

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2683

1 AN ACT TO AMEND SECTIONS 41-7-173 AND 41-7-191, MISSISSIPPI
2 CODE OF 1972, TO EXEMPT CERTAIN PHYSICIAN-OWNED SPECIALTY
3 HOSPITALS FROM THE REQUIREMENT OF A HEALTH CARE FACILITY
4 CERTIFICATE OF NEED ISSUED BY THE STATE DEPARTMENT OF HEALTH; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
8 amended as follows:

9 41-7-173. For the purposes of Section 41-7-171 et seq., the
10 following words shall have the meanings ascribed herein, unless
11 the context otherwise requires:

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

25 (b) "Certificate of need" means a written order of the
26 State Department of Health setting forth the affirmative finding
27 that a proposal in prescribed application form, sufficiently
28 satisfies the plans, standards and criteria prescribed for such

29 service or other project by Section 41-7-171 et seq., and by rules
30 and regulations promulgated thereunder by the State Department of
31 Health.

32 (c) (i) "Capital expenditure" when pertaining to
33 defined major medical equipment, shall mean an expenditure which,
34 under generally accepted accounting principles consistently
35 applied, is not properly chargeable as an expense of operation and
36 maintenance and which exceeds One Million Five Hundred Thousand
37 Dollars (\$1,500,000.00).

38 (ii) "Capital expenditure," when pertaining to
39 other than major medical equipment, shall mean any expenditure
40 which under generally accepted accounting principles consistently
41 applied is not properly chargeable as an expense of operation and
42 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

43 (iii) A "capital expenditure" shall include the
44 acquisition, whether by lease, sufferance, gift, devise, legacy,
45 settlement of a trust or other means, of any facility or part
46 thereof, or equipment for a facility, the expenditure for which
47 would have been considered a capital expenditure if acquired by
48 purchase. Transactions which are separated in time but are
49 planned to be undertaken within twelve (12) months of each other
50 and are components of an overall plan for meeting patient care
51 objectives shall, for purposes of this definition, be viewed in
52 their entirety without regard to their timing.

53 (iv) In those instances where a health care
54 facility or other provider of health services proposes to provide
55 a service in which the capital expenditure for major medical
56 equipment or other than major medical equipment or a combination
57 of the two (2) may have been split between separate parties, the
58 total capital expenditure required to provide the proposed service
59 shall be considered in determining the necessity of certificate of
60 need review and in determining the appropriate certificate of need
61 review fee to be paid. The capital expenditure associated with

62 facilities and equipment to provide services in Mississippi shall
63 be considered regardless of where the capital expenditure was
64 made, in state or out of state, and regardless of the domicile of
65 the party making the capital expenditure, in state or out of
66 state.

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

77 (e) "Commencement of construction" means that all of
78 the following have been completed with respect to a proposal or
79 project proposing construction, renovating, remodeling or
80 alteration:

81 (i) A legally binding written contract has been
82 consummated by the proponent and a lawfully licensed contractor to
83 construct and/or complete the intent of the proposal within a
84 specified period of time in accordance with final architectural
85 plans which have been approved by the licensing authority of the
86 State Department of Health;

87 (ii) Any and all permits and/or approvals deemed
88 lawfully necessary by all authorities with responsibility for such
89 have been secured; and

90 (iii) Actual bona fide undertaking of the subject
91 proposal has commenced, and a progress payment of at least one
92 percent (1%) of the total cost price of the contract has been paid
93 to the contractor by the proponent, and the requirements of this

94 paragraph (e) have been certified to in writing by the State
95 Department of Health.

96 Force account expenditures, such as deposits, securities,
97 bonds, et cetera, may, in the discretion of the State Department
98 of Health, be excluded from any or all of the provisions of
99 defined commencement of construction.

100 (f) "Consumer" means an individual who is not a
101 provider of health care as defined in paragraph (q) of this
102 section.

103 (g) "Develop," when used in connection with health
104 services, means to undertake those activities which, on their
105 completion, will result in the offering of a new institutional
106 health service or the incurring of a financial obligation as
107 defined under applicable state law in relation to the offering of
108 such services.

109 (h) "Health care facility" includes hospitals,
110 psychiatric hospitals, chemical dependency hospitals, skilled
111 nursing facilities, end stage renal disease (ESRD) facilities,
112 including freestanding hemodialysis units, intermediate care
113 facilities, ambulatory surgical facilities, intermediate care
114 facilities for the mentally retarded, home health agencies,
115 psychiatric residential treatment facilities, pediatric skilled
116 nursing facilities, long-term care hospitals, comprehensive
117 medical rehabilitation facilities, including facilities owned or
118 operated by the state or a political subdivision or
119 instrumentality of the state, but does not include Christian
120 Science sanatoriums operated or listed and certified by the First
121 Church of Christ, Scientist, Boston, Massachusetts. This
122 definition shall not apply to facilities for the private practice,
123 either independently or by incorporated medical groups, of
124 physicians, dentists or health care professionals except where
125 such facilities are an integral part of an institutional health
126 service. This definition shall not apply to a physician-owned

127 licensed specialty hospital as defined in subparagraph (xiv) with
128 not more than fifty (50) beds. The various health care facilities
129 listed in this paragraph shall be defined as follows:

130 (i) "Hospital" means an institution which is
131 primarily engaged in providing to inpatients, by or under the
132 supervision of physicians, diagnostic services and therapeutic
133 services for medical diagnosis, treatment and care of injured,
134 disabled or sick persons, or rehabilitation services for the
135 rehabilitation of injured, disabled or sick persons. Such term
136 does not include psychiatric hospitals.

137 (ii) "Psychiatric hospital" means an institution
138 which is primarily engaged in providing to inpatients, by or under
139 the supervision of a physician, psychiatric services for the
140 diagnosis and treatment of mentally ill persons.

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

146 (iv) "Skilled nursing facility" means an
147 institution or a distinct part of an institution which is
148 primarily engaged in providing to inpatients skilled nursing care
149 and related services for patients who require medical or nursing
150 care or rehabilitation services for the rehabilitation of injured,
151 disabled or sick persons.

152 (v) "End stage renal disease (ESRD) facilities"
153 means kidney disease treatment centers, which includes
154 freestanding hemodialysis units and limited care facilities. The
155 term "limited care facility" generally refers to an
156 off-hospital-premises facility, regardless of whether it is
157 provider or nonprovider operated, which is engaged primarily in
158 furnishing maintenance hemodialysis services to stabilized
159 patients.

160 (vi) "Intermediate care facility" means an
161 institution which provides, on a regular basis, health related
162 care and services to individuals who do not require the degree of
163 care and treatment which a hospital or skilled nursing facility is
164 designed to provide, but who, because of their mental or physical
165 condition, require health related care and services (above the
166 level of room and board).

167 (vii) "Ambulatory surgical facility" means a
168 facility primarily organized or established for the purpose of
169 performing surgery for outpatients and is a separate identifiable
170 legal entity from any other health care facility. Such term does
171 not include the offices of private physicians or dentists, whether
172 for individual or group practice, and does not include any
173 abortion facility as defined in Section 41-75-1(e).

174 (viii) "Intermediate care facility for the
175 mentally retarded" means an intermediate care facility that
176 provides health or rehabilitative services in a planned program of
177 activities to the mentally retarded, also including, but not
178 limited to, cerebral palsy and other conditions covered by the
179 Federal Developmentally Disabled Assistance and Bill of Rights
180 Act, Public Law 94-103.

181 (ix) "Home health agency" means a public or
182 privately owned agency or organization, or a subdivision of such
183 an agency or organization, properly authorized to conduct business
184 in Mississippi, which is primarily engaged in providing to
185 individuals at the written direction of a licensed physician, in
186 the individual's place of residence, skilled nursing services
187 provided by or under the supervision of a registered nurse
188 licensed to practice in Mississippi, and one or more of the
189 following services or items:

- 190 1. Physical, occupational or speech therapy;
- 191 2. Medical social services;

- 192 3. Part-time or intermittent services of a
193 home health aide;
- 194 4. Other services as approved by the
195 licensing agency for home health agencies;
- 196 5. Medical supplies, other than drugs and
197 biologicals, and the use of medical appliances; or
- 198 6. Medical services provided by an intern or
199 resident-in-training at a hospital under a teaching program of
200 such hospital.

