

**Adopted
AMENDMENT NO 1 TO AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2764

**BY: Senator(s) Flowers, Lee (35th), White, Hyde-Smith,
King, Ross, Fillingane, Kirby, Harden, Carmichael,
Horn**

1 **AMEND by striking Section 16 and substituting in lieu thereof**
2 **the following:**

3 **SECTION *.** Section 41-7-173, Mississippi Code of 1972, is
4 amended as follows:

5 41-7-173. For the purposes of Section 41-7-171 et seq., the
6 following words shall have the meanings ascribed herein, unless
7 the context otherwise requires:

8 (a) "Affected person" means (i) the applicant; (ii) a
9 person residing within the geographic area to be served by the
10 applicant's proposal; (iii) a person who regularly uses health
11 care facilities or HMO's located in the geographic area of the
12 proposal which provide similar service to that which is proposed;
13 (iv) health care facilities and HMO's which have, prior to receipt
14 of the application under review, formally indicated an intention
15 to provide service similar to that of the proposal being
16 considered at a future date; (v) third-party payers who reimburse
17 health care facilities located in the geographical area of the
18 proposal; or (vi) any agency that establishes rates for health
19 care services or HMO's located in the geographic area of the
20 proposal.

21 (b) "Certificate of need" means a written order of the
22 State Department of Health setting forth the affirmative finding
23 that a proposal in prescribed application form, sufficiently
24 satisfies the plans, standards and criteria prescribed for such
25 service or other project by Section 41-7-171 et seq., and by rules
26 and regulations promulgated thereunder by the State Department of
27 Health.

28 (c) (i) "Capital expenditure," when pertaining to
29 defined major medical equipment, shall mean an expenditure which,
30 under generally accepted accounting principles consistently
31 applied, is not properly chargeable as an expense of operation and
32 maintenance and which is incurred in performing a new clinical
33 health service or the expansion of a clinical health service
34 listed in Section 41-7-191(1)(d), including, but not limited to,
35 major medical equipment.

36 (ii) "Capital expenditure," when pertaining to
37 other than major medical equipment, shall mean any expenditure
38 which under generally accepted accounting principles consistently
39 applied is not properly chargeable as an expense of operation and
40 maintenance and which exceeds Two Million Dollars (\$2,000,000.00)
41 for a clinical health service and which exceeds Five Million
42 Dollars (\$5,000,000.00) in nonclinical expenditures, as defined in
43 Section 1 of this act, and indexed annually for inflation by the
44 State Department of Health. Said minimum expenditure limits shall
45 be indexed by the State Department of Health for each twelve-month
46 period beginning twelve (12) months after July 1, 2007, to reflect
47 the changes in the preceding twelve-month period in the United
48 States Department of Commerce Bureau of Census implicit price
49 deflator cost index for construction.

50 (iii) A "capital expenditure" shall include the
51 acquisition, whether by lease, sufferance, gift, devise, legacy,
52 settlement of a trust or other means, of any facility or part

53 thereof, or equipment for a facility, the expenditure for which
54 would have been considered a capital expenditure if acquired by
55 purchase. Transactions which are separated in time but are
56 planned to be undertaken within twelve (12) months of each other
57 and are components of an overall plan for meeting patient care
58 objectives shall, for purposes of this definition, be viewed in
59 their entirety without regard to their timing.

60 (iv) In those instances where a health care
61 facility or other provider of clinical health services proposes to
62 provide a service in which the capital expenditure for major
63 medical equipment or other than major medical equipment or a
64 combination of the two (2) may have been split between separate
65 parties, the total capital expenditure required to provide the
66 proposed service shall be considered in determining the necessity
67 of certificate of need review and in determining the appropriate
68 certificate of need review fee to be paid. The capital
69 expenditure associated with facilities and equipment to provide
70 services in Mississippi shall be considered regardless of where
71 the capital expenditure was made, in state or out of state, and
72 regardless of the domicile of the party making the capital
73 expenditure, in state or out of state.

74 (d) "Change of ownership" includes, but is not limited
75 to, inter vivos gifts, purchases, transfers, lease arrangements,
76 cash and/or stock transactions or other comparable arrangements
77 whenever any person or entity acquires or controls a majority
78 interest of the facility or service. Changes of ownership from
79 partnerships, single proprietorships or corporations to another
80 form of ownership are specifically included. However, "change of
81 ownership" shall not include any inherited interest acquired as a
82 result of a testamentary instrument or under the laws of descent
83 and distribution of the State of Mississippi.

84 (e) "Clinical health service" means a single
85 diagnostic, therapeutic, rehabilitative, preventive or palliative
86 procedure or series of such procedures that may be separately
87 identified for billing and accounting purposes.

88 (f) "Commencement of construction" means that all of
89 the following have been completed with respect to a proposal or
90 project proposing construction, renovating, remodeling or
91 alteration:

92 (i) A legally binding written contract has been
93 consummated by the proponent and a lawfully licensed contractor to
94 construct and/or complete the intent of the proposal within a
95 specified period of time in accordance with final architectural
96 plans which have been approved by the licensing authority of the
97 State Department of Health;

98 (ii) Any and all permits and/or approvals deemed
99 lawfully necessary by all authorities with responsibility for such
100 have been secured; and

101 (iii) Actual bona fide undertaking of the subject
102 proposal has commenced, and a progress payment of at least one
103 percent (1%) of the total cost price of the contract has been paid
104 to the contractor by the proponent, and the requirements of this
105 paragraph (f) have been certified to in writing by the State
106 Department of Health.

107 Force account expenditures, such as deposits, securities,
108 bonds, et cetera, may, in the discretion of the State Department
109 of Health, be excluded from any or all of the provisions of
110 defined commencement of construction.

111 (g) "Consumer" means an individual who is not a
112 provider of health care as defined in paragraph (r) of this
113 section.

114 (h) "Develop," when used in connection with clinical
115 health services, means to undertake those activities which, on

116 their completion, will result in the offering of a new
117 institutional health service or the incurring of a financial
118 obligation as defined under applicable state law in relation to
119 the offering of such services.

120 (i) "Health care facility" includes hospitals,
121 psychiatric hospitals, chemical dependency hospitals, skilled
122 nursing facilities, end stage renal disease (ESRD) facilities,
123 including freestanding hemodialysis units, intermediate care
124 facilities, ambulatory surgical facilities, intermediate care
125 facilities for the mentally retarded, home health agencies,
126 psychiatric residential treatment facilities, pediatric skilled
127 nursing facilities, long-term care hospitals, comprehensive
128 medical rehabilitation facilities, including facilities owned or
129 operated by the state or a political subdivision or
130 instrumentality of the state, but does not include Christian
131 Science sanatoriums operated or listed and certified by the First
132 Church of Christ, Scientist, Boston, Massachusetts. This
133 definition shall not apply to facilities for the private practice,
134 either independently or by incorporated medical groups, of
135 physicians, dentists or health care professionals except where
136 such facilities are an integral part of an institutional health
137 service. The various health care facilities listed in this
138 paragraph shall be defined as follows:

139 (i) "Hospital" means an institution which is
140 primarily engaged in providing to inpatients, by or under the
141 supervision of physicians, diagnostic services and therapeutic
142 services for medical diagnosis, treatment and care of injured,
143 disabled or sick persons, or rehabilitation services for the
144 rehabilitation of injured, disabled or sick persons. Such term
145 does not include psychiatric hospitals.

146 (ii) "Psychiatric hospital" means an institution
147 which is primarily engaged in providing to inpatients, by or under

148 the supervision of a physician, psychiatric services for the
149 diagnosis and treatment of mentally ill persons.

150 (iii) "Chemical dependency hospital" means an
151 institution which is primarily engaged in providing to inpatients,
152 by or under the supervision of a physician, medical and related
153 services for the diagnosis and treatment of chemical dependency
154 such as alcohol and drug abuse.

155 (iv) "Skilled nursing facility" means an
156 institution or a distinct part of an institution which is
157 primarily engaged in providing to inpatients skilled nursing care
158 and related services for patients who require medical or nursing
159 care or rehabilitation services for the rehabilitation of injured,
160 disabled or sick persons.

161 (v) "End stage renal disease (ESRD) facilities"
162 means kidney disease treatment centers, which includes
163 freestanding hemodialysis units and limited care facilities. The
164 term "limited care facility" generally refers to an
165 off-hospital-premises facility, regardless of whether it is
166 provider or nonprovider operated, which is engaged primarily in
167 furnishing maintenance hemodialysis services to stabilized
168 patients.

169 (vi) "Intermediate care facility" means an
170 institution which provides, on a regular basis, health-related
171 care and services to individuals who do not require the degree of
172 care and treatment which a hospital or skilled nursing facility is
173 designed to provide, but who, because of their mental or physical
174 condition, require health-related care and services (above the
175 level of room and board).

176 (vii) "Ambulatory surgical facility" means a
177 facility primarily organized or established for the purpose of
178 performing surgery for outpatients and is a separate identifiable
179 legal entity from any other health care facility. Such term does

180 not include the offices of private physicians or dentists, whether
181 for individual or group practice, and does not include any
182 abortion facility as defined in Section 41-75-1(e).

183 (viii) "Intermediate care facility for the
184 mentally retarded" means an intermediate care facility that
185 provides health or rehabilitative services in a planned program of
186 activities to the mentally retarded, also including, but not
187 limited to, cerebral palsy and other conditions covered by the
188 Federal Developmentally Disabled Assistance and Bill of Rights
189 Act, Public Law 94-103.

190 (ix) "Home health agency" means a public or
191 privately owned agency or organization, or a subdivision of such
192 an agency or organization, properly authorized to conduct business
193 in Mississippi, which is primarily engaged in providing to
194 individuals at the written direction of a licensed physician, in
195 the individual's place of residence, skilled nursing services
196 provided by or under the supervision of a registered nurse
197 licensed to practice in Mississippi, and one or more of the
198 following services or items:

- 199 1. Physical, occupational or speech therapy;
- 200 2. Medical social services;
- 201 3. Part-time or intermittent services of a
202 home health aide;
- 203 4. Other services as approved by the
204 licensing agency for home health agencies;
- 205 5. Medical supplies, other than drugs and
206 biologicals, and the use of medical appliances; or
- 207 6. Medical services provided by an intern or
208 resident-in-training at a hospital under a teaching program of
209 such hospital.

210 Further, all skilled nursing services and those services
211 listed in items 1 through 4 of this subparagraph (ix) must be

212 provided directly by the licensed home health agency. For
213 purposes of this subparagraph, "directly" means either through an
214 agency employee or by an arrangement with another individual not
215 defined as a health care facility.

216 This subparagraph (ix) shall not apply to health care
217 facilities which had contracts for the above services with a home
218 health agency on January 1, 1990.

219 (x) "Psychiatric residential treatment facility"
220 means any nonhospital establishment with permanent licensed
221 facilities which provides a twenty-four-hour program of care by
222 qualified therapists, including, but not limited to, duly licensed
223 mental health professionals, psychiatrists, psychologists,
224 psychotherapists and licensed certified social workers, for
225 emotionally disturbed children and adolescents referred to such
226 facility by a court, local school district or by the Department of
227 Human Services, who are not in an acute phase of illness requiring
228 the services of a psychiatric hospital, and are in need of such
229 restorative treatment services. For purposes of this paragraph,
230 the term "emotionally disturbed" means a condition exhibiting one
231 or more of the following characteristics over a long period of
232 time and to a marked degree, which adversely affects educational
233 performance:

- 234 1. An inability to learn which cannot be
235 explained by intellectual, sensory or health factors;
- 236 2. An inability to build or maintain
237 satisfactory relationships with peers and teachers;
- 238 3. Inappropriate types of behavior or
239 feelings under normal circumstances;
- 240 4. A general pervasive mood of unhappiness or
241 depression; or
- 242 5. A tendency to develop physical symptoms or
243 fears associated with personal or school problems. An

244 establishment furnishing primarily domiciliary care is not within
245 this definition.

