
978 shall be no prohibition or restrictions on participation in the
979 Medicaid program (Section 43-13-101 et seq.) for the hospital
980 receiving the certificate of need authorized under this

981 subparagraph * * * or for the beds converted pursuant to the
982 authority of that certificate of need.

983 (b) From and after July 1, 1990, no hospital,
984 psychiatric hospital or chemical dependency hospital shall be
985 authorized to add any child/adolescent psychiatric or
986 child/adolescent chemical dependency beds or convert any beds of
987 another category to child/adolescent psychiatric or
988 child/adolescent chemical dependency beds without a certificate of
989 need under the authority of subsection (1)(c) of this section.

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

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

1013 any patients in the facility who are participating in the Medicaid
1014 program, the State Department of Health shall revoke the
1015 certificate of need, if it is still outstanding, and shall deny or
1016 revoke the license of the long-term care hospital, at the time
1017 that the department determines, after a hearing complying with due
1018 process, that the facility has failed to comply with any of the
1019 conditions upon which the certificate of need was issued, as
1020 provided in this subsection and in the written agreement by the
1021 recipient of the certificate of need. For purposes of this
1022 subsection, the provision of Section 41-7-193(1) requiring
1023 substantial compliance with the projection of need as reported in
1024 the current State Health Plan is hereby waived.

1025 (7) The State Department of Health may issue a certificate
1026 of need to any hospital in the state to utilize a portion of its
1027 beds for the "swing-bed" concept. Any such hospital must be in
1028 conformance with the federal regulations regarding such swing-bed
1029 concept at the time it submits its application for a certificate
1030 of need to the State Department of Health, except that such
1031 hospital may have more licensed beds or a higher average daily
1032 census (ADC) than the maximum number specified in federal
1033 regulations for participation in the swing-bed program. Any
1034 hospital meeting all federal requirements for participation in the
1035 swing-bed program which receives such certificate of need shall
1036 render services provided under the swing-bed concept to any
1037 patient eligible for Medicare (Title XVIII of the Social Security
1038 Act) who is certified by a physician to be in need of such
1039 services, and no such hospital shall permit any patient who is
1040 eligible for both Medicaid and Medicare or eligible only for
1041 Medicaid to stay in the swing beds of the hospital for more than
1042 thirty (30) days per admission unless the hospital receives prior
1043 approval for such patient from the Division of Medicaid, Office of
1044 the Governor. Any hospital having more licensed beds or a higher

1045 average daily census (ADC) than the maximum number specified in
1046 federal regulations for participation in the swing-bed program
1047 which receives such certificate of need shall develop a procedure
1048 to insure that before a patient is allowed to stay in the swing
1049 beds of the hospital, there are no vacant nursing home beds
1050 available for that patient located within a fifty-mile radius of
1051 the hospital. When any such hospital has a patient staying in the
1052 swing beds of the hospital and the hospital receives notice from a
1053 nursing home located within such radius that there is a vacant bed
1054 available for that patient, the hospital shall transfer the
1055 patient to the nursing home within a reasonable time after receipt
1056 of the notice. Any hospital which is subject to the requirements
1057 of the two (2) preceding sentences of this subsection may be
1058 suspended from participation in the swing-bed program for a
1059 reasonable period of time by the State Department of Health if the
1060 department, after a hearing complying with due process, determines
1061 that the hospital has failed to comply with any of those
1062 requirements.

1063 (8) The Department of Health shall not grant approval for or
1064 issue a certificate of need to any person proposing the new
1065 construction of, addition to or expansion of a health care
1066 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1067 except as hereinafter provided: The department may issue a
1068 certificate of need to a nonprofit corporation located in Madison
1069 County, Mississippi, for the construction, expansion or conversion
1070 of not more than twenty (20) beds in a community living program
1071 for developmentally disabled adults in a facility as defined in
1072 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1073 subsection (8), the provisions of Section 41-7-193(1) requiring
1074 substantial compliance with the projection of need as reported in
1075 the current State Health Plan and the provisions of Section
1076 41-7-197 requiring a formal certificate of need hearing process

1077 are waived. There shall be no prohibition or restrictions on
1078 participation in the Medicaid program for the person receiving the
1079 certificate of need authorized under this subsection (8).

