

By: Representative Fillingane

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 870

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE NURSING HOMES TO ADD UP TO SIXTY NEW BEDS WITHOUT A  
 3 CERTIFICATE OF NEED IF THE HOME HAS HAD AN AVERAGE OCCUPANCY RATE  
 4 OF AT LEAST NINETY-FIVE PERCENT FOR THE PREVIOUS TWELVE MONTHS; TO  
 5 REQUIRE ANY NURSING HOME ADDING BEDS UNDER THIS PROVISION TO FIRST  
 6 FILE A NOTICE OF INTENT WITH THE STATE DEPARTMENT OF HEALTH; TO  
 7 REQUIRE A CERTAIN NUMBER OF THE NEW BEDS TO BE USED TO PROVIDE  
 8 CARE EXCLUSIVELY TO PATIENTS WITH ALZHEIMER'S DISEASE; TO REQUIRE  
 9 SUBSTANTIAL CONSTRUCTION OF THE NEW BEDS TO BE BEGUN WITHIN  
 10 EIGHTEEN MONTHS AFTER THE NOTICE OF INTENT IS FILED OR THE BEDS  
 11 WILL NOT BE LICENSED; TO ALLOW ANY NURSING HOME THAT HAS  
 12 PREVIOUSLY ADDED NEW BEDS UNDER THIS PROVISION TO ADD MORE NEW  
 13 BEDS UNDER THIS PROVISION BEGINNING TWELVE MONTHS AFTER THE  
 14 PREVIOUSLY ADDED BEDS ARE OPERATIONAL; AND FOR RELATED PURPOSES.

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

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

18 41-7-191. (1) No person shall engage in any of the  
 19 following activities without obtaining the required certificate of  
 20 need:

21 (a) The construction, development or other  
 22 establishment of a new health care facility;

23 (b) The relocation of a health care facility or portion  
 24 thereof, or major medical equipment, unless such relocation of a  
 25 health care facility or portion thereof, or major medical  
 26 equipment, which does not involve a capital expenditure by or on  
 27 behalf of a health care facility, is within five thousand two  
 28 hundred eighty (5,280) feet from the main entrance of the health  
 29 care facility;

30 (c) Any change in the existing bed complement of any  
 31 health care facility through the addition or conversion of any  
 32 beds or the alteration, modernizing or refurbishing of any unit or  
 33 department in which the beds may be located; however, if a health

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

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

- 57 (i) Open heart surgery services;
- 58 (ii) Cardiac catheterization services;
- 59 (iii) Comprehensive inpatient rehabilitation  
60 services;
- 61 (iv) Licensed psychiatric services;
- 62 (v) Licensed chemical dependency services;
- 63 (vi) Radiation therapy services;
- 64 (vii) Diagnostic imaging services of an invasive  
65 nature, i.e. invasive digital angiography;

66                   (viii) Nursing home care as defined in  
67 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);  
68                   (ix) Home health services;  
69                   (x) Swing-bed services;  
70                   (xi) Ambulatory surgical services;  
71                   (xii) Magnetic resonance imaging services;  
72                   (xiii) Extracorporeal shock wave lithotripsy  
73 services;  
74                   (xiv) Long-term care hospital services;  
75                   (xv) Positron Emission Tomography (PET) services;  
76           (e) The relocation of one or more health services from  
77 one physical facility or site to another physical facility or  
78 site, unless such relocation, which does not involve a capital  
79 expenditure by or on behalf of a health care facility, (i) is to a  
80 physical facility or site within one thousand three hundred twenty  
81 (1,320) feet from the main entrance of the health care facility  
82 where the health care service is located, or (ii) is the result of  
83 an order of a court of appropriate jurisdiction or a result of  
84 pending litigation in such court, or by order of the State  
85 Department of Health, or by order of any other agency or legal  
86 entity of the state, the federal government, or any political  
87 subdivision of either, whose order is also approved by the State  
88 Department of Health;  
89           (f) The acquisition or otherwise control of any major  
90 medical equipment for the provision of medical services; provided,  
91 however, (i) the acquisition of any major medical equipment used  
92 only for research purposes, and (ii) the acquisition of major  
93 medical equipment to replace medical equipment for which a  
94 facility is already providing medical services and for which the  
95 State Department of Health has been notified before the date of  
96 such acquisition shall be exempt from this paragraph; an  
97 acquisition for less than fair market value must be reviewed, if  
98 the acquisition at fair market value would be subject to review;

99                   (g) Changes of ownership of existing health care  
100 facilities in which a notice of intent is not filed with the State  
101 Department of Health at least thirty (30) days prior to the date  
102 such change of ownership occurs, or a change in services or bed  
103 capacity as prescribed in paragraph (c) or (d) of this subsection  
104 as a result of the change of ownership; an acquisition for less  
105 than fair market value must be reviewed, if the acquisition at  
106 fair market value would be subject to review;

107                   (h) The change of ownership of any health care facility  
108 defined in subparagraphs (iv), (vi) and (viii) of Section  
109 41-7-173(h), in which a notice of intent as described in paragraph  
110 (g) has not been filed and if the Executive Director, Division of  
111 Medicaid, Office of the Governor, has not certified in writing  
112 that there will be no increase in allowable costs to Medicaid from  
113 revaluation of the assets or from increased interest and  
114 depreciation as a result of the proposed change of ownership;

115                   (i) Any activity described in paragraphs (a) through  
116 (h) if undertaken by any person if that same activity would  
117 require certificate of need approval if undertaken by a health  
118 care facility;

119                   (j) Any capital expenditure or deferred capital  
120 expenditure by or on behalf of a health care facility not covered  
121 by paragraphs (a) through (h);

122                   (k) The contracting of a health care facility as  
123 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
124 to establish a home office, subunit, or branch office in the space  
125 operated as a health care facility through a formal arrangement  
126 with an existing health care facility as defined in subparagraph  
127 (ix) of Section 41-7-173(h).