246 (xi) "Pediatric skilled nursing facility" means an
247 institution or a distinct part of an institution that is primarily
248 engaged in providing to inpatients skilled nursing care and
249 related services for persons under twenty-one (21) years of age
250 who require medical or nursing care or rehabilitation services for
251 the rehabilitation of injured, disabled or sick persons.

252 (xii) "Long-term care hospital" means a
253 freestanding, Medicare-certified hospital that has an average
254 length of inpatient stay greater than twenty-five (25) days, which
255 is primarily engaged in providing chronic or long-term medical
256 care to patients who do not require more than three (3) hours of
257 rehabilitation or comprehensive rehabilitation per day, and has a
258 transfer agreement with an acute care medical center and a
259 comprehensive medical rehabilitation facility. Long-term care
260 hospitals shall not use rehabilitation, comprehensive medical
261 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
262 nursing home, skilled nursing facility, or sub-acute care facility
263 in association with its name.

264 (xiii) "Comprehensive medical rehabilitation
265 facility" means a hospital or hospital unit that is licensed
266 and/or certified as a comprehensive medical rehabilitation
267 facility which provides specialized programs that are accredited
268 by the Commission on Accreditation of Rehabilitation Facilities
269 and supervised by a physician board certified or board eligible in
270 Physiatry or other doctor of medicine or osteopathy with at least
271 two (2) years of training in the medical direction of a
272 comprehensive rehabilitation program that:

273 1. Includes evaluation and treatment of
274 individuals with physical disabilities;

- 275 2. Emphasizes education and training of
276 individuals with disabilities;
- 277 3. Incorporates at least the following core
278 disciplines:
- 279 (i) Physical Therapy;
 - 280 (ii) Occupational Therapy;
 - 281 (iii) Speech and Language Therapy;
 - 282 (iv) Rehabilitation Nursing; and
- 283 4. Incorporates at least three (3) of the
284 following disciplines:
- 285 (i) Psychology;
 - 286 (ii) Audiology;
 - 287 (iii) Respiratory Therapy;
 - 288 (iv) Therapeutic Recreation;
 - 289 (v) Orthotics;
 - 290 (vi) Prosthetics;
 - 291 (vii) Special Education;
 - 292 (viii) Vocational Rehabilitation;
 - 293 (ix) Psychotherapy;
 - 294 (x) Social Work;
 - 295 (xi) Rehabilitation Engineering.

296 These specialized programs include, but are not limited to:
297 spinal cord injury programs, head injury programs and infant and
298 early childhood development programs.

299 (i) "Health maintenance organization" or "HMO" means a
300 public or private organization organized under the laws of this
301 state or the federal government which:

302 (i) Provides or otherwise makes available to
303 enrolled participants health care services, including
304 substantially the following basic health care services: usual
305 physician services, hospitalization, laboratory, x-ray, emergency
306 and preventive services, and out-of-area coverage;

307 (ii) Is compensated (except for copayments) for
308 the provision of the basic health care services listed in
309 subparagraph (i) of this paragraph to enrolled participants on a
310 predetermined basis; and

311 (iii) Provides physician services primarily:

312 1. Directly through physicians who are either
313 employees or partners of such organization; or

314 2. Through arrangements with individual
315 physicians or one or more groups of physicians (organized on a
316 group practice or individual practice basis).

317 (k) "Health service area" means a geographic area of
318 the state designated in the State Health Plan as the area to be
319 used in planning for specified health facilities and services and
320 to be used when considering certificate of need applications to
321 provide health facilities and services.

322 * * *

323 (l) "Institutional health services" shall mean clinical
324 health services provided in or through health care facilities and
325 shall include the entities in or through which such services are
326 provided.

327 (m) "Major medical equipment" means medical equipment
328 designed for providing medical or any health-related service
329 subject to licensure under this chapter or any clinical health
330 service listed in Section 41-7-191(1)(d) as requiring a
331 certificate of need * * *. However, this definition shall not be
332 applicable to clinical laboratories if they are determined by the
333 State Department of Health to be independent of any physician's
334 office, hospital or other health care facility or otherwise not so
335 defined by federal or state law, or rules and regulations
336 promulgated thereunder.

337 (n) "Nonclinical expenditures" means any expenditure
338 for:

339 (i) Repairs, renovations, alterations and
340 improvements to the physical plant of a health facility which do
341 not result in a change in beds, a change in a listed clinical
342 health service, or the addition of major medical equipment, and do
343 not constitute the replacement or relocation of a health facility,
344 or

345 (ii) Projects which do not involve the provision
346 of clinical health services or direct patient care, including, but
347 not limited to, the following:

- 348 1. Administrative offices;
- 349 2. Energy conservation;
- 350 3. Heating and/or air conditioning systems;
- 351 4. Management information systems;
- 352 5. Medical offices;
- 353 6. Parking facilities;
- 354 7. Telecommunications or telephone systems;

355 or

- 356 8. Ventilation systems.

357 (o) "State Department of Health" shall mean the state
358 agency created under Section 41-3-15, which shall be considered to
359 be the State Health Planning and Development Agency, as defined in
360 paragraph (u) of this section.

361 (p) "Offer," when used in connection with clinical
362 health services, means that it has been determined by the State
363 Department of Health that the health care facility is capable of
364 providing specified health services.

365 (q) "Person" means an individual, a trust or estate,
366 partnership, corporation (including associations, joint stock
367 companies and insurance companies), the state or a political
368 subdivision or instrumentality of the state.

369 (r) "Provider" shall mean any person who is a provider
370 or representative of a provider of health care services requiring

371 a certificate of need under Section 41-7-171 et seq., or who has
372 any financial or indirect interest in any provider of services.

373 (s) "Secretary" means the Secretary of Health and Human
374 Services, and any officer or employee of the Department of Health
375 and Human Services to whom the authority involved has been
376 delegated.

377 (t) "State Health Plan" means the sole and official
378 statewide health plan for Mississippi which identifies priority
379 state health needs and establishes standards and criteria for
380 health-related activities which require certificate of need review
381 in compliance with Section 41-7-191.

382 (u) "State Health Planning and Development Agency"
383 means the agency of state government designated to perform health
384 planning and resource development programs for the State of
385 Mississippi.

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

388 41-7-191. (1) No person shall engage in any of the
389 following activities without obtaining the required certificate of
390 need:

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

395 (b) The relocation of a health care facility or portion
396 thereof, or major medical equipment, unless such relocation of a
397 health care facility or portion thereof, or major medical
398 equipment, which does not involve a capital expenditure by or on
399 behalf of a health care facility, is within five thousand two
400 hundred eighty (5,280) feet from the main entrance of the health
401 care facility;

402 (c) Any change in the existing bed complement of any
403 health care facility through the addition or conversion of any
404 beds or the alteration, modernizing or refurbishing of any unit or
405 department in which the beds may be located; however, if a health
406 care facility has voluntarily delicensed some of its existing bed
407 complement, it may later relicense some or all of its delicensed
408 beds without the necessity of having to acquire a certificate of
409 need. The State Department of Health shall maintain a record of
410 the delicensing health care facility and its voluntarily
411 delicensed beds and continue counting those beds as part of the
412 state's total bed count for health care planning purposes. If a
413 health care facility that has voluntarily delicensed some of its
414 beds later desires to relicense some or all of its voluntarily
415 delicensed beds, it shall notify the State Department of Health of
416 its intent to increase the number of its licensed beds. The State
417 Department of Health shall survey the health care facility within
418 thirty (30) days of that notice and, if appropriate, issue the
419 health care facility a new license reflecting the new contingent
420 of beds. However, in no event may a health care facility that has
421 voluntarily delicensed some of its beds be reissued a license to
422 operate beds in excess of its bed count before the voluntary
423 delicensure of some of its beds without seeking certificate of
424 need approval;

425 (d) Offering of the following clinical health services
426 if those services have not been provided on a regular basis by the
427 proposed provider of such services within the period of twelve
428 (12) months prior to the time such services would be offered:

- 429 (i) Open heart surgery services;
- 430 (ii) Cardiac catheterization services;
- 431 (iii) Comprehensive inpatient rehabilitation
432 services;
- 433 (iv) Licensed psychiatric services;

434 (v) Licensed chemical dependency services;
435 (vi) Radiation therapy services;
436 (vii) Diagnostic imaging services of an invasive
437 nature, i.e. invasive digital angiography;
438 (viii) Nursing home care as defined in
439 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(i);
440 (ix) Home health services;
441 (x) Swing-bed services;
442 (xi) Ambulatory surgical services;
443 (xii) Magnetic resonance imaging services;
444 (xiii) [Deleted]
445 (xiv) Long-term care hospital services;
446 (xv) Positron Emission Tomography/Computerized
447 Tomography (PET/CT) services;
448 (e) The relocation of one or more clinical health
449 services from one physical facility or site to another physical
450 facility or site, unless such relocation, which does not involve a
451 capital expenditure by or on behalf of a health care facility, (i)
452 is to a physical facility or site within five thousand two hundred
453 eighty (5,280) feet from the main entrance of the health care
454 facility where the health care service is located, or (ii) is the
455 result of an order of a court of appropriate jurisdiction or a
456 result of pending litigation in such court, or by order of the
457 State Department of Health, or by order of any other agency or
458 legal entity of the state, the federal government, or any
459 political subdivision of either, whose order is also approved by
460 the State Department of Health;
461 (f) The acquisition or otherwise control of any major
462 medical equipment for the provision of medical services, including
463 the conversion of mobile services to fixed site services;
464 provided, however, (i) the acquisition of any major medical
465 equipment used only for research purposes, and (ii) the

466 acquisition of major medical equipment to replace medical
467 equipment for which a facility is already providing medical
468 services and for which the State Department of Health has been
469 notified before the date of such acquisition shall be exempt from
470 this paragraph; an acquisition for less than fair market value
471 must be reviewed, if the acquisition at fair market value would be
472 subject to review;

473 (g) Changes of ownership of existing health care
474 facilities in which a notice of intent is not filed with the State
475 Department of Health at least thirty (30) days prior to the date
476 such change of ownership occurs, or a change in services or bed
477 capacity as prescribed in paragraph (c) or (d) of this subsection
478 as a result of the change of ownership; an acquisition for less
479 than fair market value must be reviewed, if the acquisition at
480 fair market value would be subject to review;

481 (h) The change of ownership of any health care facility
482 defined in subparagraphs (iv), (vi) and (viii) of Section
483 41-7-173(i), in which a notice of intent as described in paragraph
484 (g) has not been filed and if the Executive Director, Division of
485 Medicaid, Office of the Governor, has not certified in writing
486 that there will be no increase in allowable costs to Medicaid from
487 revaluation of the assets or from increased interest and
488 depreciation as a result of the proposed change of ownership;

489 (i) Any activity described in paragraphs (a) through
490 (h) if undertaken by any person if that same activity would
491 require certificate of need approval if undertaken by a health
492 care facility;

493 (j) Any capital expenditure or deferred capital
494 expenditure by or on behalf of a health care facility not covered
495 by paragraphs (a) through (h);

496 (k) The contracting of a health care facility as
497 defined in subparagraphs (i) through (viii) of Section 41-7-173(i)

498 to establish a home office, subunit, or branch office in the space
499 operated as a health care facility through a formal arrangement
500 with an existing health care facility as defined in subparagraph
501 (ix) of Section 41-7-173(i);

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

507 (m) Reopening a health care facility that has ceased to
508 operate for a period of sixty (60) months or more, which reopening
509 requires a certificate of need for the establishment of a new
510 health care facility. Provided, however, that the reopening of
511 sixteen (16) acute care hospital beds in Kemper County for the
512 purpose of constructing the "John C. Stennis Memorial Hospital" to
513 be owned and operated by a two-hundred-fifteen-bed hospital
514 located in Lauderdale County shall not require the issuance of a
515 certificate of need, notwithstanding any provision in Section
516 41-7-171 et seq. to the contrary if the following conditions are
517 met: The facility shall agree to participate or contract to
518 participate in the Mississippi Trauma Care System Plan established
519 by the State Board of Health under Section 41-59-5, and there
520 shall be significant commencement of construction or conversion of
521 beds as hereinafter provided. If by July 1, 2009, there has been
522 no significant commencement of construction of the beds authorized
523 under this paragraph (m), or no significant action taken to
524 convert existing beds to the beds authorized under this paragraph
525 (m), then the authority to construct or convert beds in Kemper
526 County without the necessity of a certificate of need shall
527 expire. If the authority to construct or convert beds in Kemper
528 County expires, the department may accept applications for
529 issuance of a certificate of need from another applicant for the

530 beds authorized under this paragraph (m), and the department may
531 issue a certificate of need to authorize the construction,
532 expansion or conversion of the beds authorized under this
533 paragraph (m).