201 Further, all skilled nursing services and those services
202 listed in items 1. through 4. of this subparagraph (ix) must be
203 provided directly by the licensed home health agency. For
204 purposes of this subparagraph, "directly" means either through an
205 agency employee or by an arrangement with another individual not
206 defined as a health care facility.

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

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

- 225 1. An inability to learn which cannot be
226 explained by intellectual, sensory or health factors;
227 2. An inability to build or maintain
228 satisfactory relationships with peers and teachers;
229 3. Inappropriate types of behavior or
230 feelings under normal circumstances;
231 4. A general pervasive mood of unhappiness or
232 depression; or
233 5. A tendency to develop physical symptoms or
234 fears associated with personal or school problems. An
235 establishment furnishing primarily domiciliary care is not within
236 this definition.

237 (xi) "Pediatric skilled nursing facility" means an
238 institution or a distinct part of an institution that is primarily
239 engaged in providing to inpatients skilled nursing care and
240 related services for persons under twenty-one (21) years of age
241 who require medical or nursing care or rehabilitation services for
242 the rehabilitation of injured, disabled or sick persons.

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

255 (xiii) "Comprehensive medical rehabilitation
256 facility" means a hospital or hospital unit that is licensed
257 and/or certified as a comprehensive medical rehabilitation

258 facility which provides specialized programs that are accredited
259 by the Commission on Accreditation of Rehabilitation Facilities
260 and supervised by a physician board certified or board eligible in
261 Physiatry or other doctor of medicine or osteopathy with at least
262 two (2) years of training in the medical direction of a
263 comprehensive rehabilitation program that:

264 1. Includes evaluation and treatment of
265 individuals with physical disabilities;

266 2. Emphasizes education and training of
267 individuals with disabilities;

268 3. Incorporates at least the following core
269 disciplines:

270 (i) Physical Therapy;

271 (ii) Occupational Therapy;

272 (iii) Speech and Language Therapy;

273 (iv) Rehabilitation Nursing; and

274 4. Incorporates at least three (3) of the
275 following disciplines:

276 (i) Psychology;

277 (ii) Audiology;

278 (iii) Respiratory Therapy;

279 (iv) Therapeutic Recreation;

280 (v) Orthotics;

281 (vi) Prosthetics;

282 (vii) Special Education;

283 (viii) Vocational Rehabilitation;

284 (ix) Psychotherapy;

285 (x) Social Work;

286 (xi) Rehabilitation Engineering.

287 These specialized programs include, but are not limited to:
288 spinal cord injury programs, head injury programs and infant and
289 early childhood development programs.

290 (xiv) "Specialty hospital" means an institution
291 with not more than fifty (50) beds which is owned by physicians
292 and which is primarily engaged in providing to inpatients, by or
293 under the supervision of physicians, diagnostic services and
294 therapeutic services for medical diagnosis, treatment and care of
295 injured, disabled or sick persons, but does not include
296 psychiatric hospitals.

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

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

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

309 (iii) Provides physician services primarily:

310 1. Directly through physicians who are either
311 employees or partners of such organization; or

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

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

320 (k) "Health services" means clinically related (i.e.,
321 diagnostic, treatment or rehabilitative) services and includes
322 alcohol, drug abuse, mental health and home health care services.

323 (1) "Institutional health services" shall mean health
324 services provided in or through health care facilities and shall
325 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 which
329 costs in excess of One Million Five Hundred Thousand Dollars
330 (\$1,500,000.00). However, this definition shall not be applicable
331 to clinical laboratories if they are determined by the State
332 Department of Health to be independent of any physician's office,
333 hospital or other health care facility or otherwise not so defined
334 by federal or state law, or rules and regulations promulgated
335 thereunder.

336 (n) "State Department of Health" shall mean the state
337 agency created under Section 41-3-15, which shall be considered to
338 be the State Health Planning and Development Agency, as defined in
339 paragraph (t) of this section.

340 (o) "Offer," when used in connection with health
341 services, means that it has been determined by the State
342 Department of Health that the health care facility is capable of
343 providing specified health services.

344 (p) "Person" means an individual, a trust or estate,
345 partnership, corporation (including associations, joint stock
346 companies and insurance companies), the state or a political
347 subdivision or instrumentality of the state.

348 (q) "Provider" shall mean any person who is a provider
349 or representative of a provider of health care services requiring
350 a certificate of need under Section 41-7-171 et seq., or who has
351 any financial or indirect interest in any provider of services.

352 (r) "Secretary" means the Secretary of Health and Human
353 Services, and any officer or employee of the Department of Health
354 and Human Services to whom the authority involved has been
355 delegated.

356 (s) "State Health Plan" means the sole and official
357 statewide health plan for Mississippi which identifies priority
358 state health needs and establishes standards and criteria for
359 health-related activities which require certificate of need review
360 in compliance with Section 41-7-191.

361 (t) "State Health Planning and Development Agency"
362 means the agency of state government designated to perform health
363 planning and resource development programs for the State of
364 Mississippi.

365 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is
366 amended as follows:

367 41-7-191. (1) No person shall engage in any of the
368 following activities without obtaining the required certificate of
369 need:

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

372 (b) The relocation of a health care facility or portion
373 thereof, or major medical equipment, unless such relocation of a
374 health care facility or portion thereof, or major medical
375 equipment, which does not involve a capital expenditure by or on
376 behalf of a health care facility, is within five thousand two
377 hundred eighty (5,280) feet from the main entrance of the health
378 care facility;

379 (c) Any change in the existing bed complement of any
380 health care facility through the addition or conversion of any
381 beds or the alteration, modernizing or refurbishing of any unit or
382 department in which the beds may be located; however, if a health
383 care facility has voluntarily delicensed some of its existing bed
384 complement, it may later relicense some or all of its delicensed
385 beds without the necessity of having to acquire a certificate of
386 need. The State Department of Health shall maintain a record of
387 the delicensing health care facility and its voluntarily
388 delicensed beds and continue counting those beds as part of the

389 state's total bed count for health care planning purposes. If a
390 health care facility that has voluntarily delicensed some of its
391 beds later desires to relicense some or all of its voluntarily
392 delicensed beds, it shall notify the State Department of Health of
393 its intent to increase the number of its licensed beds. The State
394 Department of Health shall survey the health care facility within
395 thirty (30) days of that notice and, if appropriate, issue the
396 health care facility a new license reflecting the new contingent
397 of beds. However, in no event may a health care facility that has
398 voluntarily delicensed some of its beds be reissued a license to
399 operate beds in excess of its bed count before the voluntary
400 delicensure of some of its beds without seeking certificate of
401 need approval;

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

- 406 (i) Open heart surgery services;
- 407 (ii) Cardiac catheterization services;
- 408 (iii) Comprehensive inpatient rehabilitation
409 services;
- 410 (iv) Licensed psychiatric services;
- 411 (v) Licensed chemical dependency services;
- 412 (vi) Radiation therapy services;
- 413 (vii) Diagnostic imaging services of an invasive
414 nature, i.e. invasive digital angiography;
- 415 (viii) Nursing home care as defined in
416 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 417 (ix) Home health services;
- 418 (x) Swing-bed services;
- 419 (xi) Ambulatory surgical services;
- 420 (xii) Magnetic resonance imaging services;

421 (xiii) Extracorporeal shock wave lithotripsy
422 services;

423 (xiv) Long-term care hospital services;

424 (xv) Positron Emission Tomography (PET) services.