128                   (2) The State Department of Health shall not grant approval  
129 for or issue a certificate of need to any person proposing the new  
130 construction of, addition to, or expansion of any health care  
131 facility defined in subparagraphs (iv) (skilled nursing facility)

132 and (vi) (intermediate care facility) of Section 41-7-173(h) or  
133 the conversion of vacant hospital beds to provide skilled or  
134 intermediate nursing home care, except as hereinafter authorized:

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

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

152           (c) The department may issue a certificate of need for  
153 the addition to or expansion of any skilled nursing facility that  
154 is part of an existing continuing care retirement community  
155 located in Madison County, provided that the recipient of the  
156 certificate of need agrees in writing that the skilled nursing  
157 facility will not at any time participate in the Medicaid program  
158 (Section 43-13-101 et seq.) or admit or keep any patients in the  
159 skilled nursing facility who are participating in the Medicaid  
160 program. This written agreement by the recipient of the  
161 certificate of need shall be fully binding on any subsequent owner  
162 of the skilled nursing facility, if the ownership of the facility  
163 is transferred at any time after the issuance of the certificate  
164 of need. Agreement that the skilled nursing facility will not

165 participate in the Medicaid program shall be a condition of the  
166 issuance of a certificate of need to any person under this  
167 paragraph (c), and if such skilled nursing facility at any time  
168 after the issuance of the certificate of need, regardless of the  
169 ownership of the facility, participates in the Medicaid program or  
170 admits or keeps any patients in the facility who are participating  
171 in the Medicaid program, the State Department of Health shall  
172 revoke the certificate of need, if it is still outstanding, and  
173 shall deny or revoke the license of the skilled nursing facility,  
174 at the time that the department determines, after a hearing  
175 complying with due process, that the facility has failed to comply  
176 with any of the conditions upon which the certificate of need was  
177 issued, as provided in this paragraph and in the written agreement  
178 by the recipient of the certificate of need. The total number of  
179 beds that may be authorized under the authority of this paragraph  
180 (c) shall not exceed sixty (60) beds.

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

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

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

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

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

222           (i) The department may issue a certificate of need for  
223 the new construction of a skilled nursing facility in Leake  
224 County, provided that the recipient of the certificate of need  
225 agrees in writing that the skilled nursing facility will not at  
226 any time participate in the Medicaid program (Section 43-13-101 et  
227 seq.) or admit or keep any patients in the skilled nursing  
228 facility who are participating in the Medicaid program. This  
229 written agreement by the recipient of the certificate of need  
230 shall be fully binding on any subsequent owner of the skilled

231 nursing facility, if the ownership of the facility is transferred  
232 at any time after the issuance of the certificate of need.  
233 Agreement that the skilled nursing facility will not participate  
234 in the Medicaid program shall be a condition of the issuance of a  
235 certificate of need to any person under this paragraph (i), and if  
236 such skilled nursing facility at any time after the issuance of  
237 the certificate of need, regardless of the ownership of the  
238 facility, participates in the Medicaid program or admits or keeps  
239 any patients in the facility who are participating in the Medicaid  
240 program, the State Department of Health shall revoke the  
241 certificate of need, if it is still outstanding, and shall deny or  
242 revoke the license of the skilled nursing facility, at the time  
243 that the department determines, after a hearing complying with due  
244 process, that the facility has failed to comply with any of the  
245 conditions upon which the certificate of need was issued, as  
246 provided in this paragraph and in the written agreement by the  
247 recipient of the certificate of need. The provision of Section  
248 43-7-193(1) regarding substantial compliance of the projection of  
249 need as reported in the current State Health Plan is waived for  
250 the purposes of this paragraph. The total number of nursing  
251 facility beds that may be authorized by any certificate of need  
252 issued under this paragraph (i) shall not exceed sixty (60) beds.  
253 If the skilled nursing facility authorized by the certificate of  
254 need issued under this paragraph is not constructed and fully  
255 operational within eighteen (18) months after July 1, 1994, the  
256 State Department of Health, after a hearing complying with due  
257 process, shall revoke the certificate of need, if it is still  
258 outstanding, and shall not issue a license for the skilled nursing  
259 facility at any time after the expiration of the eighteen-month  
260 period.

261 (j) The department may issue certificates of need to  
262 allow any existing freestanding long-term care facility in  
263 Tishomingo County and Hancock County that on July 1, 1995, is



264 licensed with fewer than sixty (60) beds. For the purposes of  
265 this paragraph (j), the provision of Section 41-7-193(1) requiring  
266 substantial compliance with the projection of need as reported in  
267 the current State Health Plan is waived. From and after July 1,  
268 1999, there shall be no prohibition or restrictions on  
269 participation in the Medicaid program (Section 43-13-101 et seq.)  
270 for the beds in the long-term care facilities that were authorized  
271 under this paragraph (j).

272 (k) The department may issue a certificate of need for  
273 the construction of a nursing facility at a continuing care  
274 retirement community in Lowndes County. The total number of beds  
275 that may be authorized under the authority of this paragraph (k)  
276 shall not exceed sixty (60) beds. From and after July 1, 2001,  
277 the prohibition on the facility participating in the Medicaid  
278 program (Section 43-13-101 et seq.) that was a condition of  
279 issuance of the certificate of need under this paragraph (k) shall  
280 be revised as follows: The nursing facility may participate in  
281 the Medicaid program from and after July 1, 2001, if the owner of  
282 the facility on July 1, 2001, agrees in writing that no more than  
283 thirty (30) of the beds at the facility will be certified for  
284 participation in the Medicaid program, and that no claim will be  
285 submitted for Medicaid reimbursement for more than thirty (30)  
286 patients in the facility in any month or for any patient in the  
287 facility who is in a bed that is not Medicaid-certified. This  
288 written agreement by the owner of the facility shall be a  
289 condition of licensure of the facility, and the agreement shall be  
290 fully binding on any subsequent owner of the facility if the  
291 ownership of the facility is transferred at any time after July 1,  
292 2001. After this written agreement is executed, the Division of  
293 Medicaid and the State Department of Health shall not certify more  
294 than thirty (30) of the beds in the facility for participation in  
295 the Medicaid program. If the facility violates the terms of the  
296 written agreement by admitting or keeping in the facility on a

297 regular or continuing basis more than thirty (30) patients who are  
298 participating in the Medicaid program, the State Department of  
299 Health shall revoke the license of the facility, at the time that  
300 the department determines, after a hearing complying with due  
301 process, that the facility has violated the written agreement.

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

312 (m) The State Department of Health may issue a  
313 certificate of need to a county-owned hospital in the Second  
314 Judicial District of Panola County for the conversion of not more  
315 than seventy-two (72) hospital beds to nursing facility beds,  
316 provided that the recipient of the certificate of need agrees in  
317 writing that none of the beds at the nursing facility will be  
318 certified for participation in the Medicaid program (Section  
319 43-13-101 et seq.), and that no claim will be submitted for  
320 Medicaid reimbursement in the nursing facility in any day or for  
321 any patient in the nursing facility. This written agreement by  
322 the recipient of the certificate of need shall be a condition of  
323 the issuance of the certificate of need under this paragraph, and  
324 the agreement shall be fully binding on any subsequent owner of  
325 the nursing facility if the ownership of the nursing facility is  
326 transferred at any time after the issuance of the certificate of  
327 need. After this written agreement is executed, the Division of  
328 Medicaid and the State Department of Health shall not certify any  
329 of the beds in the nursing facility for participation in the