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

541 (a) The department may issue a certificate of need to
542 any person proposing the new construction of any health care
543 facility defined in subparagraphs (iv) and (vi) of Section
544 41-7-173(i) as part of a life care retirement facility, in any
545 county bordering on the Gulf of Mexico in which is located a
546 National Aeronautics and Space Administration facility, not to
547 exceed forty (40) beds. From and after July 1, 1999, there shall
548 be no prohibition or restrictions on participation in the Medicaid
549 program (Section 43-13-101 et seq.) for the beds in the health
550 care facility that were authorized under this paragraph (a).

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

558 (c) The department may issue a certificate of need for
559 the addition to or expansion of any skilled nursing facility that
560 is part of an existing continuing care retirement community
561 located in Madison County, provided that the recipient of the

562 certificate of need agrees in writing that the skilled nursing
563 facility will not at any time participate in the Medicaid program
564 (Section 43-13-101 et seq.) or admit or keep any patients in the
565 skilled nursing facility who are participating in the Medicaid
566 program. This written agreement by the recipient of the
567 certificate of need shall be fully binding on any subsequent owner
568 of the skilled nursing facility, if the ownership of the facility
569 is transferred at any time after the issuance of the certificate
570 of need. Agreement that the skilled nursing facility will not
571 participate in the Medicaid program shall be a condition of the
572 issuance of a certificate of need to any person under this
573 paragraph (c), and if such skilled nursing facility at any time
574 after the issuance of the certificate of need, regardless of the
575 ownership of the facility, participates in the Medicaid program or
576 admits or keeps any patients in the facility who are participating
577 in the Medicaid program, the State Department of Health shall
578 revoke the certificate of need, if it is still outstanding, and
579 shall deny or revoke the license of the skilled nursing facility,
580 at the time that the department determines, after a hearing
581 complying with due process, that the facility has failed to comply
582 with any of the conditions upon which the certificate of need was
583 issued, as provided in this paragraph and in the written agreement
584 by the recipient of the certificate of need. The total number of
585 beds that may be authorized under the authority of this paragraph
586 (c) shall not exceed sixty (60) beds.

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

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

595 (e) The State Department of Health may issue a
596 certificate of need for the construction of a nursing facility or
597 the conversion of beds to nursing facility beds at a personal care
598 facility for the elderly in Lowndes County that is owned and
599 operated by a Mississippi nonprofit corporation, not to exceed
600 sixty (60) beds. From and after July 1, 1999, there shall be no
601 prohibition or restrictions on participation in the Medicaid
602 program (Section 43-13-101 et seq.) for the beds in the nursing
603 facility that were authorized under this paragraph (e).

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

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

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

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

628 (i) The department may issue a certificate of need for
629 the new construction of a skilled nursing facility in Leake
630 County, provided that the recipient of the certificate of need
631 agrees in writing that the skilled nursing facility will not at
632 any time participate in the Medicaid program (Section 43-13-101 et
633 seq.) or admit or keep any patients in the skilled nursing
634 facility who are participating in the Medicaid program. This
635 written agreement by the recipient of the certificate of need
636 shall be fully binding on any subsequent owner of the skilled
637 nursing facility, if the ownership of the facility is transferred
638 at any time after the issuance of the certificate of need.
639 Agreement that the skilled nursing facility will not participate
640 in the Medicaid program shall be a condition of the issuance of a
641 certificate of need to any person under this paragraph (i), and if
642 such skilled nursing facility at any time after the issuance of
643 the certificate of need, regardless of the ownership of the
644 facility, participates in the Medicaid program or admits or keeps
645 any patients in the facility who are participating in the Medicaid
646 program, the State Department of Health shall revoke the
647 certificate of need, if it is still outstanding, and shall deny or
648 revoke the license of the skilled nursing facility, at the time
649 that the department determines, after a hearing complying with due
650 process, that the facility has failed to comply with any of the
651 conditions upon which the certificate of need was issued, as
652 provided in this paragraph and in the written agreement by the
653 recipient of the certificate of need. The provision of Section
654 43-7-193(1) regarding substantial compliance of the projection of
655 need as reported in the current State Health Plan is waived for
656 the purposes of this paragraph. The total number of nursing

657 facility beds that may be authorized by any certificate of need
658 issued under this paragraph (i) shall not exceed sixty (60) beds.
659 If the skilled nursing facility authorized by the certificate of
660 need issued under this paragraph is not constructed and fully
661 operational within eighteen (18) months after July 1, 1994, the
662 State Department of Health, after a hearing complying with due
663 process, shall revoke the certificate of need, if it is still
664 outstanding, and shall not issue a license for the skilled nursing
665 facility at any time after the expiration of the eighteen-month
666 period.

667 (j) The department may issue certificates of need to
668 allow any existing freestanding long-term care facility in
669 Tishomingo County and Hancock County that on July 1, 1995, is
670 licensed with fewer than sixty (60) beds. For the purposes of
671 this paragraph (j), the provision of Section 41-7-193(1) requiring
672 substantial compliance with the projection of need as reported in
673 the current State Health Plan is waived. From and after July 1,
674 1999, there shall be no prohibition or restrictions on
675 participation in the Medicaid program (Section 43-13-101 et seq.)
676 for the beds in the long-term care facilities that were authorized
677 under this paragraph (j).

678 (k) The department may issue a certificate of need for
679 the construction of a nursing facility at a continuing care
680 retirement community in Lowndes County. The total number of beds
681 that may be authorized under the authority of this paragraph (k)
682 shall not exceed sixty (60) beds. From and after July 1, 2001,
683 the prohibition on the facility participating in the Medicaid
684 program (Section 43-13-101 et seq.) that was a condition of
685 issuance of the certificate of need under this paragraph (k) shall
686 be revised as follows: The nursing facility may participate in
687 the Medicaid program from and after July 1, 2001, if the owner of
688 the facility on July 1, 2001, agrees in writing that no more than

689 thirty (30) of the beds at the facility will be certified for
690 participation in the Medicaid program, and that no claim will be
691 submitted for Medicaid reimbursement for more than thirty (30)
692 patients in the facility in any month or for any patient in the
693 facility who is in a bed that is not Medicaid-certified. This
694 written agreement by the owner of the facility shall be a
695 condition of licensure of the facility, and the agreement shall be
696 fully binding on any subsequent owner of the facility if the
697 ownership of the facility is transferred at any time after July 1,
698 2001. After this written agreement is executed, the Division of
699 Medicaid and the State Department of Health shall not certify more
700 than thirty (30) of the beds in the facility for participation in
701 the Medicaid program. If the facility violates the terms of the
702 written agreement by admitting or keeping in the facility on a
703 regular or continuing basis more than thirty (30) patients who are
704 participating in the Medicaid program, the State Department of
705 Health shall revoke the license of the facility, at the time that
706 the department determines, after a hearing complying with due
707 process, that the facility has violated the written agreement.

708 (l) Provided that funds are specifically appropriated
709 therefor by the Legislature, the department may issue a
710 certificate of need to a rehabilitation hospital in Hinds County
711 for the construction of a sixty-bed long-term care nursing
712 facility dedicated to the care and treatment of persons with
713 severe disabilities including persons with spinal cord and
714 closed-head injuries and ventilator-dependent patients. The
715 provision of Section 41-7-193(1) regarding substantial compliance
716 with projection of need as reported in the current State Health
717 Plan is hereby waived for the purpose of this paragraph.

718 (m) The State Department of Health may issue a
719 certificate of need to a county-owned hospital in the Second
720 Judicial District of Panola County for the conversion of not more

721 than seventy-two (72) hospital beds to nursing facility beds,
722 provided that the recipient of the certificate of need agrees in
723 writing that none of the beds at the nursing facility will be
724 certified for participation in the Medicaid program (Section
725 43-13-101 et seq.), and that no claim will be submitted for
726 Medicaid reimbursement in the nursing facility in any day or for
727 any patient in the nursing facility. This written agreement by
728 the recipient of the certificate of need shall be a condition of
729 the issuance of the certificate of need under this paragraph, and
730 the agreement shall be fully binding on any subsequent owner of
731 the nursing facility if the ownership of the nursing facility is
732 transferred at any time after the issuance of the certificate of
733 need. After this written agreement is executed, the Division of
734 Medicaid and the State Department of Health shall not certify any
735 of the beds in the nursing facility for participation in the
736 Medicaid program. If the nursing facility violates the terms of
737 the written agreement by admitting or keeping in the nursing
738 facility on a regular or continuing basis any patients who are
739 participating in the Medicaid program, the State Department of
740 Health shall revoke the license of the nursing facility, at the
741 time that the department determines, after a hearing complying
742 with due process, that the nursing facility has violated the
743 condition upon which the certificate of need was issued, as
744 provided in this paragraph and in the written agreement. If the
745 certificate of need authorized under this paragraph is not issued
746 within twelve (12) months after July 1, 2001, the department shall
747 deny the application for the certificate of need and shall not
748 issue the certificate of need at any time after the twelve-month
749 period, unless the issuance is contested. If the certificate of
750 need is issued and substantial construction of the nursing
751 facility beds has not commenced within eighteen (18) months after
752 July 1, 2001, the State Department of Health, after a hearing

753 complying with due process, shall revoke the certificate of need
754 if it is still outstanding, and the department shall not issue a
755 license for the nursing facility at any time after the
756 eighteen-month period. Provided, however, that if the issuance of
757 the certificate of need is contested, the department shall require
758 substantial construction of the nursing facility beds within six
759 (6) months after final adjudication on the issuance of the
760 certificate of need.