425 Provided, however, that a certificate of need shall not be
426 required for a physician-owned licensed specialty hospital with
427 not more than fifty (50) beds to offer any service specified in
428 this paragraph (d);

429 (e) The relocation of one or more health services from
430 one physical facility or site to another physical facility or
431 site, unless such relocation, which does not involve a capital
432 expenditure by or on behalf of a health care facility, (i) is to a
433 physical facility or site within one thousand three hundred twenty
434 (1,320) feet from the main entrance of the health care facility
435 where the health care service is located, or (ii) is the result of
436 an order of a court of appropriate jurisdiction or a result of
437 pending litigation in such court, or by order of the State
438 Department of Health, or by order of any other agency or legal
439 entity of the state, the federal government, or any political
440 subdivision of either, whose order is also approved by the State
441 Department of Health;

442 (f) The acquisition or otherwise control of any major
443 medical equipment for the provision of medical services; provided,
444 however, (i) the acquisition of any major medical equipment used
445 only for research purposes, and (ii) the acquisition of major
446 medical equipment to replace medical equipment for which a
447 facility is already providing medical services and for which the
448 State Department of Health has been notified before the date of
449 such acquisition shall be exempt from this paragraph; an
450 acquisition for less than fair market value must be reviewed, if
451 the acquisition at fair market value would be subject to review;

452 (g) Changes of ownership of existing health care
453 facilities in which a notice of intent is not filed with the State

454 Department of Health at least thirty (30) days prior to the date
455 such change of ownership occurs, or a change in services or bed
456 capacity as prescribed in paragraph (c) or (d) of this subsection
457 as a result of the change of ownership; an acquisition for less
458 than fair market value must be reviewed, if the acquisition at
459 fair market value would be subject to review;

460 (h) The change of ownership of any health care facility
461 defined in subparagraphs (iv), (vi) and (viii) of Section
462 41-7-173(h), in which a notice of intent as described in paragraph
463 (g) has not been filed and if the Executive Director, Division of
464 Medicaid, Office of the Governor, has not certified in writing
465 that there will be no increase in allowable costs to Medicaid from
466 revaluation of the assets or from increased interest and
467 depreciation as a result of the proposed change of ownership;

468 (i) Any activity described in paragraphs (a) through
469 (h) if undertaken by any person if that same activity would
470 require certificate of need approval if undertaken by a health
471 care facility;

472 (j) Any capital expenditure or deferred capital
473 expenditure by or on behalf of a health care facility not covered
474 by paragraphs (a) through (h);

475 (k) The contracting of a health care facility as
476 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
477 to establish a home office, subunit, or branch office in the space
478 operated as a health care facility through a formal arrangement
479 with an existing health care facility as defined in subparagraph
480 (ix) of Section 41-7-173(h).

481 (2) The State Department of Health shall not grant approval
482 for or issue a certificate of need to any person proposing the new
483 construction of, addition to, or expansion of any health care
484 facility defined in subparagraphs (iv) (skilled nursing facility)
485 and (vi) (intermediate care facility) of Section 41-7-173(h) or

486 the conversion of vacant hospital beds to provide skilled or
487 intermediate nursing home care, except as hereinafter authorized:

488 (a) The department may issue a certificate of need to
489 any person proposing the new construction of any health care
490 facility defined in subparagraphs (iv) and (vi) of Section
491 41-7-173(h) as part of a life care retirement facility, in any
492 county bordering on the Gulf of Mexico in which is located a
493 National Aeronautics and Space Administration facility, not to
494 exceed forty (40) beds. From and after July 1, 1999, there shall
495 be no prohibition or restrictions on participation in the Medicaid
496 program (Section 43-13-101 et seq.) for the beds in the health
497 care facility that were authorized under this paragraph (a).

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

505 (c) The department may issue a certificate of need for
506 the addition to or expansion of any skilled nursing facility that
507 is part of an existing continuing care retirement community
508 located in Madison County, provided that the recipient of the
509 certificate of need agrees in writing that the skilled nursing
510 facility will not at any time participate in the Medicaid program
511 (Section 43-13-101 et seq.) or admit or keep any patients in the
512 skilled nursing facility who are participating in the Medicaid
513 program. This written agreement by the recipient of the
514 certificate of need shall be fully binding on any subsequent owner
515 of the skilled nursing facility, if the ownership of the facility
516 is transferred at any time after the issuance of the certificate
517 of need. Agreement that the skilled nursing facility will not
518 participate in the Medicaid program shall be a condition of the

519 issuance of a certificate of need to any person under this
520 paragraph (c), and if such skilled nursing facility at any time
521 after the issuance of the certificate of need, regardless of the
522 ownership of the facility, participates in the Medicaid program or
523 admits or keeps any patients in the facility who are participating
524 in the Medicaid program, the State Department of Health shall
525 revoke the certificate of need, if it is still outstanding, and
526 shall deny or revoke the license of the skilled nursing facility,
527 at the time that the department determines, after a hearing
528 complying with due process, that the facility has failed to comply
529 with any of the conditions upon which the certificate of need was
530 issued, as provided in this paragraph and in the written agreement
531 by the recipient of the certificate of need. The total number of
532 beds that may be authorized under the authority of this paragraph
533 (c) shall not exceed sixty (60) beds.

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

542 (e) The State Department of Health may issue a
543 certificate of need for the construction of a nursing facility or
544 the conversion of beds to nursing facility beds at a personal care
545 facility for the elderly in Lowndes County that is owned and
546 operated by a Mississippi nonprofit corporation, not to exceed
547 sixty (60) beds. From and after July 1, 1999, there shall be no
548 prohibition or restrictions on participation in the Medicaid
549 program (Section 43-13-101 et seq.) for the beds in the nursing
550 facility that were authorized under this paragraph (e).

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

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

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

575 (i) The department may issue a certificate of need for
576 the new construction of a skilled nursing facility in Leake
577 County, provided that the recipient of the certificate of need
578 agrees in writing that the skilled nursing facility will not at
579 any time participate in the Medicaid program (Section 43-13-101 et
580 seq.) or admit or keep any patients in the skilled nursing
581 facility who are participating in the Medicaid program. This
582 written agreement by the recipient of the certificate of need
583 shall be fully binding on any subsequent owner of the skilled

584 nursing facility, if the ownership of the facility is transferred
585 at any time after the issuance of the certificate of need.
586 Agreement that the skilled nursing facility will not participate
587 in the Medicaid program shall be a condition of the issuance of a
588 certificate of need to any person under this paragraph (i), and if
589 such skilled nursing facility at any time after the issuance of
590 the certificate of need, regardless of the ownership of the
591 facility, participates in the Medicaid program or admits or keeps
592 any patients in the facility who are participating in the Medicaid
593 program, the State Department of Health shall revoke the
594 certificate of need, if it is still outstanding, and shall deny or
595 revoke the license of the skilled nursing facility, at the time
596 that the department determines, after a hearing complying with due
597 process, that the facility has failed to comply with any of the
598 conditions upon which the certificate of need was issued, as
599 provided in this paragraph and in the written agreement by the
600 recipient of the certificate of need. The provision of Section
601 43-7-193(1) regarding substantial compliance of the projection of
602 need as reported in the current State Health Plan is waived for
603 the purposes of this paragraph. The total number of nursing
604 facility beds that may be authorized by any certificate of need
605 issued under this paragraph (i) shall not exceed sixty (60) beds.
606 If the skilled nursing facility authorized by the certificate of
607 need issued under this paragraph is not constructed and fully
608 operational within eighteen (18) months after July 1, 1994, the
609 State Department of Health, after a hearing complying with due
610 process, shall revoke the certificate of need, if it is still
611 outstanding, and shall not issue a license for the skilled nursing
612 facility at any time after the expiration of the eighteen-month
613 period.

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

617 licensed with fewer than sixty (60) beds. For the purposes of
618 this paragraph (j), the provision of Section 41-7-193(1) requiring
619 substantial compliance with the projection of need as reported in
620 the current State Health Plan is waived. From and after July 1,
621 1999, there shall be no prohibition or restrictions on
622 participation in the Medicaid program (Section 43-13-101 et seq.)
623 for the beds in the long-term care facilities that were authorized
624 under this paragraph (j).