330 Medicaid program. If the nursing facility violates the terms of  
331 the written agreement by admitting or keeping in the nursing  
332 facility on a regular or continuing basis any patients who are  
333 participating in the Medicaid program, the State Department of  
334 Health shall revoke the license of the nursing facility, at the  
335 time that the department determines, after a hearing complying  
336 with due process, that the nursing facility has violated the  
337 condition upon which the certificate of need was issued, as  
338 provided in this paragraph and in the written agreement. If the  
339 certificate of need authorized under this paragraph is not issued  
340 within twelve (12) months after July 1, 2001, the department shall  
341 deny the application for the certificate of need and shall not  
342 issue the certificate of need at any time after the twelve-month  
343 period, unless the issuance is contested. If the certificate of  
344 need is issued and substantial construction of the nursing  
345 facility beds has not commenced within eighteen (18) months after  
346 July 1, 2001, the State Department of Health, after a hearing  
347 complying with due process, shall revoke the certificate of need  
348 if it is still outstanding, and the department shall not issue a  
349 license for the nursing facility at any time after the  
350 eighteen-month period. Provided, however, that if the issuance of  
351 the certificate of need is contested, the department shall require  
352 substantial construction of the nursing facility beds within six  
353 (6) months after final adjudication on the issuance of the  
354 certificate of need.

355           (n) The department may issue a certificate of need for  
356 the new construction, addition or conversion of skilled nursing  
357 facility beds in Madison County, provided that the recipient of  
358 the certificate of need agrees in writing that the skilled nursing  
359 facility will not at any time participate in the Medicaid program  
360 (Section 43-13-101 et seq.) or admit or keep any patients in the  
361 skilled nursing facility who are participating in the Medicaid  
362 program. This written agreement by the recipient of the

363 certificate of need shall be fully binding on any subsequent owner  
364 of the skilled nursing facility, if the ownership of the facility  
365 is transferred at any time after the issuance of the certificate  
366 of need. Agreement that the skilled nursing facility will not  
367 participate in the Medicaid program shall be a condition of the  
368 issuance of a certificate of need to any person under this  
369 paragraph (n), and if such skilled nursing facility at any time  
370 after the issuance of the certificate of need, regardless of the  
371 ownership of the facility, participates in the Medicaid program or  
372 admits or keeps any patients in the facility who are participating  
373 in the Medicaid program, the State Department of Health shall  
374 revoke the certificate of need, if it is still outstanding, and  
375 shall deny or revoke the license of the skilled nursing facility,  
376 at the time that the department determines, after a hearing  
377 complying with due process, that the facility has failed to comply  
378 with any of the conditions upon which the certificate of need was  
379 issued, as provided in this paragraph and in the written agreement  
380 by the recipient of the certificate of need. The total number of  
381 nursing facility beds that may be authorized by any certificate of  
382 need issued under this paragraph (n) shall not exceed sixty (60)  
383 beds. If the certificate of need authorized under this paragraph  
384 is not issued within twelve (12) months after July 1, 1998, the  
385 department shall deny the application for the certificate of need  
386 and shall not issue the certificate of need at any time after the  
387 twelve-month period, unless the issuance is contested. If the  
388 certificate of need is issued and substantial construction of the  
389 nursing facility beds has not commenced within eighteen (18)  
390 months after the effective date of July 1, 1998, the State  
391 Department of Health, after a hearing complying with due process,  
392 shall revoke the certificate of need if it is still outstanding,  
393 and the department shall not issue a license for the nursing  
394 facility at any time after the eighteen-month period. Provided,  
395 however, that if the issuance of the certificate of need is

396 contested, the department shall require substantial construction  
397 of the nursing facility beds within six (6) months after final  
398 adjudication on the issuance of the certificate of need.

399 (o) The department may issue a certificate of need for  
400 the new construction, addition or conversion of skilled nursing  
401 facility beds in Leake County, provided that the recipient of the  
402 certificate of need agrees in writing that the skilled nursing  
403 facility will not at any time participate in the Medicaid program  
404 (Section 43-13-101 et seq.) or admit or keep any patients in the  
405 skilled nursing facility who are participating in the Medicaid  
406 program. This written agreement by the recipient of the  
407 certificate of need shall be fully binding on any subsequent owner  
408 of the skilled nursing facility, if the ownership of the facility  
409 is transferred at any time after the issuance of the certificate  
410 of need. Agreement that the skilled nursing facility will not  
411 participate in the Medicaid program shall be a condition of the  
412 issuance of a certificate of need to any person under this  
413 paragraph (o), and if such skilled nursing facility at any time  
414 after the issuance of the certificate of need, regardless of the  
415 ownership of the facility, participates in the Medicaid program or  
416 admits or keeps any patients in the facility who are participating  
417 in the Medicaid program, the State Department of Health shall  
418 revoke the certificate of need, if it is still outstanding, and  
419 shall deny or revoke the license of the skilled nursing facility,  
420 at the time that the department determines, after a hearing  
421 complying with due process, that the facility has failed to comply  
422 with any of the conditions upon which the certificate of need was  
423 issued, as provided in this paragraph and in the written agreement  
424 by the recipient of the certificate of need. The total number of  
425 nursing facility beds that may be authorized by any certificate of  
426 need issued under this paragraph (o) shall not exceed sixty (60)  
427 beds. If the certificate of need authorized under this paragraph  
428 is not issued within twelve (12) months after July 1, 2001, the

429 department shall deny the application for the certificate of need  
430 and shall not issue the certificate of need at any time after the  
431 twelve-month period, unless the issuance is contested. If the  
432 certificate of need is issued and substantial construction of the  
433 nursing facility beds has not commenced within eighteen (18)  
434 months after the effective date of July 1, 2001, the State  
435 Department of Health, after a hearing complying with due process,  
436 shall revoke the certificate of need if it is still outstanding,  
437 and the department shall not issue a license for the nursing  
438 facility at any time after the eighteen-month period. Provided,  
439 however, that if the issuance of the certificate of need is  
440 contested, the department shall require substantial construction  
441 of the nursing facility beds within six (6) months after final  
442 adjudication on the issuance of the certificate of need.