1080 (9) The Department of Health shall not grant approval for or
1081 issue a certificate of need to any person proposing the
1082 establishment of, or expansion of the currently approved territory
1083 of, or the contracting to establish a home office, subunit or
1084 branch office within the space operated as a health care facility
1085 as defined in Section 41-7-173(h)(i) through (viii) by a health
1086 care facility as defined in subparagraph (ix) of Section
1087 41-7-173(h).

1088 (10) Health care facilities owned and/or operated by the
1089 state or its agencies are exempt from the restraints in this
1090 section against issuance of a certificate of need if such addition
1091 or expansion consists of repairing or renovation necessary to
1092 comply with the state licensure law. This exception shall not
1093 apply to the new construction of any building by such state
1094 facility. This exception shall not apply to any health care
1095 facilities owned and/or operated by counties, municipalities,
1096 districts, unincorporated areas, other defined persons, or any
1097 combination thereof.

1098 (11) The new construction, renovation or expansion of or
1099 addition to any health care facility defined in subparagraph (ii)
1100 (psychiatric hospital), subparagraph (iv) (skilled nursing
1101 facility), subparagraph (vi) (intermediate care facility),
1102 subparagraph (viii) (intermediate care facility for the mentally
1103 retarded) and subparagraph (x) (psychiatric residential treatment
1104 facility) of Section 41-7-173(h) which is owned by the State of
1105 Mississippi and under the direction and control of the State
1106 Department of Mental Health, and the addition of new beds or the
1107 conversion of beds from one category to another in any such
1108 defined health care facility which is owned by the State of

1109 Mississippi and under the direction and control of the State
1110 Department of Mental Health, shall not require the issuance of a
1111 certificate of need under Section 41-7-171 et seq.,
1112 notwithstanding any provision in Section 41-7-171 et seq. to the
1113 contrary.

1114 (12) The new construction, renovation or expansion of or
1115 addition to any veterans homes or domiciliaries for eligible
1116 veterans of the State of Mississippi as authorized under Section
1117 35-1-19 shall not require the issuance of a certificate of need,
1118 notwithstanding any provision in Section 41-7-171 et seq. to the
1119 contrary.

1120 (13) The new construction of a nursing facility or nursing
1121 facility beds or the conversion of other beds to nursing facility
1122 beds shall not require the issuance of a certificate of need,
1123 notwithstanding any provision in Section 41-7-171 et seq. to the
1124 contrary, if the conditions of this subsection are met.

1125 (a) Before any construction or conversion may be
1126 undertaken without a certificate of need, the owner of the nursing
1127 facility, in the case of an existing facility, or the applicant to
1128 construct a nursing facility, in the case of new construction,
1129 first must file a written notice of intent and sign a written
1130 agreement with the State Department of Health that the entire
1131 nursing facility will not at any time participate in or have any
1132 beds certified for participation in the Medicaid program (Section
1133 43-13-101 et seq.), will not admit or keep any patients in the
1134 nursing facility who are participating in the Medicaid program,
1135 and will not submit any claim for Medicaid reimbursement for any
1136 patient in the facility. This written agreement by the owner or
1137 applicant shall be a condition of exercising the authority under
1138 this subsection without a certificate of need, and the agreement
1139 shall be fully binding on any subsequent owner of the nursing
1140 facility if the ownership of the facility is transferred at any

1141 time after the agreement is signed. After the written agreement
1142 is signed, the Division of Medicaid and the State Department of
1143 Health shall not certify any beds in the nursing facility for
1144 participation in the Medicaid program. If the nursing facility
1145 violates the terms of the written agreement by participating in
1146 the Medicaid program, having any beds certified for participation
1147 in the Medicaid program, admitting or keeping any patient in the
1148 facility who is participating in the Medicaid program, or
1149 submitting any claim for Medicaid reimbursement for any patient in
1150 the facility, the State Department of Health shall revoke the
1151 license of the nursing facility at the time that the department
1152 determines, after a hearing complying with due process, that the
1153 facility has violated the terms of the written agreement.