761 (n) The department may issue a certificate of need for
762 the new construction, addition or conversion of skilled nursing
763 facility beds in Madison County, provided that the recipient of
764 the certificate of need agrees in writing that the skilled nursing
765 facility will not at any time participate in the Medicaid program
766 (Section 43-13-101 et seq.) or admit or keep any patients in the
767 skilled nursing facility who are participating in the Medicaid
768 program. This written agreement by the recipient of the
769 certificate of need shall be fully binding on any subsequent owner
770 of the skilled nursing facility, if the ownership of the facility
771 is transferred at any time after the issuance of the certificate
772 of need. Agreement that the skilled nursing facility will not
773 participate in the Medicaid program shall be a condition of the
774 issuance of a certificate of need to any person under this
775 paragraph (n), and if such skilled nursing facility at any time
776 after the issuance of the certificate of need, regardless of the
777 ownership of the facility, participates in the Medicaid program or
778 admits or keeps any patients in the facility who are participating
779 in the Medicaid program, the State Department of Health shall
780 revoke the certificate of need, if it is still outstanding, and
781 shall deny or revoke the license of the skilled nursing facility,
782 at the time that the department determines, after a hearing
783 complying with due process, that the facility has failed to comply
784 with any of the conditions upon which the certificate of need was

785 issued, as provided in this paragraph and in the written agreement
786 by the recipient of the certificate of need. The total number of
787 nursing facility beds that may be authorized by any certificate of
788 need issued under this paragraph (n) shall not exceed sixty (60)
789 beds. If the certificate of need authorized under this paragraph
790 is not issued within twelve (12) months after July 1, 1998, the
791 department shall deny the application for the certificate of need
792 and shall not issue the certificate of need at any time after the
793 twelve-month period, unless the issuance is contested. If the
794 certificate of need is issued and substantial construction of the
795 nursing facility beds has not commenced within eighteen (18)
796 months after the effective date of July 1, 1998, the State
797 Department of Health, after a hearing complying with due process,
798 shall revoke the certificate of need if it is still outstanding,
799 and the department shall not issue a license for the nursing
800 facility at any time after the eighteen-month period. Provided,
801 however, that if the issuance of the certificate of need is
802 contested, the department shall require substantial construction
803 of the nursing facility beds within six (6) months after final
804 adjudication on the issuance of the certificate of need.

805 (o) The department may issue a certificate of need for
806 the new construction, addition or conversion of skilled nursing
807 facility beds in Leake County, provided that the recipient of the
808 certificate of need agrees in writing that the skilled nursing
809 facility will not at any time participate in the Medicaid program
810 (Section 43-13-101 et seq.) or admit or keep any patients in the
811 skilled nursing facility who are participating in the Medicaid
812 program. This written agreement by the recipient of the
813 certificate of need shall be fully binding on any subsequent owner
814 of the skilled nursing facility, if the ownership of the facility
815 is transferred at any time after the issuance of the certificate
816 of need. Agreement that the skilled nursing facility will not

817 participate in the Medicaid program shall be a condition of the
818 issuance of a certificate of need to any person under this
819 paragraph (o), and if such skilled nursing facility at any time
820 after the issuance of the certificate of need, regardless of the
821 ownership of the facility, participates in the Medicaid program or
822 admits or keeps any patients in the facility who are participating
823 in the Medicaid program, the State Department of Health shall
824 revoke the certificate of need, if it is still outstanding, and
825 shall deny or revoke the license of the skilled nursing facility,
826 at the time that the department determines, after a hearing
827 complying with due process, that the facility has failed to comply
828 with any of the conditions upon which the certificate of need was
829 issued, as provided in this paragraph and in the written agreement
830 by the recipient of the certificate of need. The total number of
831 nursing facility beds that may be authorized by any certificate of
832 need issued under this paragraph (o) shall not exceed sixty (60)
833 beds. If the certificate of need authorized under this paragraph
834 is not issued within twelve (12) months after July 1, 2001, the
835 department shall deny the application for the certificate of need
836 and shall not issue the certificate of need at any time after the
837 twelve-month period, unless the issuance is contested. If the
838 certificate of need is issued and substantial construction of the
839 nursing facility beds has not commenced within eighteen (18)
840 months after the effective date of July 1, 2001, the State
841 Department of Health, after a hearing complying with due process,
842 shall revoke the certificate of need if it is still outstanding,
843 and the department shall not issue a license for the nursing
844 facility at any time after the eighteen-month period. Provided,
845 however, that if the issuance of the certificate of need is
846 contested, the department shall require substantial construction
847 of the nursing facility beds within six (6) months after final
848 adjudication on the issuance of the certificate of need.

849 (p) The department may issue a certificate of need for
850 the construction of a municipally owned nursing facility within
851 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
852 beds, provided that the recipient of the certificate of need
853 agrees in writing that the skilled nursing facility will not at
854 any time participate in the Medicaid program (Section 43-13-101 et
855 seq.) or admit or keep any patients in the skilled nursing
856 facility who are participating in the Medicaid program. This
857 written agreement by the recipient of the certificate of need
858 shall be fully binding on any subsequent owner of the skilled
859 nursing facility, if the ownership of the facility is transferred
860 at any time after the issuance of the certificate of need.
861 Agreement that the skilled nursing facility will not participate
862 in the Medicaid program shall be a condition of the issuance of a
863 certificate of need to any person under this paragraph (p), and if
864 such skilled nursing facility at any time after the issuance of
865 the certificate of need, regardless of the ownership of the
866 facility, participates in the Medicaid program or admits or keeps
867 any patients in the facility who are participating in the Medicaid
868 program, the State Department of Health shall revoke the
869 certificate of need, if it is still outstanding, and shall deny or
870 revoke the license of the skilled nursing facility, at the time
871 that the department determines, after a hearing complying with due
872 process, that the facility has failed to comply with any of the
873 conditions upon which the certificate of need was issued, as
874 provided in this paragraph and in the written agreement by the
875 recipient of the certificate of need. The provision of Section
876 43-7-193(1) regarding substantial compliance of the projection of
877 need as reported in the current State Health Plan is waived for
878 the purposes of this paragraph. If the certificate of need
879 authorized under this paragraph is not issued within twelve (12)
880 months after July 1, 1998, the department shall deny the

881 application for the certificate of need and shall not issue the
882 certificate of need at any time after the twelve-month period,
883 unless the issuance is contested. If the certificate of need is
884 issued and substantial construction of the nursing facility beds
885 has not commenced within eighteen (18) months after July 1, 1998,
886 the State Department of Health, after a hearing complying with due
887 process, shall revoke the certificate of need if it is still
888 outstanding, and the department shall not issue a license for the
889 nursing facility at any time after the eighteen-month period.
890 Provided, however, that if the issuance of the certificate of need
891 is contested, the department shall require substantial
892 construction of the nursing facility beds within six (6) months
893 after final adjudication on the issuance of the certificate of
894 need.

895 (q) (i) Beginning on July 1, 1999, the State
896 Department of Health shall issue certificates of need during each
897 of the next four (4) fiscal years for the construction or
898 expansion of nursing facility beds or the conversion of other beds
899 to nursing facility beds in each county in the state having a need
900 for fifty (50) or more additional nursing facility beds, as shown
901 in the fiscal year 1999 State Health Plan, in the manner provided
902 in this paragraph (q). The total number of nursing facility beds
903 that may be authorized by any certificate of need authorized under
904 this paragraph (q) shall not exceed sixty (60) beds.

905 (ii) Subject to the provisions of subparagraph
906 (v), during each of the next four (4) fiscal years, the department
907 shall issue six (6) certificates of need for new nursing facility
908 beds, as follows: During fiscal years 2000, 2001 and 2002, one
909 (1) certificate of need shall be issued for new nursing facility
910 beds in the county in each of the four (4) Long-Term Care Planning
911 Districts designated in the fiscal year 1999 State Health Plan
912 that has the highest need in the district for those beds; and two

913 (2) certificates of need shall be issued for new nursing facility
914 beds in the two (2) counties from the state at large that have the
915 highest need in the state for those beds, when considering the
916 need on a statewide basis and without regard to the Long-Term Care
917 Planning Districts in which the counties are located. During
918 fiscal year 2003, one (1) certificate of need shall be issued for
919 new nursing facility beds in any county having a need for fifty
920 (50) or more additional nursing facility beds, as shown in the
921 fiscal year 1999 State Health Plan, that has not received a
922 certificate of need under this paragraph (q) during the three (3)
923 previous fiscal years. During fiscal year 2000, in addition to
924 the six (6) certificates of need authorized in this subparagraph,
925 the department also shall issue a certificate of need for new
926 nursing facility beds in Amite County and a certificate of need
927 for new nursing facility beds in Carroll County.

928 (iii) Subject to the provisions of subparagraph
929 (v), the certificate of need issued under subparagraph (ii) for
930 nursing facility beds in each Long-Term Care Planning District
931 during each fiscal year shall first be available for nursing
932 facility beds in the county in the district having the highest
933 need for those beds, as shown in the fiscal year 1999 State Health
934 Plan. If there are no applications for a certificate of need for
935 nursing facility beds in the county having the highest need for
936 those beds by the date specified by the department, then the
937 certificate of need shall be available for nursing facility beds
938 in other counties in the district in descending order of the need
939 for those beds, from the county with the second highest need to
940 the county with the lowest need, until an application is received
941 for nursing facility beds in an eligible county in the district.

942 (iv) Subject to the provisions of subparagraph
943 (v), the certificate of need issued under subparagraph (ii) for
944 nursing facility beds in the two (2) counties from the state at

945 large during each fiscal year shall first be available for nursing
946 facility beds in the two (2) counties that have the highest need
947 in the state for those beds, as shown in the fiscal year 1999
948 State Health Plan, when considering the need on a statewide basis
949 and without regard to the Long-Term Care Planning Districts in
950 which the counties are located. If there are no applications for
951 a certificate of need for nursing facility beds in either of the
952 two (2) counties having the highest need for those beds on a
953 statewide basis by the date specified by the department, then the
954 certificate of need shall be available for nursing facility beds
955 in other counties from the state at large in descending order of
956 the need for those beds on a statewide basis, from the county with
957 the second highest need to the county with the lowest need, until
958 an application is received for nursing facility beds in an
959 eligible county from the state at large.

960 (v) If a certificate of need is authorized to be
961 issued under this paragraph (q) for nursing facility beds in a
962 county on the basis of the need in the Long-Term Care Planning
963 District during any fiscal year of the four-year period, a
964 certificate of need shall not also be available under this
965 paragraph (q) for additional nursing facility beds in that county
966 on the basis of the need in the state at large, and that county
967 shall be excluded in determining which counties have the highest
968 need for nursing facility beds in the state at large for that
969 fiscal year. After a certificate of need has been issued under
970 this paragraph (q) for nursing facility beds in a county during
971 any fiscal year of the four-year period, a certificate of need
972 shall not be available again under this paragraph (q) for
973 additional nursing facility beds in that county during the
974 four-year period, and that county shall be excluded in determining
975 which counties have the highest need for nursing facility beds in
976 succeeding fiscal years.

977 (vi) If more than one (1) application is made for
978 a certificate of need for nursing home facility beds available
979 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
980 County, and one (1) of the applicants is a county-owned hospital
981 located in the county where the nursing facility beds are
982 available, the department shall give priority to the county-owned
983 hospital in granting the certificate of need if the following
984 conditions are met:

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

988 2. The county-owned hospital's qualifications
989 for the certificate of need, as shown in its application and as
990 determined by the department, are at least equal to the
991 qualifications of the other applicants for the certificate of
992 need.

993 (r) (i) Beginning on July 1, 1999, the State
994 Department of Health shall issue certificates of need during each
995 of the next two (2) fiscal years for the construction or expansion
996 of nursing facility beds or the conversion of other beds to
997 nursing facility beds in each of the four (4) Long-Term Care
998 Planning Districts designated in the fiscal year 1999 State Health
999 Plan, to provide care exclusively to patients with Alzheimer's
1000 disease.

1001 (ii) Not more than twenty (20) beds may be
1002 authorized by any certificate of need issued under this paragraph
1003 (r), and not more than a total of sixty (60) beds may be
1004 authorized in any Long-Term Care Planning District by all
1005 certificates of need issued under this paragraph (r). However,
1006 the total number of beds that may be authorized by all
1007 certificates of need issued under this paragraph (r) during any
1008 fiscal year shall not exceed one hundred twenty (120) beds, and

1009 the total number of beds that may be authorized in any Long-Term
1010 Care Planning District during any fiscal year shall not exceed
1011 forty (40) beds. Of the certificates of need that are issued for
1012 each Long-Term Care Planning District during the next two (2)
1013 fiscal years, at least one (1) shall be issued for beds in the
1014 northern part of the district, at least one (1) shall be issued
1015 for beds in the central part of the district, and at least one (1)
1016 shall be issued for beds in the southern part of the district.