625 (k) The department may issue a certificate of need for
626 the construction of a nursing facility at a continuing care
627 retirement community in Lowndes County. The total number of beds
628 that may be authorized under the authority of this paragraph (k)
629 shall not exceed sixty (60) beds. From and after July 1, 2001,
630 the prohibition on the facility participating in the Medicaid
631 program (Section 43-13-101 et seq.) that was a condition of
632 issuance of the certificate of need under this paragraph (k) shall
633 be revised as follows: The nursing facility may participate in
634 the Medicaid program from and after July 1, 2001, if the owner of
635 the facility on July 1, 2001, agrees in writing that no more than
636 thirty (30) of the beds at the facility will be certified for
637 participation in the Medicaid program, and that no claim will be
638 submitted for Medicaid reimbursement for more than thirty (30)
639 patients in the facility in any month or for any patient in the
640 facility who is in a bed that is not Medicaid-certified. This
641 written agreement by the owner of the facility shall be a
642 condition of licensure of the facility, and the agreement shall be
643 fully binding on any subsequent owner of the facility if the
644 ownership of the facility is transferred at any time after July 1,
645 2001. After this written agreement is executed, the Division of
646 Medicaid and the State Department of Health shall not certify more
647 than thirty (30) of the beds in the facility for participation in
648 the Medicaid program. If the facility violates the terms of the
649 written agreement by admitting or keeping in the facility on a

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

655 (1) Provided that funds are specifically appropriated
656 therefor by the Legislature, the department may issue a
657 certificate of need to a rehabilitation hospital in Hinds County
658 for the construction of a sixty-bed long-term care nursing
659 facility dedicated to the care and treatment of persons with
660 severe disabilities including persons with spinal cord and
661 closed-head injuries and ventilator-dependent patients. The
662 provision of Section 41-7-193(1) regarding substantial compliance
663 with projection of need as reported in the current State Health
664 Plan is hereby waived for the purpose of this paragraph.

665 (m) The State Department of Health may issue a
666 certificate of need to a county-owned hospital in the Second
667 Judicial District of Panola County for the conversion of not more
668 than seventy-two (72) hospital beds to nursing facility beds,
669 provided that the recipient of the certificate of need agrees in
670 writing that none of the beds at the nursing facility will be
671 certified for participation in the Medicaid program (Section
672 43-13-101 et seq.), and that no claim will be submitted for
673 Medicaid reimbursement in the nursing facility in any day or for
674 any patient in the nursing facility. This written agreement by
675 the recipient of the certificate of need shall be a condition of
676 the issuance of the certificate of need under this paragraph, and
677 the agreement shall be fully binding on any subsequent owner of
678 the nursing facility if the ownership of the nursing facility is
679 transferred at any time after the issuance of the certificate of
680 need. After this written agreement is executed, the Division of
681 Medicaid and the State Department of Health shall not certify any
682 of the beds in the nursing facility for participation in the

683 Medicaid program. If the nursing facility violates the terms of
684 the written agreement by admitting or keeping in the nursing
685 facility on a regular or continuing basis any patients who are
686 participating in the Medicaid program, the State Department of
687 Health shall revoke the license of the nursing facility, at the
688 time that the department determines, after a hearing complying
689 with due process, that the nursing facility has violated the
690 condition upon which the certificate of need was issued, as
691 provided in this paragraph and in the written agreement. If the
692 certificate of need authorized under this paragraph is not issued
693 within twelve (12) months after July 1, 2001, the department shall
694 deny the application for the certificate of need and shall not
695 issue the certificate of need at any time after the twelve-month
696 period, unless the issuance is contested. If the certificate of
697 need is issued and substantial construction of the nursing
698 facility beds has not commenced within eighteen (18) months after
699 July 1, 2001, the State Department of Health, after a hearing
700 complying with due process, shall revoke the certificate of need
701 if it is still outstanding, and the department shall not issue a
702 license for the nursing facility at any time after the
703 eighteen-month period. Provided, however, that if the issuance of
704 the certificate of need is contested, the department shall require
705 substantial construction of the nursing facility beds within six
706 (6) months after final adjudication on the issuance of the
707 certificate of need.

708 (n) The department may issue a certificate of need for
709 the new construction, addition or conversion of skilled nursing
710 facility beds in Madison County, provided that the recipient of
711 the certificate of need agrees in writing that the skilled nursing
712 facility will not at any time participate in the Medicaid program
713 (Section 43-13-101 et seq.) or admit or keep any patients in the
714 skilled nursing facility who are participating in the Medicaid
715 program. This written agreement by the recipient of the

716 certificate of need shall be fully binding on any subsequent owner
717 of the skilled nursing facility, if the ownership of the facility
718 is transferred at any time after the issuance of the certificate
719 of need. Agreement that the skilled nursing facility will not
720 participate in the Medicaid program shall be a condition of the
721 issuance of a certificate of need to any person under this
722 paragraph (n), and if such skilled nursing facility at any time
723 after the issuance of the certificate of need, regardless of the
724 ownership of the facility, participates in the Medicaid program or
725 admits or keeps any patients in the facility who are participating
726 in the Medicaid program, the State Department of Health shall
727 revoke the certificate of need, if it is still outstanding, and
728 shall deny or revoke the license of the skilled nursing facility,
729 at the time that the department determines, after a hearing
730 complying with due process, that the facility has failed to comply
731 with any of the conditions upon which the certificate of need was
732 issued, as provided in this paragraph and in the written agreement
733 by the recipient of the certificate of need. The total number of
734 nursing facility beds that may be authorized by any certificate of
735 need issued under this paragraph (n) shall not exceed sixty (60)
736 beds. If the certificate of need authorized under this paragraph
737 is not issued within twelve (12) months after July 1, 1998, the
738 department shall deny the application for the certificate of need
739 and shall not issue the certificate of need at any time after the
740 twelve-month period, unless the issuance is contested. If the
741 certificate of need is issued and substantial construction of the
742 nursing facility beds has not commenced within eighteen (18)
743 months after the effective date of July 1, 1998, the State
744 Department of Health, after a hearing complying with due process,
745 shall revoke the certificate of need if it is still outstanding,
746 and the department shall not issue a license for the nursing
747 facility at any time after the eighteen-month period. Provided,
748 however, that if the issuance of the certificate of need is

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

752 (o) The department may issue a certificate of need for
753 the new construction, addition or conversion of skilled nursing
754 facility beds in Leake County, provided that the recipient of the
755 certificate of need agrees in writing that the skilled nursing
756 facility will not at any time participate in the Medicaid program
757 (Section 43-13-101 et seq.) or admit or keep any patients in the
758 skilled nursing facility who are participating in the Medicaid
759 program. This written agreement by the recipient of the
760 certificate of need shall be fully binding on any subsequent owner
761 of the skilled nursing facility, if the ownership of the facility
762 is transferred at any time after the issuance of the certificate
763 of need. Agreement that the skilled nursing facility will not
764 participate in the Medicaid program shall be a condition of the
765 issuance of a certificate of need to any person under this
766 paragraph (o), and if such skilled nursing facility at any time
767 after the issuance of the certificate of need, regardless of the
768 ownership of the facility, participates in the Medicaid program or
769 admits or keeps any patients in the facility who are participating
770 in the Medicaid program, the State Department of Health shall
771 revoke the certificate of need, if it is still outstanding, and
772 shall deny or revoke the license of the skilled nursing facility,
773 at the time that the department determines, after a hearing
774 complying with due process, that the facility has failed to comply
775 with any of the conditions upon which the certificate of need was
776 issued, as provided in this paragraph and in the written agreement
777 by the recipient of the certificate of need. The total number of
778 nursing facility beds that may be authorized by any certificate of
779 need issued under this paragraph (o) shall not exceed sixty (60)
780 beds. If the certificate of need authorized under this paragraph
781 is not issued within twelve (12) months after July 1, 2001, the

782 department shall deny the application for the certificate of need
783 and shall not issue the certificate of need at any time after the
784 twelve-month period, unless the issuance is contested. If the
785 certificate of need is issued and substantial construction of the
786 nursing facility beds has not commenced within eighteen (18)
787 months after the effective date of July 1, 2001, the State
788 Department of Health, after a hearing complying with due process,
789 shall revoke the certificate of need if it is still outstanding,
790 and the department shall not issue a license for the nursing
791 facility at any time after the eighteen-month period. Provided,
792 however, that if the issuance of the certificate of need is
793 contested, the department shall require substantial construction
794 of the nursing facility beds within six (6) months after final
795 adjudication on the issuance of the certificate of need.