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

455 Agreement that the skilled nursing facility will not participate  
456 in the Medicaid program shall be a condition of the issuance of a  
457 certificate of need to any person under this paragraph (p), and if  
458 such skilled nursing facility at any time after the issuance of  
459 the certificate of need, regardless of the ownership of the  
460 facility, participates in the Medicaid program or admits or keeps  
461 any patients in the facility who are participating in the Medicaid

462 program, the State Department of Health shall revoke the  
463 certificate of need, if it is still outstanding, and shall deny or  
464 revoke the license of the skilled nursing facility, at the time  
465 that the department determines, after a hearing complying with due  
466 process, that the facility has failed to comply with any of the  
467 conditions upon which the certificate of need was issued, as  
468 provided in this paragraph and in the written agreement by the  
469 recipient of the certificate of need. The provision of Section  
470 43-7-193(1) regarding substantial compliance of the projection of  
471 need as reported in the current State Health Plan is waived for  
472 the purposes of this paragraph. If the certificate of need  
473 authorized under this paragraph is not issued within twelve (12)  
474 months after July 1, 1998, the department shall deny the  
475 application for the certificate of need and shall not issue the  
476 certificate of need at any time after the twelve-month period,  
477 unless the issuance is contested. If the certificate of need is  
478 issued and substantial construction of the nursing facility beds  
479 has not commenced within eighteen (18) months after July 1, 1998,  
480 the State Department of Health, after a hearing complying with due  
481 process, shall revoke the certificate of need if it is still  
482 outstanding, and the department shall not issue a license for the  
483 nursing facility at any time after the eighteen-month period.  
484 Provided, however, that if the issuance of the certificate of need  
485 is contested, the department shall require substantial  
486 construction of the nursing facility beds within six (6) months  
487 after final adjudication on the issuance of the certificate of  
488 need.

489 (q) (i) Beginning on July 1, 1999, the State  
490 Department of Health shall issue certificates of need during each  
491 of the next four (4) fiscal years for the construction or  
492 expansion of nursing facility beds or the conversion of other beds  
493 to nursing facility beds in each county in the state having a need  
494 for fifty (50) or more additional nursing facility beds, as shown

495 in the fiscal year 1999 State Health Plan, in the manner provided  
496 in this paragraph (q). The total number of nursing facility beds  
497 that may be authorized by any certificate of need authorized under  
498 this paragraph (q) shall not exceed sixty (60) beds.

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

522 (iii) Subject to the provisions of subparagraph  
523 (v), the certificate of need issued under subparagraph (ii) for  
524 nursing facility beds in each Long-Term Care Planning District  
525 during each fiscal year shall first be available for nursing  
526 facility beds in the county in the district having the highest  
527 need for those beds, as shown in the fiscal year 1999 State Health



528 Plan. If there are no applications for a certificate of need for  
529 nursing facility beds in the county having the highest need for  
530 those beds by the date specified by the department, then the  
531 certificate of need shall be available for nursing facility beds  
532 in other counties in the district in descending order of the need  
533 for those beds, from the county with the second highest need to  
534 the county with the lowest need, until an application is received  
535 for nursing facility beds in an eligible county in the district.

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

554 (v) If a certificate of need is authorized to be  
555 issued under this paragraph (q) for nursing facility beds in a  
556 county on the basis of the need in the Long-Term Care Planning  
557 District during any fiscal year of the four-year period, a  
558 certificate of need shall not also be available under this  
559 paragraph (q) for additional nursing facility beds in that county  
560 on the basis of the need in the state at large, and that county

561 shall be excluded in determining which counties have the highest  
562 need for nursing facility beds in the state at large for that  
563 fiscal year. After a certificate of need has been issued under  
564 this paragraph (q) for nursing facility beds in a county during  
565 any fiscal year of the four-year period, a certificate of need  
566 shall not be available again under this paragraph (q) for  
567 additional nursing facility beds in that county during the  
568 four-year period, and that county shall be excluded in determining  
569 which counties have the highest need for nursing facility beds in  
570 succeeding fiscal years.

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

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

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

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

593 Plan, to provide care exclusively to patients with Alzheimer's  
594 disease.

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

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

618 (3) The State Department of Health may grant approval for  
619 and issue certificates of need to any person proposing the new  
620 construction of, addition to, conversion of beds of or expansion  
621 of any health care facility defined in subparagraph (x)  
622 (psychiatric residential treatment facility) of Section  
623 41-7-173(h). The total number of beds which may be authorized by  
624 such certificates of need shall not exceed three hundred  
625 thirty-four (334) beds for the entire state.

626           (a) Of the total number of beds authorized under this  
627 subsection, the department shall issue a certificate of need to a  
628 privately-owned psychiatric residential treatment facility in  
629 Simpson County for the conversion of sixteen (16) intermediate  
630 care facility for the mentally retarded (ICF-MR) beds to  
631 psychiatric residential treatment facility beds, provided that  
632 facility agrees in writing that the facility shall give priority  
633 for the use of those sixteen (16) beds to Mississippi residents  
634 who are presently being treated in out-of-state facilities.

635           (b) Of the total number of beds authorized under this  
636 subsection, the department may issue a certificate or certificates  
637 of need for the construction or expansion of psychiatric  
638 residential treatment facility beds or the conversion of other  
639 beds to psychiatric residential treatment facility beds in Warren  
640 County, not to exceed sixty (60) psychiatric residential treatment  
641 facility beds, provided that the facility agrees in writing that  
642 no more than thirty (30) of the beds at the psychiatric  
643 residential treatment facility will be certified for participation  
644 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
645 any patients other than those who are participating only in the  
646 Medicaid program of another state, and that no claim will be  
647 submitted to the Division of Medicaid for Medicaid reimbursement  
648 for more than thirty (30) patients in the psychiatric residential  
649 treatment facility in any day or for any patient in the  
650 psychiatric residential treatment facility who is in a bed that is  
651 not Medicaid-certified. This written agreement by the recipient  
652 of the certificate of need shall be a condition of the issuance of  
653 the certificate of need under this paragraph, and the agreement  
654 shall be fully binding on any subsequent owner of the psychiatric  
655 residential treatment facility if the ownership of the facility is  
656 transferred at any time after the issuance of the certificate of  
657 need. After this written agreement is executed, the Division of  
658 Medicaid and the State Department of Health shall not certify more

659 than thirty (30) of the beds in the psychiatric residential  
660 treatment facility for participation in the Medicaid program for  
661 the use of any patients other than those who are participating  
662 only in the Medicaid program of another state. If the psychiatric  
663 residential treatment facility violates the terms of the written  
664 agreement by admitting or keeping in the facility on a regular or  
665 continuing basis more than thirty (30) patients who are  
666 participating in the Mississippi Medicaid program, the State  
667 Department of Health shall revoke the license of the facility, at  
668 the time that the department determines, after a hearing complying  
669 with due process, that the facility has violated the condition  
670 upon which the certificate of need was issued, as provided in this  
671 paragraph and in the written agreement.