1017 (iii) The State Department of Health, in
1018 consultation with the Department of Mental Health and the Division
1019 of Medicaid, shall develop and prescribe the staffing levels,
1020 space requirements and other standards and requirements that must
1021 be met with regard to the nursing facility beds authorized under
1022 this paragraph (r) to provide care exclusively to patients with
1023 Alzheimer's disease.

1024 (s) The State Department of Health may issue a
1025 certificate of need to a nonprofit skilled nursing facility using
1026 the Green House model of skilled nursing care and located in Yazoo
1027 City, Yazoo County, Mississippi, for the construction, expansion
1028 or conversion of not more than nineteen (19) nursing facility
1029 beds. For purposes of this paragraph (s), the provisions of
1030 Section 41-7-193(1) requiring substantial compliance with the
1031 projection of need as reported in the current State Health Plan
1032 and the provisions of Section 41-7-197 requiring a formal
1033 certificate of need hearing process are waived. There shall be no
1034 prohibition or restrictions on participation in the Medicaid
1035 program for the person receiving the certificate of need
1036 authorized under this paragraph (s).

1037 (t) The State Department of Health shall issue
1038 certificates of need to the owner of a nursing facility in
1039 operation at the time of Hurricane Katrina in Hancock County that
1040 was not operational on December 31, 2005, because of damage

1041 sustained from Hurricane Katrina to authorize the following: (i)
1042 the construction of a new nursing facility in Harrison County;
1043 (ii) the relocation of forty-nine (49) nursing facility beds from
1044 the Hancock County facility to the new Harrison County facility;
1045 (iii) the establishment of not more than twenty (20) non-Medicaid
1046 nursing facility beds at the Hancock County facility; and (iv) the
1047 establishment of not more than twenty (20) non-Medicaid beds at
1048 the new Harrison County facility. The certificates of need that
1049 authorize the non-Medicaid nursing facility beds under
1050 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1051 subject to the following conditions: The owner of the Hancock
1052 County facility and the new Harrison County facility must agree in
1053 writing that no more than fifty (50) of the beds at the Hancock
1054 County facility and no more than forty-nine (49) of the beds at
1055 the Harrison County facility will be certified for participation
1056 in the Medicaid program, and that no claim will be submitted for
1057 Medicaid reimbursement for more than fifty (50) patients in the
1058 Hancock County facility in any month, or for more than forty-nine
1059 (49) patients in the Harrison County facility in any month, or for
1060 any patient in either facility who is in a bed that is not
1061 Medicaid-certified. This written agreement by the owner of the
1062 nursing facilities shall be a condition of the issuance of the
1063 certificates of need under this paragraph (t), and the agreement
1064 shall be fully binding on any later owner or owners of either
1065 facility if the ownership of either facility is transferred at any
1066 time after the certificates of need are issued. After this
1067 written agreement is executed, the Division of Medicaid and the
1068 State Department of Health shall not certify more than fifty (50)
1069 of the beds at the Hancock County facility or more than forty-nine
1070 (49) of the beds at the Harrison County facility for participation
1071 in the Medicaid program. If the Hancock County facility violates
1072 the terms of the written agreement by admitting or keeping in the

1073 facility on a regular or continuing basis more than fifty (50)
1074 patients who are participating in the Medicaid program, or if the
1075 Harrison County facility violates the terms of the written
1076 agreement by admitting or keeping in the facility on a regular or
1077 continuing basis more than forty-nine (49) patients who are
1078 participating in the Medicaid program, the State Department of
1079 Health shall revoke the license of the facility that is in
1080 violation of the agreement, at the time that the department
1081 determines, after a hearing complying with due process, that the
1082 facility has violated the agreement.

1083 (u) The State Department of Health shall issue a
1084 certificate of need for the construction of a nursing facility in
1085 Hinds County, not to exceed sixty (60) beds, to a legal entity
1086 using the Green House model of skilled nursing care. For purposes
1087 of this paragraph (u), the provisions of Section 41-7-193(1)
1088 requiring substantial compliance with the projection of need as
1089 reported in the current State Health Plan and the provisions of
1090 Section 41-7-197 requiring a formal certificate of need hearing
1091 process are waived. There shall be no prohibition or restrictions
1092 on participation in the Medicaid program for the person receiving
1093 the certificate of need authorized under this paragraph (u). It
1094 is the intention of the Legislature that this nursing facility be
1095 located in an underserved minority zip code area located in Hinds
1096 County in which not less than seventy-five percent (75%) of the
1097 population in the zip code area are racial minorities. If by July
1098 1, 2009, there has been no significant commencement of
1099 construction of the beds authorized under this paragraph, or no
1100 significant action taken to convert existing beds to the beds
1101 authorized under this paragraph, then the certificate of need that
1102 was previously issued under this paragraph shall expire and the
1103 department shall revoke the certificate of need if it is still
1104 outstanding. This condition by the recipient of the certificate

1105 of need shall be fully binding on any subsequent owner of the
1106 certificate of need if the ownership is transferred at any time
1107 after the issuance of the certificate of need. If the previously
1108 issued certificate of need expires, the department may accept
1109 applications for issuance of another certificate of need for the
1110 beds authorized under this paragraph, and may issue a certificate
1111 of need to authorize the construction expansion or conversion of
1112 the beds authorized under this paragraph under the same
1113 conditions.

1114 (3) The State Department of Health may grant approval for
1115 and issue certificates of need to any person proposing the new
1116 construction of, addition to, conversion of beds of or expansion
1117 of any health care facility defined in subparagraph (x)
1118 (psychiatric residential treatment facility) of Section
1119 41-7-173(i). The total number of beds which may be authorized by
1120 such certificates of need shall not exceed three hundred
1121 forty-eight (348) beds for the entire state.

1122 (a) Of the total number of beds authorized under this
1123 subsection, the department shall issue a certificate of need to a
1124 privately-owned psychiatric residential treatment facility in
1125 Simpson County for the conversion of sixteen (16) intermediate
1126 care facility for the mentally retarded (ICF-MR) beds to
1127 psychiatric residential treatment facility beds, provided that
1128 facility agrees in writing that the facility shall give priority
1129 for the use of those sixteen (16) beds to Mississippi residents
1130 who are presently being treated in out-of-state facilities.

1131 (b) Of the total number of beds authorized under this
1132 subsection, the department may issue a certificate or certificates
1133 of need for the construction or expansion of psychiatric
1134 residential treatment facility beds or the conversion of other
1135 beds to psychiatric residential treatment facility beds in Warren
1136 County, not to exceed sixty (60) psychiatric residential treatment

1137 facility beds, provided that the facility agrees in writing that
1138 no more than thirty (30) of the beds at the psychiatric
1139 residential treatment facility will be certified for participation
1140 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1141 any patients other than those who are participating only in the
1142 Medicaid program of another state, and that no claim will be
1143 submitted to the Division of Medicaid for Medicaid reimbursement
1144 for more than thirty (30) patients in the psychiatric residential
1145 treatment facility in any day or for any patient in the
1146 psychiatric residential treatment facility who is in a bed that is
1147 not Medicaid-certified. This written agreement by the recipient
1148 of the certificate of need shall be a condition of the issuance of
1149 the certificate of need under this paragraph, and the agreement
1150 shall be fully binding on any subsequent owner of the psychiatric
1151 residential treatment facility if the ownership of the facility is
1152 transferred at any time after the issuance of the certificate of
1153 need. After this written agreement is executed, the Division of
1154 Medicaid and the State Department of Health shall not certify more
1155 than thirty (30) of the beds in the psychiatric residential
1156 treatment facility for participation in the Medicaid program for
1157 the use of any patients other than those who are participating
1158 only in the Medicaid program of another state. If the psychiatric
1159 residential treatment facility violates the terms of the written
1160 agreement by admitting or keeping in the facility on a regular or
1161 continuing basis more than thirty (30) patients who are
1162 participating in the Mississippi Medicaid program, the State
1163 Department of Health shall revoke the license of the facility, at
1164 the time that the department determines, after a hearing complying
1165 with due process, that the facility has violated the condition
1166 upon which the certificate of need was issued, as provided in this
1167 paragraph and in the written agreement.

1168 The State Department of Health, on or before July 1, 2002,
1169 shall transfer the certificate of need authorized under the
1170 authority of this paragraph (b) to 3531 Lakeland Drive in Flowood
1171 (Rankin County), Mississippi, for the construction, expansion or
1172 conversion of psychiatric residential treatment beds in Rankin
1173 County. For purposes of this paragraph (b), the provisions of
1174 Section 41-7-193(1) requiring substantial compliance with the
1175 projection of need as reported in the current State Health Plan
1176 and the provisions of Section 41-7-197 requiring a formal
1177 certificate of need hearing process are waived. The total number
1178 of beds that may be authorized under the authority of this
1179 paragraph (b) shall not exceed sixty (60) beds, no more than
1180 thirty (30) of which will be certified for participation in the
1181 Medicaid program, as specified in this paragraph (b). For
1182 purposes of the relocation of beds authorized by Section
1183 41-7-191(3)(b), the State Department of Health shall treat the
1184 beds so authorized as if they were licensed and operating, even if
1185 the beds are not yet licensed and operating, and the department
1186 shall issue an amendment for the relocation of all beds authorized
1187 by said section. If by July 1, 2009, there has been no
1188 significant commencement of construction of the beds authorized
1189 under this paragraph, or no significant action taken to convert
1190 existing beds to the beds authorized under this paragraph, then
1191 the certificate of need that was previously issued under this
1192 paragraph shall expire and the department shall revoke the
1193 certificate of need if it is still outstanding. This condition by
1194 the recipient of the certificate of need shall be fully binding on
1195 any subsequent owner of the certificate of need if the ownership
1196 is transferred at any time after the issuance of the certificate
1197 of need. If the previously issued certificate of need expires,
1198 the department may accept applications for issuance of another
1199 certificate of need for the beds authorized under this paragraph,

1200 and may issue a certificate of need to authorize the construction
1201 expansion or conversion of the beds authorized under this
1202 paragraph under the same conditions.

1203 (c) Of the total number of beds authorized under this
1204 subsection, the department shall issue a certificate of need to a
1205 hospital currently operating Medicaid-certified acute psychiatric
1206 beds for adolescents in DeSoto County, for the establishment of a
1207 forty-bed psychiatric residential treatment facility in DeSoto
1208 County, provided that the hospital agrees in writing (i) that the
1209 hospital shall give priority for the use of those forty (40) beds
1210 to Mississippi residents who are presently being treated in
1211 out-of-state facilities, and (ii) that no more than fifteen (15)
1212 of the beds at the psychiatric residential treatment facility will
1213 be certified for participation in the Medicaid program (Section
1214 43-13-101 et seq.), and that no claim will be submitted for
1215 Medicaid reimbursement for more than fifteen (15) patients in the
1216 psychiatric residential treatment facility in any day or for any
1217 patient in the psychiatric residential treatment facility who is
1218 in a bed that is not Medicaid-certified. This written agreement
1219 by the recipient of the certificate of need shall be a condition
1220 of the issuance of the certificate of need under this paragraph,
1221 and the agreement shall be fully binding on any subsequent owner
1222 of the psychiatric residential treatment facility if the ownership
1223 of the facility is transferred at any time after the issuance of
1224 the certificate of need. After this written agreement is
1225 executed, the Division of Medicaid and the State Department of
1226 Health shall not certify more than fifteen (15) of the beds in the
1227 psychiatric residential treatment facility for participation in
1228 the Medicaid program. If the psychiatric residential treatment
1229 facility violates the terms of the written agreement by admitting
1230 or keeping in the facility on a regular or continuing basis more
1231 than fifteen (15) patients who are participating in the Medicaid

1232 program, the State Department of Health shall revoke the license
1233 of the facility, at the time that the department determines, after
1234 a hearing complying with due process, that the facility has
1235 violated the condition upon which the certificate of need was
1236 issued, as provided in this paragraph and in the written
1237 agreement.