796 (p) The department may issue a certificate of need for
797 the construction of a municipally-owned nursing facility within
798 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
799 beds, provided that the recipient of the certificate of need
800 agrees in writing that the skilled nursing facility will not at
801 any time participate in the Medicaid program (Section 43-13-101 et
802 seq.) or admit or keep any patients in the skilled nursing
803 facility who are participating in the Medicaid program. This
804 written agreement by the recipient of the certificate of need
805 shall be fully binding on any subsequent owner of the skilled
806 nursing facility, if the ownership of the facility is transferred
807 at any time after the issuance of the certificate of need.
808 Agreement that the skilled nursing facility will not participate
809 in the Medicaid program shall be a condition of the issuance of a
810 certificate of need to any person under this paragraph (p), and if
811 such skilled nursing facility at any time after the issuance of
812 the certificate of need, regardless of the ownership of the
813 facility, participates in the Medicaid program or admits or keeps
814 any patients in the facility who are participating in the Medicaid

815 program, the State Department of Health shall revoke the
816 certificate of need, if it is still outstanding, and shall deny or
817 revoke the license of the skilled nursing facility, at the time
818 that the department determines, after a hearing complying with due
819 process, that the facility has failed to comply with any of the
820 conditions upon which the certificate of need was issued, as
821 provided in this paragraph and in the written agreement by the
822 recipient of the certificate of need. The provision of Section
823 43-7-193(1) regarding substantial compliance of the projection of
824 need as reported in the current State Health Plan is waived for
825 the purposes of this paragraph. If the certificate of need
826 authorized under this paragraph is not issued within twelve (12)
827 months after July 1, 1998, the department shall deny the
828 application for the certificate of need and shall not issue the
829 certificate of need at any time after the twelve-month period,
830 unless the issuance is contested. If the certificate of need is
831 issued and substantial construction of the nursing facility beds
832 has not commenced within eighteen (18) months after July 1, 1998,
833 the State Department of Health, after a hearing complying with due
834 process, shall revoke the certificate of need if it is still
835 outstanding, and the department shall not issue a license for the
836 nursing facility at any time after the eighteen-month period.
837 Provided, however, that if the issuance of the certificate of need
838 is contested, the department shall require substantial
839 construction of the nursing facility beds within six (6) months
840 after final adjudication on the issuance of the certificate of
841 need.

842 (q) (i) Beginning on July 1, 1999, the State
843 Department of Health shall issue certificates of need during each
844 of the next four (4) fiscal years for the construction or
845 expansion of nursing facility beds or the conversion of other beds
846 to nursing facility beds in each county in the state having a need
847 for fifty (50) or more additional nursing facility beds, as shown

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

852 (ii) Subject to the provisions of subparagraph
853 (v), during each of the next four (4) fiscal years, the department
854 shall issue six (6) certificates of need for new nursing facility
855 beds, as follows: During fiscal years 2000, 2001 and 2002, one
856 (1) certificate of need shall be issued for new nursing facility
857 beds in the county in each of the four (4) Long-Term Care Planning
858 Districts designated in the fiscal year 1999 State Health Plan
859 that has the highest need in the district for those beds; and two
860 (2) certificates of need shall be issued for new nursing facility
861 beds in the two (2) counties from the state at large that have the
862 highest need in the state for those beds, when considering the
863 need on a statewide basis and without regard to the Long-Term Care
864 Planning Districts in which the counties are located. During
865 fiscal year 2003, one (1) certificate of need shall be issued for
866 new nursing facility beds in any county having a need for fifty
867 (50) or more additional nursing facility beds, as shown in the
868 fiscal year 1999 State Health Plan, that has not received a
869 certificate of need under this paragraph (q) during the three (3)
870 previous fiscal years. During fiscal year 2000, in addition to
871 the six (6) certificates of need authorized in this subparagraph,
872 the department also shall issue a certificate of need for new
873 nursing facility beds in Amite County and a certificate of need
874 for new nursing facility beds in Carroll County.

875 (iii) Subject to the provisions of subparagraph
876 (v), the certificate of need issued under subparagraph (ii) for
877 nursing facility beds in each Long-Term Care Planning District
878 during each fiscal year shall first be available for nursing
879 facility beds in the county in the district having the highest
880 need for those beds, as shown in the fiscal year 1999 State Health

881 Plan. If there are no applications for a certificate of need for
882 nursing facility beds in the county having the highest need for
883 those beds by the date specified by the department, then the
884 certificate of need shall be available for nursing facility beds
885 in other counties in the district in descending order of the need
886 for those beds, from the county with the second highest need to
887 the county with the lowest need, until an application is received
888 for nursing facility beds in an eligible county in the district.

889 (iv) Subject to the provisions of subparagraph
890 (v), the certificate of need issued under subparagraph (ii) for
891 nursing facility beds in the two (2) counties from the state at
892 large during each fiscal year shall first be available for nursing
893 facility beds in the two (2) counties that have the highest need
894 in the state for those beds, as shown in the fiscal year 1999
895 State Health Plan, when considering the need on a statewide basis
896 and without regard to the Long-Term Care Planning Districts in
897 which the counties are located. If there are no applications for
898 a certificate of need for nursing facility beds in either of the
899 two (2) counties having the highest need for those beds on a
900 statewide basis by the date specified by the department, then the
901 certificate of need shall be available for nursing facility beds
902 in other counties from the state at large in descending order of
903 the need for those beds on a statewide basis, from the county with
904 the second highest need to the county with the lowest need, until
905 an application is received for nursing facility beds in an
906 eligible county from the state at large.

907 (v) If a certificate of need is authorized to be
908 issued under this paragraph (q) for nursing facility beds in a
909 county on the basis of the need in the Long-Term Care Planning
910 District during any fiscal year of the four-year period, a
911 certificate of need shall not also be available under this
912 paragraph (q) for additional nursing facility beds in that county
913 on the basis of the need in the state at large, and that county

914 shall be excluded in determining which counties have the highest
915 need for nursing facility beds in the state at large for that
916 fiscal year. After a certificate of need has been issued under
917 this paragraph (q) for nursing facility beds in a county during
918 any fiscal year of the four-year period, a certificate of need
919 shall not be available again under this paragraph (q) for
920 additional nursing facility beds in that county during the
921 four-year period, and that county shall be excluded in determining
922 which counties have the highest need for nursing facility beds in
923 succeeding fiscal years.

924 (vi) If more than one (1) application is made for
925 a certificate of need for nursing home facility beds available
926 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
927 County, and one (1) of the applicants is a county-owned hospital
928 located in the county where the nursing facility beds are
929 available, the department shall give priority to the county-owned
930 hospital in granting the certificate of need if the following
931 conditions are met:

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

935 2. The county-owned hospital's qualifications
936 for the certificate of need, as shown in its application and as
937 determined by the department, are at least equal to the
938 qualifications of the other applicants for the certificate of
939 need.

940 (r) (i) Beginning on July 1, 1999, the State
941 Department of Health shall issue certificates of need during each
942 of the next two (2) fiscal years for the construction or expansion
943 of nursing facility beds or the conversion of other beds to
944 nursing facility beds in each of the four (4) Long-Term Care
945 Planning Districts designated in the fiscal year 1999 State Health

946 Plan, to provide care exclusively to patients with Alzheimer's
947 disease.

948 (ii) Not more than twenty (20) beds may be
949 authorized by any certificate of need issued under this paragraph
950 (r), and not more than a total of sixty (60) beds may be
951 authorized in any Long-Term Care Planning District by all
952 certificates of need issued under this paragraph (r). However,
953 the total number of beds that may be authorized by all
954 certificates of need issued under this paragraph (r) during any
955 fiscal year shall not exceed one hundred twenty (120) beds, and
956 the total number of beds that may be authorized in any Long-Term
957 Care Planning District during any fiscal year shall not exceed
958 forty (40) beds. Of the certificates of need that are issued for
959 each Long-Term Care Planning District during the next two (2)
960 fiscal years, at least one (1) shall be issued for beds in the
961 northern part of the district, at least one (1) shall be issued
962 for beds in the central part of the district, and at least one (1)
963 shall be issued for beds in the southern part of the district.