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

676 (c) Of the total number of beds authorized under this  
677 subsection, the department shall issue a certificate of need to a  
678 hospital currently operating Medicaid-certified acute psychiatric  
679 beds for adolescents in DeSoto County, for the establishment of a  
680 forty-bed psychiatric residential treatment facility in DeSoto  
681 County, provided that the hospital agrees in writing (i) that the  
682 hospital shall give priority for the use of those forty (40) beds  
683 to Mississippi residents who are presently being treated in  
684 out-of-state facilities, and (ii) that no more than fifteen (15)  
685 of the beds at the psychiatric residential treatment facility will  
686 be certified for participation in the Medicaid program (Section  
687 43-13-101 et seq.), and that no claim will be submitted for  
688 Medicaid reimbursement for more than fifteen (15) patients in the  
689 psychiatric residential treatment facility in any day or for any  
690 patient in the psychiatric residential treatment facility who is  
691 in a bed that is not Medicaid-certified. This written agreement

692 by the recipient of the certificate of need shall be a condition  
693 of the issuance of the certificate of need under this paragraph,  
694 and the agreement shall be fully binding on any subsequent owner  
695 of the psychiatric residential treatment facility if the ownership  
696 of the facility is transferred at any time after the issuance of  
697 the certificate of need. After this written agreement is  
698 executed, the Division of Medicaid and the State Department of  
699 Health shall not certify more than fifteen (15) of the beds in the  
700 psychiatric residential treatment facility for participation in  
701 the Medicaid program. If the psychiatric residential treatment  
702 facility violates the terms of the written agreement by admitting  
703 or keeping in the facility on a regular or continuing basis more  
704 than fifteen (15) patients who are participating in the Medicaid  
705 program, the State Department of Health shall revoke the license  
706 of the facility, at the time that the department determines, after  
707 a hearing complying with due process, that the facility has  
708 violated the condition upon which the certificate of need was  
709 issued, as provided in this paragraph and in the written  
710 agreement.

711 (d) Of the total number of beds authorized under this  
712 subsection, the department may issue a certificate or certificates  
713 of need for the construction or expansion of psychiatric  
714 residential treatment facility beds or the conversion of other  
715 beds to psychiatric treatment facility beds, not to exceed thirty  
716 (30) psychiatric residential treatment facility beds, in either  
717 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
718 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

719 (e) Of the total number of beds authorized under this  
720 subsection (3) the department shall issue a certificate of need to  
721 a privately-owned, nonprofit psychiatric residential treatment  
722 facility in Hinds County for an eight-bed expansion of the  
723 facility, provided that the facility agrees in writing that the  
724 facility shall give priority for the use of those eight (8) beds

725 to Mississippi residents who are presently being treated in  
726 out-of-state facilities.

727 (f) The department shall issue a certificate of need to  
728 a one-hundred-thirty-four-bed specialty hospital located on  
729 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
730 at 5900 Highway 39 North in Meridian (Lauderdale County),  
731 Mississippi, for the addition, construction or expansion of  
732 child/adolescent psychiatric residential treatment facility beds  
733 in Lauderdale County. As a condition of issuance of the  
734 certificate of need under this paragraph, the facility shall give  
735 priority in admissions to the child/adolescent psychiatric  
736 residential treatment facility beds authorized under this  
737 paragraph to patients who otherwise would require out-of-state  
738 placement. The Division of Medicaid, in conjunction with the  
739 Department of Human Services, shall furnish the facility a list of  
740 all out-of-state patients on a quarterly basis. Furthermore,  
741 notice shall also be provided to the parent, custodial parent or  
742 guardian of each out-of-state patient notifying them of the  
743 priority status granted by this paragraph. For purposes of this  
744 paragraph, the provisions of Section 41-7-193(1) requiring  
745 substantial compliance with the projection of need as reported in  
746 the current State Health Plan are waived. The total number of  
747 child/adolescent psychiatric residential treatment facility beds  
748 that may be authorized under the authority of this paragraph shall  
749 be sixty (60) beds. There shall be no prohibition or restrictions  
750 on participation in the Medicaid program (Section 43-13-101 et  
751 seq.) for the person receiving the certificate of need authorized  
752 under this paragraph or for the beds converted pursuant to the  
753 authority of that certificate of need.

754 (4) (a) From and after July 1, 1993, the department shall  
755 not issue a certificate of need to any person for the new  
756 construction of any hospital, psychiatric hospital or chemical  
757 dependency hospital that will contain any child/adolescent

758 psychiatric or child/adolescent chemical dependency beds, or for  
759 the conversion of any other health care facility to a hospital,  
760 psychiatric hospital or chemical dependency hospital that will  
761 contain any child/adolescent psychiatric or child/adolescent  
762 chemical dependency beds, or for the addition of any  
763 child/adolescent psychiatric or child/adolescent chemical  
764 dependency beds in any hospital, psychiatric hospital or chemical  
765 dependency hospital, or for the conversion of any beds of another  
766 category in any hospital, psychiatric hospital or chemical  
767 dependency hospital to child/adolescent psychiatric or  
768 child/adolescent chemical dependency beds, except as hereinafter  
769 authorized:

770           (i) The department may issue certificates of need  
771 to any person for any purpose described in this subsection,  
772 provided that the hospital, psychiatric hospital or chemical  
773 dependency hospital does not participate in the Medicaid program  
774 (Section 43-13-101 et seq.) at the time of the application for the  
775 certificate of need and the owner of the hospital, psychiatric  
776 hospital or chemical dependency hospital agrees in writing that  
777 the hospital, psychiatric hospital or chemical dependency hospital  
778 will not at any time participate in the Medicaid program or admit  
779 or keep any patients who are participating in the Medicaid program  
780 in the hospital, psychiatric hospital or chemical dependency  
781 hospital. This written agreement by the recipient of the  
782 certificate of need shall be fully binding on any subsequent owner  
783 of the hospital, psychiatric hospital or chemical dependency  
784 hospital, if the ownership of the facility is transferred at any  
785 time after the issuance of the certificate of need. Agreement  
786 that the hospital, psychiatric hospital or chemical dependency  
787 hospital will not participate in the Medicaid program shall be a  
788 condition of the issuance of a certificate of need to any person  
789 under this subparagraph (a)(i), and if such hospital, psychiatric  
790 hospital or chemical dependency hospital at any time after the



791 issuance of the certificate of need, regardless of the ownership  
792 of the facility, participates in the Medicaid program or admits or  
793 keeps any patients in the hospital, psychiatric hospital or  
794 chemical dependency hospital who are participating in the Medicaid  
795 program, the State Department of Health shall revoke the  
796 certificate of need, if it is still outstanding, and shall deny or  
797 revoke the license of the hospital, psychiatric hospital or  
798 chemical dependency hospital, at the time that the department  
799 determines, after a hearing complying with due process, that the  
800 hospital, psychiatric hospital or chemical dependency hospital has  
801 failed to comply with any of the conditions upon which the  
802 certificate of need was issued, as provided in this subparagraph  
803 and in the written agreement by the recipient of the certificate  
804 of need.