1238 (d) Of the total number of beds authorized under this
1239 subsection, the department may issue a certificate or certificates
1240 of need for the construction or expansion of psychiatric
1241 residential treatment facility beds or the conversion of other
1242 beds to psychiatric treatment facility beds, not to exceed thirty
1243 (30) psychiatric residential treatment facility beds, in either
1244 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1245 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1246 (e) Of the total number of beds authorized under this
1247 subsection (3) the department shall issue a certificate of need to
1248 a privately-owned, nonprofit psychiatric residential treatment
1249 facility in Hinds County for an eight-bed expansion of the
1250 facility, provided that the facility agrees in writing that the
1251 facility shall give priority for the use of those eight (8) beds
1252 to Mississippi residents who are presently being treated in
1253 out-of-state facilities.

1254 (f) The department shall issue a certificate of need to
1255 a one-hundred-thirty-four-bed specialty hospital located on
1256 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1257 at 5900 Highway 39 North in Meridian (Lauderdale County),
1258 Mississippi, for the addition, construction or expansion of
1259 child/adolescent psychiatric residential treatment facility beds
1260 in Lauderdale County. As a condition of issuance of the
1261 certificate of need under this paragraph, the facility shall give
1262 priority in admissions to the child/adolescent psychiatric
1263 residential treatment facility beds authorized under this

1264 paragraph to patients who otherwise would require out-of-state
1265 placement. The Division of Medicaid, in conjunction with the
1266 Department of Human Services, shall furnish the facility a list of
1267 all out-of-state patients on a quarterly basis. Furthermore,
1268 notice shall also be provided to the parent, custodial parent or
1269 guardian of each out-of-state patient notifying them of the
1270 priority status granted by this paragraph. For purposes of this
1271 paragraph, the provisions of Section 41-7-193(1) requiring
1272 substantial compliance with the projection of need as reported in
1273 the current State Health Plan are waived. The total number of
1274 child/adolescent psychiatric residential treatment facility beds
1275 that may be authorized under the authority of this paragraph shall
1276 be sixty (60) beds. There shall be no prohibition or restrictions
1277 on participation in the Medicaid program (Section 43-13-101 et
1278 seq.) for the person receiving the certificate of need authorized
1279 under this paragraph or for the beds converted pursuant to the
1280 authority of that certificate of need.

1281 (g) Of the total number of beds authorized under this
1282 subsection, the department shall issue a certificate of need to a
1283 privately owned psychiatric residential treatment facility (PRTF)
1284 in Simpson County for the construction, expansion or conversion of
1285 fourteen (14) psychiatric residential treatment facility (PRTF)
1286 beds to be used to develop a specialized unit for the subacute
1287 treatment of children and adolescents, provided that the facility
1288 agrees in writing that the facility shall give priority for the
1289 use of those fourteen (14) beds to Mississippi residents who are
1290 presently being treated in out-of-state facilities. For purposes
1291 of this paragraph (g), the provisions of Section 41-7-193(1)
1292 requiring substantial compliance with the projection of need as
1293 reported in the current State Health Plan and the provisions of
1294 Section 41-7-197 requiring a formal certificate of need hearing
1295 process are waived. There shall be no prohibition or restrictions

1296 on participation in the Medicaid program (Section 43-13-101 et
1297 seq.) for the person receiving the certificate of need pursuant to
1298 the authority of the certificate of need authorized under this
1299 paragraph (g). If by July 1, 2009, there has been no significant
1300 commencement of construction of the beds authorized under this
1301 paragraph, or no significant action taken to convert existing beds
1302 to the beds authorized under this paragraph, then the certificate
1303 of need that was previously issued under this paragraph shall
1304 expire and the department shall revoke the certificate of need if
1305 it is still outstanding. This condition by the recipient of the
1306 certificate of need shall be fully binding on any subsequent owner
1307 of the certificate of need if the ownership is transferred at any
1308 time after the issuance of the certificate of need. If the
1309 previously issued certificate of need expires, the department may
1310 accept applications for issuance of another certificate of need
1311 for the beds authorized under this paragraph, and may issue a
1312 certificate of need to authorize the construction expansion or
1313 conversion of the beds authorized under this paragraph under the
1314 same conditions.

1315 (4) (a) From and after July 1, 1993, the department shall
1316 not issue a certificate of need to any person for the new
1317 construction of any hospital, psychiatric hospital or chemical
1318 dependency hospital that will contain any child/adolescent
1319 psychiatric or child/adolescent chemical dependency beds, or for
1320 the conversion of any other health care facility to a hospital,
1321 psychiatric hospital or chemical dependency hospital that will
1322 contain any child/adolescent psychiatric or child/adolescent
1323 chemical dependency beds, or for the addition of any
1324 child/adolescent psychiatric or child/adolescent chemical
1325 dependency beds in any hospital, psychiatric hospital or chemical
1326 dependency hospital, or for the conversion of any beds of another
1327 category in any hospital, psychiatric hospital or chemical

1328 dependency hospital to child/adolescent psychiatric or
1329 child/adolescent chemical dependency beds, except as hereinafter
1330 authorized:

1331 (i) The department may issue certificates of need
1332 to any person for any purpose described in this subsection,
1333 provided that the hospital, psychiatric hospital or chemical
1334 dependency hospital does not participate in the Medicaid program
1335 (Section 43-13-101 et seq.) at the time of the application for the
1336 certificate of need and the owner of the hospital, psychiatric
1337 hospital or chemical dependency hospital agrees in writing that
1338 the hospital, psychiatric hospital or chemical dependency hospital
1339 will not at any time participate in the Medicaid program or admit
1340 or keep any patients who are participating in the Medicaid program
1341 in the hospital, psychiatric hospital or chemical dependency
1342 hospital. This written agreement by the recipient of the
1343 certificate of need shall be fully binding on any subsequent owner
1344 of the hospital, psychiatric hospital or chemical dependency
1345 hospital, if the ownership of the facility is transferred at any
1346 time after the issuance of the certificate of need. Agreement
1347 that the hospital, psychiatric hospital or chemical dependency
1348 hospital will not participate in the Medicaid program shall be a
1349 condition of the issuance of a certificate of need to any person
1350 under this subparagraph * * * (i), and if such hospital,
1351 psychiatric hospital or chemical dependency hospital at any time
1352 after the issuance of the certificate of need, regardless of the
1353 ownership of the facility, participates in the Medicaid program or
1354 admits or keeps any patients in the hospital, psychiatric hospital
1355 or chemical dependency hospital who are participating in the
1356 Medicaid program, the State Department of Health shall revoke the
1357 certificate of need, if it is still outstanding, and shall deny or
1358 revoke the license of the hospital, psychiatric hospital or
1359 chemical dependency hospital, at the time that the department

1360 determines, after a hearing complying with due process, that the
1361 hospital, psychiatric hospital or chemical dependency hospital has
1362 failed to comply with any of the conditions upon which the
1363 certificate of need was issued, as provided in this subparagraph
1364 (i) and in the written agreement by the recipient of the
1365 certificate of need.

1366 (ii) The department may issue a certificate of
1367 need for the conversion of existing beds in a county hospital in
1368 Choctaw County from acute care beds to child/adolescent chemical
1369 dependency beds. For purposes of this subparagraph (ii), the
1370 provisions of Section 41-7-193(1) requiring substantial compliance
1371 with the projection of need as reported in the current State
1372 Health Plan is waived. The total number of beds that may be
1373 authorized under authority of this subparagraph shall not exceed
1374 twenty (20) beds. There shall be no prohibition or restrictions
1375 on participation in the Medicaid program (Section 43-13-101 et
1376 seq.) for the hospital receiving the certificate of need
1377 authorized under this subparagraph * * * or for the beds converted
1378 pursuant to the authority of that certificate of need.

1379 (iii) The department may issue a certificate or
1380 certificates of need for the construction or expansion of
1381 child/adolescent psychiatric beds or the conversion of other beds
1382 to child/adolescent psychiatric beds in Warren County. For
1383 purposes of this subparagraph (iii), the provisions of Section
1384 41-7-193(1) requiring substantial compliance with the projection
1385 of need as reported in the current State Health Plan are waived.
1386 The total number of beds that may be authorized under the
1387 authority of this subparagraph shall not exceed twenty (20) beds.
1388 There shall be no prohibition or restrictions on participation in
1389 the Medicaid program (Section 43-13-101 et seq.) for the person
1390 receiving the certificate of need authorized under this

1391 subparagraph * * * or for the beds converted pursuant to the
1392 authority of that certificate of need.

1393 * * *

1394 The State Department of Health, on or before July 1, 2007,
1395 shall transfer the certificate of need authorized under the
1396 authority of this paragraph (a)(iii) to 5900 Highway 39 North in
1397 Meridian (Lauderdale County), Mississippi, for the addition,
1398 construction or expansion of child/adolescent psychiatric
1399 residential treatment facility beds in Lauderdale County. For
1400 purposes of this subparagraph, the provisions of Section
1401 41-7-193(1) requiring substantial compliance with the projection
1402 of need as reported in the current State Health Plan and the
1403 provisions of Section 41-7-197 requiring a formal certificate of
1404 need hearing process are waived. The total number of beds that
1405 may be authorized under the authority of this subparagraph shall
1406 not exceed twenty (20) beds. There shall be no prohibition or
1407 restrictions on participation in the Medicaid program (Section
1408 43-13-101 et seq.) for the hospital receiving the certificate of
1409 need authorized under this subparagraph (a)(iii) or for the beds
1410 covered pursuant to the authority of that certificate of need.
1411 For purposes of the relocation of beds authorized by Section
1412 41-7-191(4)(a)(iii), the State Department of Health shall treat
1413 the beds so authorized as if they were licensed and operating,
1414 even if the beds are not yet licensed and operating, and the
1415 department shall issue an amendment for the relocation of all beds
1416 authorized by said section. If by July 1, 2009, there has been no
1417 significant commencement of construction of the beds authorized
1418 under this paragraph, or no significant action taken to convert
1419 existing beds to the beds authorized under this paragraph, then
1420 the certificate of need that was previously issued under this
1421 paragraph shall expire and the department shall revoke the
1422 certificate of need if it is still outstanding. This condition by

1423 the recipient of the certificate of need shall be fully binding on
1424 any subsequent owner of the certificate of need if the ownership
1425 is transferred at any time after the issuance of the certificate
1426 of need. If the previously issued certificate of need expires,
1427 the department may accept applications for issuance of another
1428 certificate of need for the beds authorized under this paragraph,
1429 and may issue a certificate of need to authorize the construction
1430 expansion or conversion of the beds authorized under this
1431 paragraph under the same conditions.

1432 (iv) The department shall issue a certificate of
1433 need to the Region 7 Mental Health/Retardation Commission for the
1434 construction or expansion of child/adolescent psychiatric beds or
1435 the conversion of other beds to child/adolescent psychiatric beds
1436 in any of the counties served by the commission. For purposes of
1437 this subparagraph (iv), the provisions of Section 41-7-193(1)
1438 requiring substantial compliance with the projection of need as
1439 reported in the current State Health Plan is waived. The total
1440 number of beds that may be authorized under the authority of this
1441 subparagraph shall not exceed twenty (20) beds. There shall be no
1442 prohibition or restrictions on participation in the Medicaid
1443 program (Section 43-13-101 et seq.) for the person receiving the
1444 certificate of need authorized under this subparagraph * * * or
1445 for the beds converted pursuant to the authority of that
1446 certificate of need.