964 (iii) The State Department of Health, in
965 consultation with the Department of Mental Health and the Division
966 of Medicaid, shall develop and prescribe the staffing levels,
967 space requirements and other standards and requirements that must
968 be met with regard to the nursing facility beds authorized under
969 this paragraph (r) to provide care exclusively to patients with
970 Alzheimer's disease.

971 (3) The State Department of Health may grant approval for
972 and issue certificates of need to any person proposing the new
973 construction of, addition to, conversion of beds of or expansion
974 of any health care facility defined in subparagraph (x)
975 (psychiatric residential treatment facility) of Section
976 41-7-173(h). The total number of beds which may be authorized by
977 such certificates of need shall not exceed three hundred
978 thirty-four (334) beds for the entire state.

979 (a) Of the total number of beds authorized under this
980 subsection, the department shall issue a certificate of need to a
981 privately-owned psychiatric residential treatment facility in
982 Simpson County for the conversion of sixteen (16) intermediate
983 care facility for the mentally retarded (ICF-MR) beds to
984 psychiatric residential treatment facility beds, provided that
985 facility agrees in writing that the facility shall give priority
986 for the use of those sixteen (16) beds to Mississippi residents
987 who are presently being treated in out-of-state facilities.

988 (b) Of the total number of beds authorized under this
989 subsection, the department may issue a certificate or certificates
990 of need for the construction or expansion of psychiatric
991 residential treatment facility beds or the conversion of other
992 beds to psychiatric residential treatment facility beds in Warren
993 County, not to exceed sixty (60) psychiatric residential treatment
994 facility beds, provided that the facility agrees in writing that
995 no more than thirty (30) of the beds at the psychiatric
996 residential treatment facility will be certified for participation
997 in the Medicaid program (Section 43-13-101 et seq.) for the use of
998 any patients other than those who are participating only in the
999 Medicaid program of another state, and that no claim will be
1000 submitted to the Division of Medicaid for Medicaid reimbursement
1001 for more than thirty (30) patients in the psychiatric residential
1002 treatment facility in any day or for any patient in the
1003 psychiatric residential treatment facility who is in a bed that is
1004 not Medicaid-certified. This written agreement by the recipient
1005 of the certificate of need shall be a condition of the issuance of
1006 the certificate of need under this paragraph, and the agreement
1007 shall be fully binding on any subsequent owner of the psychiatric
1008 residential treatment facility if the ownership of the facility is
1009 transferred at any time after the issuance of the certificate of
1010 need. After this written agreement is executed, the Division of
1011 Medicaid and the State Department of Health shall not certify more

1012 than thirty (30) of the beds in the psychiatric residential
1013 treatment facility for participation in the Medicaid program for
1014 the use of any patients other than those who are participating
1015 only in the Medicaid program of another state. If the psychiatric
1016 residential treatment facility violates the terms of the written
1017 agreement by admitting or keeping in the facility on a regular or
1018 continuing basis more than thirty (30) patients who are
1019 participating in the Mississippi Medicaid program, the State
1020 Department of Health shall revoke the license of the facility, at
1021 the time that the department determines, after a hearing complying
1022 with due process, that the facility has violated the condition
1023 upon which the certificate of need was issued, as provided in this
1024 paragraph and in the written agreement.

1025 The State Department of Health, on or before July 1, 2002,
1026 shall transfer the certificate of need authorized under the
1027 authority of this paragraph (b), or reissue the certificate of
1028 need if it has expired, to River Region Health System.

1029 (c) Of the total number of beds authorized under this
1030 subsection, the department shall issue a certificate of need to a
1031 hospital currently operating Medicaid-certified acute psychiatric
1032 beds for adolescents in DeSoto County, for the establishment of a
1033 forty-bed psychiatric residential treatment facility in DeSoto
1034 County, provided that the hospital agrees in writing (i) that the
1035 hospital shall give priority for the use of those forty (40) beds
1036 to Mississippi residents who are presently being treated in
1037 out-of-state facilities, and (ii) that no more than fifteen (15)
1038 of the beds at the psychiatric residential treatment facility will
1039 be certified for participation in the Medicaid program (Section
1040 43-13-101 et seq.), and that no claim will be submitted for
1041 Medicaid reimbursement for more than fifteen (15) patients in the
1042 psychiatric residential treatment facility in any day or for any
1043 patient in the psychiatric residential treatment facility who is
1044 in a bed that is not Medicaid-certified. This written agreement

1045 by the recipient of the certificate of need shall be a condition
1046 of the issuance of the certificate of need under this paragraph,
1047 and the agreement shall be fully binding on any subsequent owner
1048 of the psychiatric residential treatment facility if the ownership
1049 of the facility is transferred at any time after the issuance of
1050 the certificate of need. After this written agreement is
1051 executed, the Division of Medicaid and the State Department of
1052 Health shall not certify more than fifteen (15) of the beds in the
1053 psychiatric residential treatment facility for participation in
1054 the Medicaid program. If the psychiatric residential treatment
1055 facility violates the terms of the written agreement by admitting
1056 or keeping in the facility on a regular or continuing basis more
1057 than fifteen (15) patients who are participating in the Medicaid
1058 program, the State Department of Health shall revoke the license
1059 of the facility, at the time that the department determines, after
1060 a hearing complying with due process, that the facility has
1061 violated the condition upon which the certificate of need was
1062 issued, as provided in this paragraph and in the written
1063 agreement.

1064 (d) Of the total number of beds authorized under this
1065 subsection, the department may issue a certificate or certificates
1066 of need for the construction or expansion of psychiatric
1067 residential treatment facility beds or the conversion of other
1068 beds to psychiatric treatment facility beds, not to exceed thirty
1069 (30) psychiatric residential treatment facility beds, in either
1070 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1071 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1072 (e) Of the total number of beds authorized under this
1073 subsection (3) the department shall issue a certificate of need to
1074 a privately-owned, nonprofit psychiatric residential treatment
1075 facility in Hinds County for an eight-bed expansion of the
1076 facility, provided that the facility agrees in writing that the
1077 facility shall give priority for the use of those eight (8) beds

1078 to Mississippi residents who are presently being treated in
1079 out-of-state facilities.

1080 (f) The department shall issue a certificate of need to
1081 a one-hundred-thirty-four-bed specialty hospital located on
1082 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1083 at 5900 Highway 39 North in Meridian (Lauderdale County),
1084 Mississippi, for the addition, construction or expansion of
1085 child/adolescent psychiatric residential treatment facility beds
1086 in Lauderdale County. As a condition of issuance of the
1087 certificate of need under this paragraph, the facility shall give
1088 priority in admissions to the child/adolescent psychiatric
1089 residential treatment facility beds authorized under this
1090 paragraph to patients who otherwise would require out-of-state
1091 placement. The Division of Medicaid, in conjunction with the
1092 Department of Human Services, shall furnish the facility a list of
1093 all out-of-state patients on a quarterly basis. Furthermore,
1094 notice shall also be provided to the parent, custodial parent or
1095 guardian of each out-of-state patient notifying them of the
1096 priority status granted by this paragraph. For purposes of this
1097 paragraph, the provisions of Section 41-7-193(1) requiring
1098 substantial compliance with the projection of need as reported in
1099 the current State Health Plan are waived. The total number of
1100 child/adolescent psychiatric residential treatment facility beds
1101 that may be authorized under the authority of this paragraph shall
1102 be sixty (60) beds. There shall be no prohibition or restrictions
1103 on participation in the Medicaid program (Section 43-13-101 et
1104 seq.) for the person receiving the certificate of need authorized
1105 under this paragraph or for the beds converted pursuant to the
1106 authority of that certificate of need.