805           (ii) The department may issue a certificate of  
806 need for the conversion of existing beds in a county hospital in  
807 Choctaw County from acute care beds to child/adolescent chemical  
808 dependency beds. For purposes of this subparagraph, the  
809 provisions of Section 41-7-193(1) requiring substantial compliance  
810 with the projection of need as reported in the current State  
811 Health Plan is waived. The total number of beds that may be  
812 authorized under authority of this subparagraph shall not exceed  
813 twenty (20) beds. There shall be no prohibition or restrictions  
814 on participation in the Medicaid program (Section 43-13-101 et  
815 seq.) for the hospital receiving the certificate of need  
816 authorized under this subparagraph (a)(ii) or for the beds  
817 converted pursuant to the authority of that certificate of need.

818           (iii) The department may issue a certificate or  
819 certificates of need for the construction or expansion of  
820 child/adolescent psychiatric beds or the conversion of other beds  
821 to child/adolescent psychiatric beds in Warren County. For  
822 purposes of this subparagraph, the provisions of Section  
823 41-7-193(1) requiring substantial compliance with the projection

824 of need as reported in the current State Health Plan are waived.  
825 The total number of beds that may be authorized under the  
826 authority of this subparagraph shall not exceed twenty (20) beds.  
827 There shall be no prohibition or restrictions on participation in  
828 the Medicaid program (Section 43-13-101 et seq.) for the person  
829 receiving the certificate of need authorized under this  
830 subparagraph (a)(iii) or for the beds converted pursuant to the  
831 authority of that certificate of need.

832 If by January 1, 2002, there has been no significant  
833 commencement of construction of the beds authorized under this  
834 subparagraph (a)(iii), or no significant action taken to convert  
835 existing beds to the beds authorized under this subparagraph, then  
836 the certificate of need that was previously issued under this  
837 subparagraph shall expire. If the previously issued certificate  
838 of need expires, the department may accept applications for  
839 issuance of another certificate of need for the beds authorized  
840 under this subparagraph, and may issue a certificate of need to  
841 authorize the construction, expansion or conversion of the beds  
842 authorized under this subparagraph.

843 (iv) The department shall issue a certificate of  
844 need to the Region 7 Mental Health/Retardation Commission for the  
845 construction or expansion of child/adolescent psychiatric beds or  
846 the conversion of other beds to child/adolescent psychiatric beds  
847 in any of the counties served by the commission. For purposes of  
848 this subparagraph, the provisions of Section 41-7-193(1) requiring  
849 substantial compliance with the projection of need as reported in  
850 the current State Health Plan is waived. The total number of beds  
851 that may be authorized under the authority of this subparagraph  
852 shall not exceed twenty (20) beds. There shall be no prohibition  
853 or restrictions on participation in the Medicaid program (Section  
854 43-13-101 et seq.) for the person receiving the certificate of  
855 need authorized under this subparagraph (a)(iv) or for the beds  
856 converted pursuant to the authority of that certificate of need.

857                   (v) The department may issue a certificate of need  
858 to any county hospital located in Leflore County for the  
859 construction or expansion of adult psychiatric beds or the  
860 conversion of other beds to adult psychiatric beds, not to exceed  
861 twenty (20) beds, provided that the recipient of the certificate  
862 of need agrees in writing that the adult psychiatric beds will not  
863 at any time be certified for participation in the Medicaid program  
864 and that the hospital will not admit or keep any patients who are  
865 participating in the Medicaid program in any of such adult  
866 psychiatric beds. This written agreement by the recipient of the  
867 certificate of need shall be fully binding on any subsequent owner  
868 of the hospital if the ownership of the hospital is transferred at  
869 any time after the issuance of the certificate of need. Agreement  
870 that the adult psychiatric beds will not be certified for  
871 participation in the Medicaid program shall be a condition of the  
872 issuance of a certificate of need to any person under this  
873 subparagraph (a)(v), and if such hospital at any time after the  
874 issuance of the certificate of need, regardless of the ownership  
875 of the hospital, has any of such adult psychiatric beds certified  
876 for participation in the Medicaid program or admits or keeps any  
877 Medicaid patients in such adult psychiatric beds, the State  
878 Department of Health shall revoke the certificate of need, if it  
879 is still outstanding, and shall deny or revoke the license of the  
880 hospital at the time that the department determines, after a  
881 hearing complying with due process, that the hospital has failed  
882 to comply with any of the conditions upon which the certificate of  
883 need was issued, as provided in this subparagraph and in the  
884 written agreement by the recipient of the certificate of need.

885                   (vi) The department may issue a certificate or  
886 certificates of need for the expansion of child psychiatric beds  
887 or the conversion of other beds to child psychiatric beds at the  
888 University of Mississippi Medical Center. For purposes of this  
889 subparagraph (a)(vi), the provision of Section 41-7-193(1)

890 requiring substantial compliance with the projection of need as  
891 reported in the current State Health Plan is waived. The total  
892 number of beds that may be authorized under the authority of this  
893 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
894 shall be no prohibition or restrictions on participation in the  
895 Medicaid program (Section 43-13-101 et seq.) for the hospital  
896 receiving the certificate of need authorized under this  
897 subparagraph (a)(vi) or for the beds converted pursuant to the  
898 authority of that certificate of need.

899 (b) From and after July 1, 1990, no hospital,  
900 psychiatric hospital or chemical dependency hospital shall be  
901 authorized to add any child/adolescent psychiatric or  
902 child/adolescent chemical dependency beds or convert any beds of  
903 another category to child/adolescent psychiatric or  
904 child/adolescent chemical dependency beds without a certificate of  
905 need under the authority of subsection (1)(c) of this section.

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

909 (6) The State Department of Health shall issue a certificate  
910 of need to a Mississippi corporation qualified to manage a  
911 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
912 Harrison County, not to exceed eighty (80) beds, including any  
913 necessary renovation or construction required for licensure and  
914 certification, provided that the recipient of the certificate of  
915 need agrees in writing that the long-term care hospital will not  
916 at any time participate in the Medicaid program (Section 43-13-101  
917 et seq.) or admit or keep any patients in the long-term care  
918 hospital who are participating in the Medicaid program. This  
919 written agreement by the recipient of the certificate of need  
920 shall be fully binding on any subsequent owner of the long-term  
921 care hospital, if the ownership of the facility is transferred at  
922 any time after the issuance of the certificate of need. Agreement

923 that the long-term care hospital will not participate in the  
924 Medicaid program shall be a condition of the issuance of a  
925 certificate of need to any person under this subsection (6), and  
926 if such long-term care hospital at any time after the issuance of  
927 the certificate of need, regardless of the ownership of the  
928 facility, participates in the Medicaid program or admits or keeps  
929 any patients in the facility who are participating in the Medicaid  
930 program, the State Department of Health shall revoke the  
931 certificate of need, if it is still outstanding, and shall deny or  
932 revoke the license of the long-term care hospital, at the time  
933 that the department determines, after a hearing complying with due  
934 process, that the facility has failed to comply with any of the  
935 conditions upon which the certificate of need was issued, as  
936 provided in this subsection and in the written agreement by the  
937 recipient of the certificate of need. For purposes of this  
938 subsection, the provision of Section 41-7-193(1) requiring  
939 substantial compliance with the projection of need as reported in  
940 the current State Health Plan is hereby waived.