1447 (v) The department may issue a certificate of need
1448 to any county hospital located in Leflore County for the
1449 construction or expansion of adult psychiatric beds or the
1450 conversion of other beds to adult psychiatric beds, not to exceed
1451 twenty (20) beds, provided that the recipient of the certificate
1452 of need agrees in writing that the adult psychiatric beds will not
1453 at any time be certified for participation in the Medicaid program
1454 and that the hospital will not admit or keep any patients who are

1455 participating in the Medicaid program in any of such adult
1456 psychiatric beds. This written agreement by the recipient of the
1457 certificate of need shall be fully binding on any subsequent owner
1458 of the hospital if the ownership of the hospital is transferred at
1459 any time after the issuance of the certificate of need. Agreement
1460 that the adult psychiatric beds will not be certified for
1461 participation in the Medicaid program shall be a condition of the
1462 issuance of a certificate of need to any person under this
1463 subparagraph * * * (v), and if such hospital at any time after the
1464 issuance of the certificate of need, regardless of the ownership
1465 of the hospital, has any of such adult psychiatric beds certified
1466 for participation in the Medicaid program or admits or keeps any
1467 Medicaid patients in such adult psychiatric beds, the State
1468 Department of Health shall revoke the certificate of need, if it
1469 is still outstanding, and shall deny or revoke the license of the
1470 hospital at the time that the department determines, after a
1471 hearing complying with due process, that the hospital has failed
1472 to comply with any of the conditions upon which the certificate of
1473 need was issued, as provided in this subparagraph and in the
1474 written agreement by the recipient of the certificate of need.

1475 (vi) The department may issue a certificate or
1476 certificates of need for the expansion of child psychiatric beds
1477 or the conversion of other beds to child psychiatric beds at the
1478 University of Mississippi Medical Center. For purposes of this
1479 subparagraph * * * (vi), the provision of Section 41-7-193(1)
1480 requiring substantial compliance with the projection of need as
1481 reported in the current State Health Plan is waived. The total
1482 number of beds that may be authorized under the authority of this
1483 subparagraph * * * shall not exceed fifteen (15) beds. There
1484 shall be no prohibition or restrictions on participation in the
1485 Medicaid program (Section 43-13-101 et seq.) for the hospital
1486 receiving the certificate of need authorized under this

1487 subparagraph * * * or for the beds converted pursuant to the
1488 authority of that certificate of need.

1489 (b) From and after July 1, 1990, no hospital,
1490 psychiatric hospital or chemical dependency hospital shall be
1491 authorized to add any child/adolescent psychiatric or
1492 child/adolescent chemical dependency beds or convert any beds of
1493 another category to child/adolescent psychiatric or
1494 child/adolescent chemical dependency beds without a certificate of
1495 need under the authority of subsection (1)(c) of this section.

1496 (5) The department may issue a certificate of need to a
1497 county hospital in Winston County for the conversion of fifteen
1498 (15) acute care beds to geriatric psychiatric care beds.

1499 (6) The State Department of Health shall issue a certificate
1500 of need to a Mississippi corporation qualified to manage a
1501 long-term care hospital as defined in Section 41-7-173(i)(xii) in
1502 Harrison County, not to exceed eighty (80) beds, including any
1503 necessary renovation or construction required for licensure and
1504 certification, provided that the recipient of the certificate of
1505 need agrees in writing that the long-term care hospital will not
1506 at any time participate in the Medicaid program (Section 43-13-101
1507 et seq.) or admit or keep any patients in the long-term care
1508 hospital who are participating in the Medicaid program. This
1509 written agreement by the recipient of the certificate of need
1510 shall be fully binding on any subsequent owner of the long-term
1511 care hospital, if the ownership of the facility is transferred at
1512 any time after the issuance of the certificate of need. Agreement
1513 that the long-term care hospital will not participate in the
1514 Medicaid program shall be a condition of the issuance of a
1515 certificate of need to any person under this subsection (6), and
1516 if such long-term care hospital at any time after the issuance of
1517 the certificate of need, regardless of the ownership of the
1518 facility, participates in the Medicaid program or admits or keeps

1519 any patients in the facility who are participating in the Medicaid
1520 program, the State Department of Health shall revoke the
1521 certificate of need, if it is still outstanding, and shall deny or
1522 revoke the license of the long-term care hospital, at the time
1523 that the department determines, after a hearing complying with due
1524 process, that the facility has failed to comply with any of the
1525 conditions upon which the certificate of need was issued, as
1526 provided in this subsection and in the written agreement by the
1527 recipient of the certificate of need. For purposes of this
1528 subsection, the provision of Section 41-7-193(1) requiring
1529 substantial compliance with the projection of need as reported in
1530 the current State Health Plan is hereby waived.

1531 (7) The State Department of Health may issue a certificate
1532 of need to any hospital in the state to utilize a portion of its
1533 beds for the "swing-bed" concept. Any such hospital must be in
1534 conformance with the federal regulations regarding such swing-bed
1535 concept at the time it submits its application for a certificate
1536 of need to the State Department of Health, except that such
1537 hospital may have more licensed beds or a higher average daily
1538 census (ADC) than the maximum number specified in federal
1539 regulations for participation in the swing-bed program. Any
1540 hospital meeting all federal requirements for participation in the
1541 swing-bed program which receives such certificate of need shall
1542 render services provided under the swing-bed concept to any
1543 patient eligible for Medicare (Title XVIII of the Social Security
1544 Act) who is certified by a physician to be in need of such
1545 services, and no such hospital shall permit any patient who is
1546 eligible for both Medicaid and Medicare or eligible only for
1547 Medicaid to stay in the swing beds of the hospital for more than
1548 thirty (30) days per admission unless the hospital receives prior
1549 approval for such patient from the Division of Medicaid, Office of
1550 the Governor. Any hospital having more licensed beds or a higher

1551 average daily census (ADC) than the maximum number specified in
1552 federal regulations for participation in the swing-bed program
1553 which receives such certificate of need shall develop a procedure
1554 to insure that before a patient is allowed to stay in the swing
1555 beds of the hospital, there are no vacant nursing home beds
1556 available for that patient located within a fifty-mile radius of
1557 the hospital. When any such hospital has a patient staying in the
1558 swing beds of the hospital and the hospital receives notice from a
1559 nursing home located within such radius that there is a vacant bed
1560 available for that patient, the hospital shall transfer the
1561 patient to the nursing home within a reasonable time after receipt
1562 of the notice. Any hospital which is subject to the requirements
1563 of the two (2) preceding sentences of this subsection may be
1564 suspended from participation in the swing-bed program for a
1565 reasonable period of time by the State Department of Health if the
1566 department, after a hearing complying with due process, determines
1567 that the hospital has failed to comply with any of those
1568 requirements.

1569 (8) The Department of Health shall not grant approval for or
1570 issue a certificate of need to any person proposing the new
1571 construction of, addition to or expansion of a health care
1572 facility as defined in subparagraph (viii) of Section 41-7-173(i),
1573 except as hereinafter provided: The department may issue a
1574 certificate of need to a nonprofit corporation located in Madison
1575 County, Mississippi, for the construction, expansion or conversion
1576 of not more than twenty (20) beds in a community living program
1577 for developmentally disabled adults in a facility as defined in
1578 subparagraph (viii) of Section 41-7-173(i). For purposes of this
1579 subsection (8), the provisions of Section 41-7-193(1) requiring
1580 substantial compliance with the projection of need as reported in
1581 the current State Health Plan and the provisions of Section
1582 41-7-197 requiring a formal certificate of need hearing process

1583 are waived. There shall be no prohibition or restrictions on
1584 participation in the Medicaid program for the person receiving the
1585 certificate of need authorized under this subsection (8).

1586 (9) The Department of Health shall not grant approval for or
1587 issue a certificate of need to any person proposing the
1588 establishment of, or expansion of the currently approved territory
1589 of, or the contracting to establish a home office, subunit or
1590 branch office within the space operated as a health care facility
1591 as defined in Section 41-7-173(i)(i) through (viii) by a health
1592 care facility as defined in subparagraph (ix) of Section
1593 41-7-173(i).

1594 (10) Health care facilities owned and/or operated by the
1595 state or its agencies are exempt from the restraints in this
1596 section against issuance of a certificate of need if such addition
1597 or expansion consists of repairing or renovation necessary to
1598 comply with the state licensure law. This exception shall not
1599 apply to the new construction of any building by such state
1600 facility. This exception shall not apply to any health care
1601 facilities owned and/or operated by counties, municipalities,
1602 districts, unincorporated areas, other defined persons, or any
1603 combination thereof.

1604 (11) The new construction, renovation or expansion of or
1605 addition to any health care facility defined in subparagraph (ii)
1606 (psychiatric hospital), subparagraph (iv) (skilled nursing
1607 facility), subparagraph (vi) (intermediate care facility),
1608 subparagraph (viii) (intermediate care facility for the mentally
1609 retarded) and subparagraph (x) (psychiatric residential treatment
1610 facility) of Section 41-7-173(i) which is owned by the State of
1611 Mississippi and under the direction and control of the State
1612 Department of Mental Health, and the addition of new beds or the
1613 conversion of beds from one category to another in any such
1614 defined health care facility which is owned by the State of

1615 Mississippi and under the direction and control of the State
1616 Department of Mental Health, shall not require the issuance of a
1617 certificate of need under Section 41-7-171 et seq.,
1618 notwithstanding any provision in Section 41-7-171 et seq. to the
1619 contrary.

1620 (12) The new construction, renovation or expansion of or
1621 addition to any veterans homes or domiciliaries for eligible
1622 veterans of the State of Mississippi as authorized under Section
1623 35-1-19 shall not require the issuance of a certificate of need,
1624 notwithstanding any provision in Section 41-7-171 et seq. to the
1625 contrary.

1626 (13) The new construction of a nursing facility or nursing
1627 facility beds or the conversion of other beds to nursing facility
1628 beds shall not require the issuance of a certificate of need,
1629 notwithstanding any provision in Section 41-7-171 et seq. to the
1630 contrary, if the conditions of this subsection are met.

1631 (a) Before any construction or conversion may be
1632 undertaken without a certificate of need, the owner of the nursing
1633 facility, in the case of an existing facility, or the applicant to
1634 construct a nursing facility, in the case of new construction,
1635 first must file a written notice of intent and sign a written
1636 agreement with the State Department of Health that the entire
1637 nursing facility will not at any time participate in or have any
1638 beds certified for participation in the Medicaid program (Section
1639 43-13-101 et seq.), will not admit or keep any patients in the
1640 nursing facility who are participating in the Medicaid program,
1641 and will not submit any claim for Medicaid reimbursement for any
1642 patient in the facility. This written agreement by the owner or
1643 applicant shall be a condition of exercising the authority under
1644 this subsection without a certificate of need, and the agreement
1645 shall be fully binding on any subsequent owner of the nursing
1646 facility if the ownership of the facility is transferred at any

1647 time after the agreement is signed. After the written agreement
1648 is signed, the Division of Medicaid and the State Department of
1649 Health shall not certify any beds in the nursing facility for
1650 participation in the Medicaid program. If the nursing facility
1651 violates the terms of the written agreement by participating in
1652 the Medicaid program, having any beds certified for participation
1653 in the Medicaid program, admitting or keeping any patient in the
1654 facility who is participating in the Medicaid program, or
1655 submitting any claim for Medicaid reimbursement for any patient in
1656 the facility, the State Department of Health shall revoke the
1657 license of the nursing facility at the time that the department
1658 determines, after a hearing complying with due process, that the
1659 facility has violated the terms of the written agreement.