1107 (4) (a) From and after July 1, 1993, the department shall
1108 not issue a certificate of need to any person for the new
1109 construction of any hospital, psychiatric hospital or chemical
1110 dependency hospital that will contain any child/adolescent

1111 psychiatric or child/adolescent chemical dependency beds, or for
1112 the conversion of any other health care facility to a hospital,
1113 psychiatric hospital or chemical dependency hospital that will
1114 contain any child/adolescent psychiatric or child/adolescent
1115 chemical dependency beds, or for the addition of any
1116 child/adolescent psychiatric or child/adolescent chemical
1117 dependency beds in any hospital, psychiatric hospital or chemical
1118 dependency hospital, or for the conversion of any beds of another
1119 category in any hospital, psychiatric hospital or chemical
1120 dependency hospital to child/adolescent psychiatric or
1121 child/adolescent chemical dependency beds, except as hereinafter
1122 authorized:

1123 (i) The department may issue certificates of need
1124 to any person for any purpose described in this subsection,
1125 provided that the hospital, psychiatric hospital or chemical
1126 dependency hospital does not participate in the Medicaid program
1127 (Section 43-13-101 et seq.) at the time of the application for the
1128 certificate of need and the owner of the hospital, psychiatric
1129 hospital or chemical dependency hospital agrees in writing that
1130 the hospital, psychiatric hospital or chemical dependency hospital
1131 will not at any time participate in the Medicaid program or admit
1132 or keep any patients who are participating in the Medicaid program
1133 in the hospital, psychiatric hospital or chemical dependency
1134 hospital. This written agreement by the recipient of the
1135 certificate of need shall be fully binding on any subsequent owner
1136 of the hospital, psychiatric hospital or chemical dependency
1137 hospital, if the ownership of the facility is transferred at any
1138 time after the issuance of the certificate of need. Agreement
1139 that the hospital, psychiatric hospital or chemical dependency
1140 hospital will not participate in the Medicaid program shall be a
1141 condition of the issuance of a certificate of need to any person
1142 under this subparagraph (a)(i), and if such hospital, psychiatric
1143 hospital or chemical dependency hospital at any time after the

1144 issuance of the certificate of need, regardless of the ownership
1145 of the facility, participates in the Medicaid program or admits or
1146 keeps any patients in the hospital, psychiatric hospital or
1147 chemical dependency hospital who are participating in the Medicaid
1148 program, the State Department of Health shall revoke the
1149 certificate of need, if it is still outstanding, and shall deny or
1150 revoke the license of the hospital, psychiatric hospital or
1151 chemical dependency hospital, at the time that the department
1152 determines, after a hearing complying with due process, that the
1153 hospital, psychiatric hospital or chemical dependency hospital has
1154 failed to comply with any of the conditions upon which the
1155 certificate of need was issued, as provided in this subparagraph
1156 and in the written agreement by the recipient of the certificate
1157 of need.

1158 (ii) The department may issue a certificate of
1159 need for the conversion of existing beds in a county hospital in
1160 Choctaw County from acute care beds to child/adolescent chemical
1161 dependency beds. For purposes of this subparagraph, the
1162 provisions of Section 41-7-193(1) requiring substantial compliance
1163 with the projection of need as reported in the current State
1164 Health Plan is waived. The total number of beds that may be
1165 authorized under authority of this subparagraph shall not exceed
1166 twenty (20) beds. There shall be no prohibition or restrictions
1167 on participation in the Medicaid program (Section 43-13-101 et
1168 seq.) for the hospital receiving the certificate of need
1169 authorized under this subparagraph (a)(ii) or for the beds
1170 converted pursuant to the authority of that certificate of need.

1171 (iii) The department may issue a certificate or
1172 certificates of need for the construction or expansion of
1173 child/adolescent psychiatric beds or the conversion of other beds
1174 to child/adolescent psychiatric beds in Warren County. For
1175 purposes of this subparagraph, the provisions of Section
1176 41-7-193(1) requiring substantial compliance with the projection

1177 of need as reported in the current State Health Plan are waived.
1178 The total number of beds that may be authorized under the
1179 authority of this subparagraph shall not exceed twenty (20) beds.
1180 There shall be no prohibition or restrictions on participation in
1181 the Medicaid program (Section 43-13-101 et seq.) for the person
1182 receiving the certificate of need authorized under this
1183 subparagraph (a)(iii) or for the beds converted pursuant to the
1184 authority of that certificate of need.

1185 If by January 1, 2002, there has been no significant
1186 commencement of construction of the beds authorized under this
1187 subparagraph (a)(iii), or no significant action taken to convert
1188 existing beds to the beds authorized under this subparagraph, then
1189 the certificate of need that was previously issued under this
1190 subparagraph shall expire. If the previously issued certificate
1191 of need expires, the department may accept applications for
1192 issuance of another certificate of need for the beds authorized
1193 under this subparagraph, and may issue a certificate of need to
1194 authorize the construction, expansion or conversion of the beds
1195 authorized under this subparagraph.

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

1210 (v) The department may issue a certificate of need
1211 to any county hospital located in Leflore County for the
1212 construction or expansion of adult psychiatric beds or the
1213 conversion of other beds to adult psychiatric beds, not to exceed
1214 twenty (20) beds, provided that the recipient of the certificate
1215 of need agrees in writing that the adult psychiatric beds will not
1216 at any time be certified for participation in the Medicaid program
1217 and that the hospital will not admit or keep any patients who are
1218 participating in the Medicaid program in any of such adult
1219 psychiatric beds. This written agreement by the recipient of the
1220 certificate of need shall be fully binding on any subsequent owner
1221 of the hospital if the ownership of the hospital is transferred at
1222 any time after the issuance of the certificate of need. Agreement
1223 that the adult psychiatric beds will not be certified for
1224 participation in the Medicaid program shall be a condition of the
1225 issuance of a certificate of need to any person under this
1226 subparagraph (a)(v), and if such hospital at any time after the
1227 issuance of the certificate of need, regardless of the ownership
1228 of the hospital, has any of such adult psychiatric beds certified
1229 for participation in the Medicaid program or admits or keeps any
1230 Medicaid patients in such adult psychiatric beds, the State
1231 Department of Health shall revoke the certificate of need, if it
1232 is still outstanding, and shall deny or revoke the license of the
1233 hospital at the time that the department determines, after a
1234 hearing complying with due process, that the hospital has failed
1235 to comply with any of the conditions upon which the certificate of
1236 need was issued, as provided in this subparagraph and in the
1237 written agreement by the recipient of the certificate of need.

1238 (vi) The department may issue a certificate or
1239 certificates of need for the expansion of child psychiatric beds
1240 or the conversion of other beds to child psychiatric beds at the
1241 University of Mississippi Medical Center. For purposes of this
1242 subparagraph (a)(vi), the provision of Section 41-7-193(1)

1243 requiring substantial compliance with the projection of need as
1244 reported in the current State Health Plan is waived. The total
1245 number of beds that may be authorized under the authority of this
1246 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
1247 shall be no prohibition or restrictions on participation in the
1248 Medicaid program (Section 43-13-101 et seq.) for the hospital
1249 receiving the certificate of need authorized under this
1250 subparagraph (a)(vi) or for the beds converted pursuant to the
1251 authority of that certificate of need.

1252 (b) From and after July 1, 1990, no hospital,
1253 psychiatric hospital or chemical dependency hospital shall be
1254 authorized to add any child/adolescent psychiatric or
1255 child/adolescent chemical dependency beds or convert any beds of
1256 another category to child/adolescent psychiatric or
1257 child/adolescent chemical dependency beds without a certificate of
1258 need under the authority of subsection (1)(c) of this section.

1259 (5) The department may issue a certificate of need to a
1260 county hospital in Winston County for the conversion of fifteen
1261 (15) acute care beds to geriatric psychiatric care beds.