941 (7) The State Department of Health may issue a certificate  
942 of need to any hospital in the state to utilize a portion of its  
943 beds for the "swing-bed" concept. Any such hospital must be in  
944 conformance with the federal regulations regarding such swing-bed  
945 concept at the time it submits its application for a certificate  
946 of need to the State Department of Health, except that such  
947 hospital may have more licensed beds or a higher average daily  
948 census (ADC) than the maximum number specified in federal  
949 regulations for participation in the swing-bed program. Any  
950 hospital meeting all federal requirements for participation in the  
951 swing-bed program which receives such certificate of need shall  
952 render services provided under the swing-bed concept to any  
953 patient eligible for Medicare (Title XVIII of the Social Security  
954 Act) who is certified by a physician to be in need of such  
955 services, and no such hospital shall permit any patient who is

956 eligible for both Medicaid and Medicare or eligible only for  
957 Medicaid to stay in the swing beds of the hospital for more than  
958 thirty (30) days per admission unless the hospital receives prior  
959 approval for such patient from the Division of Medicaid, Office of  
960 the Governor. Any hospital having more licensed beds or a higher  
961 average daily census (ADC) than the maximum number specified in  
962 federal regulations for participation in the swing-bed program  
963 which receives such certificate of need shall develop a procedure  
964 to insure that before a patient is allowed to stay in the swing  
965 beds of the hospital, there are no vacant nursing home beds  
966 available for that patient located within a fifty-mile radius of  
967 the hospital. When any such hospital has a patient staying in the  
968 swing beds of the hospital and the hospital receives notice from a  
969 nursing home located within such radius that there is a vacant bed  
970 available for that patient, the hospital shall transfer the  
971 patient to the nursing home within a reasonable time after receipt  
972 of the notice. Any hospital which is subject to the requirements  
973 of the two (2) preceding sentences of this subsection may be  
974 suspended from participation in the swing-bed program for a  
975 reasonable period of time by the State Department of Health if the  
976 department, after a hearing complying with due process, determines  
977 that the hospital has failed to comply with any of those  
978 requirements.

979 (8) The Department of Health shall not grant approval for or  
980 issue a certificate of need to any person proposing the new  
981 construction of, addition to or expansion of a health care  
982 facility as defined in subparagraph (viii) of Section 41-7-173(h).

983 (9) The Department of Health shall not grant approval for or  
984 issue a certificate of need to any person proposing the  
985 establishment of, or expansion of the currently approved territory  
986 of, or the contracting to establish a home office, subunit or  
987 branch office within the space operated as a health care facility  
988 as defined in Section 41-7-173(h)(i) through (viii) by a health

989 care facility as defined in subparagraph (ix) of Section  
990 41-7-173(h).

991 (10) Health care facilities owned and/or operated by the  
992 state or its agencies are exempt from the restraints in this  
993 section against issuance of a certificate of need if such addition  
994 or expansion consists of repairing or renovation necessary to  
995 comply with the state licensure law. This exception shall not  
996 apply to the new construction of any building by such state  
997 facility. This exception shall not apply to any health care  
998 facilities owned and/or operated by counties, municipalities,  
999 districts, unincorporated areas, other defined persons, or any  
1000 combination thereof.

1001 (11) The new construction, renovation or expansion of or  
1002 addition to any health care facility defined in subparagraph (ii)  
1003 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1004 facility), subparagraph (vi) (intermediate care facility),  
1005 subparagraph (viii) (intermediate care facility for the mentally  
1006 retarded) and subparagraph (x) (psychiatric residential treatment  
1007 facility) of Section 41-7-173(h) which is owned by the State of  
1008 Mississippi and under the direction and control of the State  
1009 Department of Mental Health, and the addition of new beds or the  
1010 conversion of beds from one category to another in any such  
1011 defined health care facility which is owned by the State of  
1012 Mississippi and under the direction and control of the State  
1013 Department of Mental Health, shall not require the issuance of a  
1014 certificate of need under Section 41-7-171 et seq.,  
1015 notwithstanding any provision in Section 41-7-171 et seq. to the  
1016 contrary.

1017 (12) The new construction, renovation or expansion of or  
1018 addition to any veterans homes or domiciliaries for eligible  
1019 veterans of the State of Mississippi as authorized under Section  
1020 35-1-19 shall not require the issuance of a certificate of need,

1021 notwithstanding any provision in Section 41-7-171 et seq. to the  
1022 contrary.

1023         (13) The new construction of a nursing facility or nursing  
1024 facility beds or the conversion of other beds to nursing facility  
1025 beds shall not require the issuance of a certificate of need,  
1026 notwithstanding any provision in Section 41-7-171 et seq. to the  
1027 contrary, if the conditions of this subsection are met.

1028         (a) Before any construction or conversion may be  
1029 undertaken without a certificate of need, the owner of the nursing  
1030 facility, in the case of an existing facility, or the applicant to  
1031 construct a nursing facility, in the case of new construction,  
1032 first must file a written notice of intent and sign a written  
1033 agreement with the State Department of Health that the entire  
1034 nursing facility will not at any time participate in or have any  
1035 beds certified for participation in the Medicaid program (Section  
1036 43-13-101 et seq.), will not admit or keep any patients in the  
1037 nursing facility who are participating in the Medicaid program,  
1038 and will not submit any claim for Medicaid reimbursement for any  
1039 patient in the facility. This written agreement by the owner or  
1040 applicant shall be a condition of exercising the authority under  
1041 this subsection without a certificate of need, and the agreement  
1042 shall be fully binding on any subsequent owner of the nursing  
1043 facility if the ownership of the facility is transferred at any  
1044 time after the agreement is signed. After the written agreement  
1045 is signed, the Division of Medicaid and the State Department of  
1046 Health shall not certify any beds in the nursing facility for  
1047 participation in the Medicaid program. If the nursing facility  
1048 violates the terms of the written agreement by participating in  
1049 the Medicaid program, having any beds certified for participation  
1050 in the Medicaid program, admitting or keeping any patient in the  
1051 facility who is participating in the Medicaid program, or  
1052 submitting any claim for Medicaid reimbursement for any patient in  
1053 the facility, the State Department of Health shall revoke the



1054 license of the nursing facility at the time that the department  
1055 determines, after a hearing complying with due process, that the  
1056 facility has violated the terms of the written agreement.