1154 (b) For the purposes of this subsection, participation
1155 in the Medicaid program by a nursing facility includes Medicaid
1156 reimbursement of coinsurance and deductibles for recipients who
1157 are qualified Medicare beneficiaries and/or those who are dually
1158 eligible. Any nursing facility exercising the authority under
1159 this subsection may not bill or submit a claim to the Division of
1160 Medicaid for services to qualified Medicare beneficiaries and/or
1161 those who are dually eligible.

1162 (c) The new construction of a nursing facility or
1163 nursing facility beds or the conversion of other beds to nursing
1164 facility beds described in this section must be either a part of a
1165 completely new continuing care retirement community, as described
1166 in the latest edition of the Mississippi State Health Plan, or an
1167 addition to existing personal care and independent living
1168 components, and so that the completed project will be a continuing
1169 care retirement community, containing (i) independent living
1170 accommodations, (ii) personal care beds, and (iii) the nursing
1171 home facility beds. The three (3) components must be located on a
1172 single site and be operated as one (1) inseparable facility. The

1173 nursing facility component must contain a minimum of thirty (30)
1174 beds. Any nursing facility beds authorized by this section will
1175 not be counted against the bed need set forth in the State Health
1176 Plan, as identified in Section 41-7-171 et seq.

1177 This subsection (13) shall stand repealed from and after July
1178 1, 2005.

1179 (14) The State Department of Health shall issue a
1180 certificate of need to any hospital which is currently licensed
1181 for two hundred fifty (250) or more acute care beds and is located
1182 in any general hospital service area not having a comprehensive
1183 cancer center, for the establishment and equipping of such a
1184 center which provides facilities and services for outpatient
1185 radiation oncology therapy, outpatient medical oncology therapy,
1186 and appropriate support services including the provision of
1187 radiation therapy services. The provision of Section 41-7-193(1)
1188 regarding substantial compliance with the projection of need as
1189 reported in the current State Health Plan is waived for the
1190 purpose of this subsection.

1191 (15) The State Department of Health may authorize the
1192 transfer of hospital beds, not to exceed sixty (60) beds, from the
1193 North Panola Community Hospital to the South Panola Community
1194 Hospital. The authorization for the transfer of those beds shall
1195 be exempt from the certificate of need review process.

1196 (16) The State Department of Health shall issue any
1197 certificates of need necessary for Mississippi State University
1198 and a public or private health care provider to jointly acquire
1199 and operate a linear accelerator and a magnetic resonance imaging
1200 unit. Those certificates of need shall cover all capital
1201 expenditures related to the project between Mississippi State
1202 University and the health care provider, including, but not
1203 limited to, the acquisition of the linear accelerator, the
1204 magnetic resonance imaging unit and other radiological modalities;

1205 the offering of linear accelerator and magnetic resonance imaging
1206 services; and the cost of construction of facilities in which to
1207 locate these services. The linear accelerator and the magnetic
1208 resonance imaging unit shall be (a) located in the City of
1209 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1210 Mississippi State University and the public or private health care
1211 provider selected by Mississippi State University through a
1212 request for proposals (RFP) process in which Mississippi State
1213 University selects, and the Board of Trustees of State
1214 Institutions of Higher Learning approves, the health care provider
1215 that makes the best overall proposal; (c) available to Mississippi
1216 State University for research purposes two-thirds (2/3) of the
1217 time that the linear accelerator and magnetic resonance imaging
1218 unit are operational; and (d) available to the public or private
1219 health care provider selected by Mississippi State University and
1220 approved by the Board of Trustees of State Institutions of Higher
1221 Learning one-third (1/3) of the time for clinical, diagnostic and
1222 treatment purposes. For purposes of this subsection, the
1223 provisions of Section 41-7-193(1) requiring substantial compliance
1224 with the projection of need as reported in the current State
1225 Health Plan are waived.

1226 (17) Nothing in this section or in any other provision of
1227 Section 41-7-171 et seq. shall prevent any nursing facility from
1228 designating an appropriate number of existing beds in the facility
1229 as beds for providing care exclusively to patients with
1230 Alzheimer's disease.

1231 **SECTION 2.** This act shall take effect and be in force from
1232 and after July 1, 2007, and shall stand repealed on June 30, 2007.

**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; AND FOR
5 RELATED PURPOSES.