1660 (b) For the purposes of this subsection, participation
1661 in the Medicaid program by a nursing facility includes Medicaid
1662 reimbursement of coinsurance and deductibles for recipients who
1663 are qualified Medicare beneficiaries and/or those who are dually
1664 eligible. Any nursing facility exercising the authority under
1665 this subsection may not bill or submit a claim to the Division of
1666 Medicaid for services to qualified Medicare beneficiaries and/or
1667 those who are dually eligible.

1668 (c) The new construction of a nursing facility or
1669 nursing facility beds or the conversion of other beds to nursing
1670 facility beds described in this section must be either a part of a
1671 completely new continuing care retirement community, as described
1672 in the latest edition of the Mississippi State Health Plan, or an
1673 addition to existing personal care and independent living
1674 components, and so that the completed project will be a continuing
1675 care retirement community, containing (i) independent living
1676 accommodations, (ii) personal care beds, and (iii) the nursing
1677 home facility beds. The three (3) components must be located on a
1678 single site and be operated as one (1) inseparable facility. The

1679 nursing facility component must contain a minimum of thirty (30)
1680 beds. Any nursing facility beds authorized by this section will
1681 not be counted against the bed need set forth in the State Health
1682 Plan, as identified in Section 41-7-171 et seq.

1683 * * *

1684 (14) The State Department of Health shall issue a
1685 certificate of need to any hospital which is currently licensed
1686 for two hundred fifty (250) or more acute care beds and is located
1687 in any general hospital service area not having a comprehensive
1688 cancer center, for the establishment and equipping of such a
1689 center which provides facilities and services for outpatient
1690 radiation oncology therapy, outpatient medical oncology therapy,
1691 and appropriate support services including the provision of
1692 radiation therapy services. The provision of Section 41-7-193(1)
1693 regarding substantial compliance with the projection of need as
1694 reported in the current State Health Plan is waived for the
1695 purpose of this subsection.

1696 (15) The State Department of Health may authorize the
1697 transfer of hospital beds, not to exceed sixty (60) beds, from the
1698 North Panola Community Hospital to the South Panola Community
1699 Hospital. The authorization for the transfer of those beds shall
1700 be exempt from the certificate of need review process.

1701 (16) The State Department of Health shall issue any
1702 certificates of need necessary for Mississippi State University
1703 and a public or private health care provider to jointly acquire
1704 and operate a linear accelerator and a magnetic resonance imaging
1705 unit. Those certificates of need shall cover all capital
1706 expenditures related to the project between Mississippi State
1707 University and the health care provider, including, but not
1708 limited to, the acquisition of the linear accelerator, the
1709 magnetic resonance imaging unit and other radiological modalities;
1710 the offering of linear accelerator and magnetic resonance imaging

1711 services; and the cost of construction of facilities in which to
1712 locate these services. The linear accelerator and the magnetic
1713 resonance imaging unit shall be (a) located in the City of
1714 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1715 Mississippi State University and the public or private health care
1716 provider selected by Mississippi State University through a
1717 request for proposals (RFP) process in which Mississippi State
1718 University selects, and the Board of Trustees of State
1719 Institutions of Higher Learning approves, the health care provider
1720 that makes the best overall proposal; (c) available to Mississippi
1721 State University for research purposes two-thirds (2/3) of the
1722 time that the linear accelerator and magnetic resonance imaging
1723 unit are operational; and (d) available to the public or private
1724 health care provider selected by Mississippi State University and
1725 approved by the Board of Trustees of State Institutions of Higher
1726 Learning one-third (1/3) of the time for clinical, diagnostic and
1727 treatment purposes. For purposes of this subsection, the
1728 provisions of Section 41-7-193(1) requiring substantial compliance
1729 with the projection of need as reported in the current State
1730 Health Plan are waived.

1731 (17) Nothing in this section or in any other provision of
1732 Section 41-7-171 et seq. shall prevent any nursing facility from
1733 designating an appropriate number of existing beds in the facility
1734 as beds for providing care exclusively to patients with
1735 Alzheimer's disease.

1736 (18) The State Department of Health shall issue a
1737 certificate of need for the construction, addition or conversion
1738 of acute care hospital beds in a county located in a standard
1739 metropolitan statistical area (SMSA) as defined in the latest
1740 federal decennial census which shall experience a population
1741 growth of five percent (5%) or more, not to exceed one hundred
1742 (100) beds. The recipient of such certificate of need shall be a

1743 hospital which has continuous participation, or agrees to contract
1744 to participate, in the Mississippi Trauma Care System Plan
1745 established by the State Board of Health under Section 41-59-5.
1746 For purposes of this subsection (18), "five percent (5%) or more
1747 population growth" shall be defined by the Mississippi population
1748 projections for 2010-2015 prepared by the Office of Policy
1749 Research and Planning of the State Institutions of Higher
1750 Learning. For purposes of this subsection (18), the provisions of
1751 Section 41-7-193(1) requiring substantial compliance with the
1752 projection of need as reported in the current State Health Plan
1753 and the provisions of Section 41-7-197 requiring a formal
1754 certificate of need hearing process are waived. There shall be no
1755 prohibition or restrictions on participation in the Medicaid
1756 program for the person receiving the certificate of need
1757 authorized under this subsection (18). If by July 1, 2009, there
1758 has been no significant commencement of construction of the beds
1759 authorized under this paragraph, or no significant action taken to
1760 convert existing beds to the beds authorized under this paragraph,
1761 then the certificate of need that was previously issued under this
1762 paragraph shall expire and the department shall revoke the
1763 certificate of need if it is still outstanding. This condition by
1764 the recipient of the certificate of need shall be fully binding on
1765 any subsequent owner of the certificate of need if the ownership
1766 is transferred at any time after the issuance of the certificate
1767 of need. If the previously issued certificate of need expires,
1768 the department may accept applications for issuance of another
1769 certificate of need for the beds authorized under this paragraph,
1770 and may issue a certificate of need to authorize the construction
1771 expansion or conversion of the beds authorized under this
1772 paragraph under the same conditions.

1773 **SECTION *.** Section 41-7-205, Mississippi Code of 1972, is
1774 amended as follows:

1775 41-7-205. The State Department of Health shall provide an
1776 expedited review for those projects which it determines to warrant
1777 such action. All requests for such an expedited review by the
1778 applicant must be made in writing to the State Department of
1779 Health. The State Board of Health shall make a determination as
1780 to whether expedited review is appropriate within fifteen (15)
1781 days after receipt of a written request. The State Board of
1782 Health shall render its decision concerning the issuance of a
1783 certificate of need within ninety (90) days after the receipt of a
1784 completed application. A project is subject to expedited review
1785 only if it meets one (1) of the following criteria:

1786 (a) A transfer or change of ownership of a health care
1787 facility wherein the facility continues to operate under the same
1788 category of license or permit as it possessed prior to the date of
1789 the proposed change of ownership and none of the other activities
1790 described in Section 41-7-191(1) take place in conjunction with
1791 such transfer;

1792 (b) Replacement of equipment with used equipment of
1793 similar capability if the equipment is included in the facility's
1794 annual capital expenditure budget or plan;

1795 (c) A request for project cost overruns that exceed the
1796 rate of inflation as determined by the State Department of Health;

1797 (d) A request for relocation of services or facilities
1798 if the relocation of such services or facilities (i) involves a
1799 capital expenditure by or on behalf of a health care facility, or
1800 (ii) is more than one thousand three hundred twenty (1,320) feet
1801 from the main entrance of the health care facility or the facility
1802 where the service is located;

1803 (e) A request for a certificate of need to comply with
1804 duly recognized fire, building, or life safety codes, or to comply
1805 with state licensure standards or accreditation standards required
1806 for reimbursements; and

1807 (f) A request for a certificate of need that is a
1808 nonclinical expenditure exceeding the capital expenditure minimum
1809 under Section _ of this act.

1810 **FURTHER, amend the title by inserting the following after the**
1811 **semicolon on line 35:**

1812 TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972, TO PROVIDE
1813 DEFINITIONS FOR CLINICAL AND NONCLINICAL EXPENDITURES AND TO
1814 REVISE THE MINIMUM CAPITAL EXPENDITURES REQUIRING A HEALTH CARE
1815 CERTIFICATE OF NEED AND TO PROVIDE FOR AN ANNUAL COST INDEX
1816 ADJUSTMENT FOR SUCH MINIMUM CAPITAL EXPENDITURES; TO AMEND SECTION
1817 41-7-191, MISSISSIPPI CODE OF 1972, TO INCLUDE COMPUTERIZED
1818 TOMOGRAPHY (CT)-PET SERVICES IN THOSE NEW HEALTH SERVICES
1819 REQUIRING CERTIFICATE OF NEED REVIEW AND TO CLARIFY THAT THE
1820 CONVERSION OF MOBILE SERVICES TO FIXED SITE SERVICES REQUIRES A
1821 CERTIFICATE OF NEED; TO AMEND SECTION 41-7-205, MISSISSIPPI CODE
1822 OF 1972, TO PROVIDE THAT A REQUEST FOR A NONCLINICAL EXPENDITURE
1823 BY A HEALTH CARE FACILITY NOT EXCEEDING THE CAPITAL EXPENDITURE
1824 MINIMUM SHALL BE AUTHORIZED FOR EXPEDITED REVIEW; TO EXEMPT THE
1825 REOPENING OF 16 ACUTE CARE HOSPITAL BEDS IN KEMPER COUNTY FOR THE
1826 CONSTRUCTION OF "THE JOHN C. STENNIS MEMORIAL HOSPITAL" FROM THE
1827 REQUIREMENT OF A CERTIFICATE OF NEED; TO DIRECT THE STATE
1828 DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR THE
1829 CONSTRUCTION OF ACUTE CARE HOSPITAL BEDS IN ANY COUNTY LOCATED IN
1830 A METROPOLITAN STATISTICAL AREA WHICH HAS EXPERIENCED A POPULATION
1831 GROWTH OF 5% OR MORE ACCORDING TO THE PROJECTIONS OF THE STATE
1832 INSTITUTIONS OF HIGHER LEARNING OFFICE OF POLICY RESEARCH AND
1833 PLANNING TO ANY HOSPITAL WHICH HAS CONTINUOUS PARTICIPATION IN THE
1834 MISSISSIPPI TRAUMA CARE SYSTEM PLAN; TO RESTORE THE PROCEDURE
1835 UNDER THE CERTIFICATE OF NEED LAW WHICH EXEMPTS THE NEW
1836 CONSTRUCTION OR ADDITION OF PRIVATE-PAY NURSING FACILITY BEDS
1837 WHICH ARE A PART OF A CONTINUING CARE RETIREMENT COMMUNITY
1838 CONTAINING INDEPENDENT LIVING ACCOMMODATIONS FROM THE CERTIFICATE
1839 OF NEED REQUIREMENT; TO PROVIDE THAT THE STATE DEPARTMENT OF
1840 HEALTH SHALL TRANSFER A CERTIFICATE OF NEED FOR PSYCHIATRIC
1841 RESIDENTIAL TREATMENT FACILITY BEDS FROM WARREN COUNTY TO RANKIN
1842 COUNTY; TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF HEALTH TO
1843 ISSUE A CERTIFICATE OF NEED FOR 14 PSYCHIATRIC RESIDENTIAL
1844 TREATMENT FACILITY (PRTF) BEDS IN SIMPSON COUNTY FOR A SPECIALIZED
1845 UNIT FOR THE SUBACUTE TREATMENT OF CHILDREN AND ADOLESCENTS; TO
1846 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL TRANSFER A
1847 CERTIFICATE OF NEED FOR CHILD/ADOLESCENT PSYCHIATRIC BEDS FROM
1848 WARREN COUNTY TO LAUDERDALE COUNTY; TO AUTHORIZE THE ISSUANCE OF A
1849 HEALTH CARE CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A 60-BED
1850 NURSING FACILITY IN ANY UNDERSERVED MINORITY ZIP CODE AREA IN THE
1851 STATE;