1057           (b) For the purposes of this subsection, participation  
1058 in the Medicaid program by a nursing facility includes Medicaid  
1059 reimbursement of coinsurance and deductibles for recipients who  
1060 are qualified Medicare beneficiaries and/or those who are dually  
1061 eligible. Any nursing facility exercising the authority under  
1062 this subsection may not bill or submit a claim to the Division of  
1063 Medicaid for services to qualified Medicare beneficiaries and/or  
1064 those who are dually eligible.

1065           (c) The new construction of a nursing facility or  
1066 nursing facility beds or the conversion of other beds to nursing  
1067 facility beds described in this section must be either a part of a  
1068 completely new continuing care retirement community, as described  
1069 in the latest edition of the Mississippi State Health Plan, or an  
1070 addition to existing personal care and independent living  
1071 components, and so that the completed project will be a continuing  
1072 care retirement community, containing (i) independent living  
1073 accommodations, (ii) personal care beds, and (iii) the nursing  
1074 home facility beds. The three (3) components must be located on a  
1075 single site and be operated as one (1) inseparable facility. The  
1076 nursing facility component must contain a minimum of thirty (30)  
1077 beds. Any nursing facility beds authorized by this section will  
1078 not be counted against the bed need set forth in the State Health  
1079 Plan, as identified in Section 41-7-171 et seq.

1080           This subsection (13) shall stand repealed from and after July  
1081 1, 2005.

1082           (14) The State Department of Health shall issue a  
1083 certificate of need to any hospital which is currently licensed  
1084 for two hundred fifty (250) or more acute care beds and is located  
1085 in any general hospital service area not having a comprehensive  
1086 cancer center, for the establishment and equipping of such a

1087 center which provides facilities and services for outpatient  
1088 radiation oncology therapy, outpatient medical oncology therapy,  
1089 and appropriate support services including the provision of  
1090 radiation therapy services. The provision of Section 41-7-193(1)  
1091 regarding substantial compliance with the projection of need as  
1092 reported in the current State Health Plan is waived for the  
1093 purpose of this subsection.

1094 (15) The State Department of Health may authorize the  
1095 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1096 North Panola Community Hospital to the South Panola Community  
1097 Hospital. The authorization for the transfer of those beds shall  
1098 be exempt from the certificate of need review process.

1099 (16) The State Department of Health shall issue any  
1100 certificates of need necessary for Mississippi State University  
1101 and a public or private health care provider to jointly acquire  
1102 and operate a linear accelerator and a magnetic resonance imaging  
1103 unit. Those certificates of need shall cover all capital  
1104 expenditures related to the project between Mississippi State  
1105 University and the health care provider, including, but not  
1106 limited to, the acquisition of the linear accelerator, the  
1107 magnetic resonance imaging unit and other radiological modalities;  
1108 the offering of linear accelerator and magnetic resonance imaging  
1109 services; and the cost of construction of facilities in which to  
1110 locate these services. The linear accelerator and the magnetic  
1111 resonance imaging unit shall be (a) located in the City of  
1112 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1113 Mississippi State University and the public or private health care  
1114 provider selected by Mississippi State University through a  
1115 request for proposals (RFP) process in which Mississippi State  
1116 University selects, and the Board of Trustees of State  
1117 Institutions of Higher Learning approves, the health care provider  
1118 that makes the best overall proposal; (c) available to Mississippi  
1119 State University for research purposes two-thirds (2/3) of the

1120 time that the linear accelerator and magnetic resonance imaging  
1121 unit are operational; and (d) available to the public or private  
1122 health care provider selected by Mississippi State University and  
1123 approved by the Board of Trustees of State Institutions of Higher  
1124 Learning one-third (1/3) of the time for clinical, diagnostic and  
1125 treatment purposes. For purposes of this subsection, the  
1126 provisions of Section 41-7-193(1) requiring substantial compliance  
1127 with the projection of need as reported in the current State  
1128 Health Plan are waived.

1129 (17) A nursing facility may construct new nursing facility  
1130 beds or convert other beds to nursing facility beds without the  
1131 issuance of a certificate of need, notwithstanding any provision  
1132 in Section 41-7-171 et seq. to the contrary, if all of the  
1133 conditions of this subsection are met.

1134 (a) A nursing facility may not add more than sixty (60)  
1135 new nursing facility beds under this subsection at any one (1)  
1136 time.

1137 (b) Before a nursing facility may add any new nursing  
1138 facility beds under this subsection, the owner of the facility  
1139 must first file a written notice of intent with the State  
1140 Department of Health that the facility intends to add new nursing  
1141 facility beds under this subsection. The facility shall include  
1142 in the notice of intent the number of new nursing facility beds  
1143 that it intends to add, and the time period within which the new  
1144 beds will be operational.

1145 (c) The nursing facility must have had an average rate  
1146 of occupancy for the nursing facility beds in the facility that is  
1147 not less than ninety-five percent (95%), rounded to the nearest  
1148 whole number, for the twelve-month period immediately preceding  
1149 the date on which the facility files the notice of intent with the  
1150 department.

1151 (d) The nursing facility shall use not less than  
1152 one-third (1/3) of the new nursing facility beds that are added by

1153 the facility under this subsection, rounded to the nearest whole  
1154 number, or ten (10) of those new beds, whichever is greater, to  
1155 provide care exclusively to patients with Alzheimer's disease.  
1156 The nursing facility must indicate in the notice of intent filed  
1157 with the department the number of the new beds that will be used  
1158 to provide care exclusively to patients with Alzheimer's disease,  
1159 and the facility shall not use those beds for any other purpose.  
1160 The beds that are used to provide care exclusively to patients  
1161 with Alzheimer's disease shall meet the same staffing levels,  
1162 space requirements and other standards and requirements prescribed  
1163 by the department under subsection (2)(r)(iii) of this section.

1164 (e) For any new nursing facility beds added under this  
1165 subsection that are to be constructed, the nursing facility must  
1166 begin substantial construction of the beds within eighteen (18)  
1167 months after the date on which the facility files the notice of  
1168 intent with the department. If substantial construction of the  
1169 new beds is not begun within the eighteen-month period, the  
1170 department shall not issue a license for the new beds at any time  
1171 after the eighteen-month period.

1172 (f) After the nursing facility has added new nursing  
1173 facility beds under this subsection, the facility may add new  
1174 nursing facility beds again under this subsection at any time  
1175 beginning twelve (12) months after the beds that were previously  
1176 added under this subsection are operational, if all the conditions  
1177 of this subsection are met with regard to the later addition of  
1178 new beds.

1179 (18) Nothing in this section or in any other provision of  
1180 Section 41-7-171 et seq. shall prevent any nursing facility from  
1181 designating an appropriate number of existing beds in the facility  
1182 as beds for providing care exclusively to patients with  
1183 Alzheimer's disease.

1184 **SECTION 2.** This act shall take effect and be in force from  
1185 and after July 1, 2005.