1262 (6) The State Department of Health shall issue a certificate
1263 of need to a Mississippi corporation qualified to manage a
1264 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1265 Harrison County, not to exceed eighty (80) beds, including any
1266 necessary renovation or construction required for licensure and
1267 certification, provided that the recipient of the certificate of
1268 need agrees in writing that the long-term care hospital will not
1269 at any time participate in the Medicaid program (Section 43-13-101
1270 et seq.) or admit or keep any patients in the long-term care
1271 hospital who are participating in the Medicaid program. This
1272 written agreement by the recipient of the certificate of need
1273 shall be fully binding on any subsequent owner of the long-term
1274 care hospital, if the ownership of the facility is transferred at
1275 any time after the issuance of the certificate of need. Agreement

1276 that the long-term care hospital will not participate in the
1277 Medicaid program shall be a condition of the issuance of a
1278 certificate of need to any person under this subsection (6), and
1279 if such long-term care hospital at any time after the issuance of
1280 the certificate of need, regardless of the ownership of the
1281 facility, participates in the Medicaid program or admits or keeps
1282 any patients in the facility who are participating in the Medicaid
1283 program, the State Department of Health shall revoke the
1284 certificate of need, if it is still outstanding, and shall deny or
1285 revoke the license of the long-term care hospital, at the time
1286 that the department determines, after a hearing complying with due
1287 process, that the facility has failed to comply with any of the
1288 conditions upon which the certificate of need was issued, as
1289 provided in this subsection and in the written agreement by the
1290 recipient of the certificate of need. For purposes of this
1291 subsection, the provision of Section 41-7-193(1) requiring
1292 substantial compliance with the projection of need as reported in
1293 the current State Health Plan is hereby waived.

1294 (7) The State Department of Health may issue a certificate
1295 of need to any hospital in the state to utilize a portion of its
1296 beds for the "swing-bed" concept. Any such hospital must be in
1297 conformance with the federal regulations regarding such swing-bed
1298 concept at the time it submits its application for a certificate
1299 of need to the State Department of Health, except that such
1300 hospital may have more licensed beds or a higher average daily
1301 census (ADC) than the maximum number specified in federal
1302 regulations for participation in the swing-bed program. Any
1303 hospital meeting all federal requirements for participation in the
1304 swing-bed program which receives such certificate of need shall
1305 render services provided under the swing-bed concept to any
1306 patient eligible for Medicare (Title XVIII of the Social Security
1307 Act) who is certified by a physician to be in need of such
1308 services, and no such hospital shall permit any patient who is

1309 eligible for both Medicaid and Medicare or eligible only for
1310 Medicaid to stay in the swing beds of the hospital for more than
1311 thirty (30) days per admission unless the hospital receives prior
1312 approval for such patient from the Division of Medicaid, Office of
1313 the Governor. Any hospital having more licensed beds or a higher
1314 average daily census (ADC) than the maximum number specified in
1315 federal regulations for participation in the swing-bed program
1316 which receives such certificate of need shall develop a procedure
1317 to insure that before a patient is allowed to stay in the swing
1318 beds of the hospital, there are no vacant nursing home beds
1319 available for that patient located within a fifty-mile radius of
1320 the hospital. When any such hospital has a patient staying in the
1321 swing beds of the hospital and the hospital receives notice from a
1322 nursing home located within such radius that there is a vacant bed
1323 available for that patient, the hospital shall transfer the
1324 patient to the nursing home within a reasonable time after receipt
1325 of the notice. Any hospital which is subject to the requirements
1326 of the two (2) preceding sentences of this subsection may be
1327 suspended from participation in the swing-bed program for a
1328 reasonable period of time by the State Department of Health if the
1329 department, after a hearing complying with due process, determines
1330 that the hospital has failed to comply with any of those
1331 requirements.

1332 (8) The Department of Health shall not grant approval for or
1333 issue a certificate of need to any person proposing the new
1334 construction of, addition to or expansion of a health care
1335 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1336 (9) The Department of Health shall not grant approval for or
1337 issue a certificate of need to any person proposing the
1338 establishment of, or expansion of the currently approved territory
1339 of, or the contracting to establish a home office, subunit or
1340 branch office within the space operated as a health care facility
1341 as defined in Section 41-7-173(h)(i) through (viii) by a health

1342 care facility as defined in subparagraph (ix) of Section
1343 41-7-173(h).

1344 (10) Health care facilities owned and/or operated by the
1345 state or its agencies are exempt from the restraints in this
1346 section against issuance of a certificate of need if such addition
1347 or expansion consists of repairing or renovation necessary to
1348 comply with the state licensure law. This exception shall not
1349 apply to the new construction of any building by such state
1350 facility. This exception shall not apply to any health care
1351 facilities owned and/or operated by counties, municipalities,
1352 districts, unincorporated areas, other defined persons, or any
1353 combination thereof.

1354 (11) The new construction, renovation or expansion of or
1355 addition to any health care facility defined in subparagraph (ii)
1356 (psychiatric hospital), subparagraph (iv) (skilled nursing
1357 facility), subparagraph (vi) (intermediate care facility),
1358 subparagraph (viii) (intermediate care facility for the mentally
1359 retarded) and subparagraph (x) (psychiatric residential treatment
1360 facility) of Section 41-7-173(h) which is owned by the State of
1361 Mississippi and under the direction and control of the State
1362 Department of Mental Health, and the addition of new beds or the
1363 conversion of beds from one category to another in any such
1364 defined health care facility which is owned by the State of
1365 Mississippi and under the direction and control of the State
1366 Department of Mental Health, shall not require the issuance of a
1367 certificate of need under Section 41-7-171 et seq.,
1368 notwithstanding any provision in Section 41-7-171 et seq. to the
1369 contrary.

1370 (12) The new construction, renovation or expansion of or
1371 addition to any veterans homes or domiciliaries for eligible
1372 veterans of the State of Mississippi as authorized under Section
1373 35-1-19 shall not require the issuance of a certificate of need,

1374 notwithstanding any provision in Section 41-7-171 et seq. to the
1375 contrary.

1376 (13) The new construction of a nursing facility or nursing
1377 facility beds or the conversion of other beds to nursing facility
1378 beds shall not require the issuance of a certificate of need,
1379 notwithstanding any provision in Section 41-7-171 et seq. to the
1380 contrary, if the conditions of this subsection are met.

1381 (a) Before any construction or conversion may be
1382 undertaken without a certificate of need, the owner of the nursing
1383 facility, in the case of an existing facility, or the applicant to
1384 construct a nursing facility, in the case of new construction,
1385 first must file a written notice of intent and sign a written
1386 agreement with the State Department of Health that the entire
1387 nursing facility will not at any time participate in or have any
1388 beds certified for participation in the Medicaid program (Section
1389 43-13-101 et seq.), will not admit or keep any patients in the
1390 nursing facility who are participating in the Medicaid program,
1391 and will not submit any claim for Medicaid reimbursement for any
1392 patient in the facility. This written agreement by the owner or
1393 applicant shall be a condition of exercising the authority under
1394 this subsection without a certificate of need, and the agreement
1395 shall be fully binding on any subsequent owner of the nursing
1396 facility if the ownership of the facility is transferred at any
1397 time after the agreement is signed. After the written agreement
1398 is signed, the Division of Medicaid and the State Department of
1399 Health shall not certify any beds in the nursing facility for
1400 participation in the Medicaid program. If the nursing facility
1401 violates the terms of the written agreement by participating in
1402 the Medicaid program, having any beds certified for participation
1403 in the Medicaid program, admitting or keeping any patient in the
1404 facility who is participating in the Medicaid program, or
1405 submitting any claim for Medicaid reimbursement for any patient in
1406 the facility, the State Department of Health shall revoke the

1407 license of the nursing facility at the time that the department
1408 determines, after a hearing complying with due process, that the
1409 facility has violated the terms of the written agreement.

1410 (b) For the purposes of this subsection, participation
1411 in the Medicaid program by a nursing facility includes Medicaid
1412 reimbursement of coinsurance and deductibles for recipients who
1413 are qualified Medicare beneficiaries and/or those who are dually
1414 eligible. Any nursing facility exercising the authority under
1415 this subsection may not bill or submit a claim to the Division of
1416 Medicaid for services to qualified Medicare beneficiaries and/or
1417 those who are dually eligible.

1418 (c) The new construction of a nursing facility or
1419 nursing facility beds or the conversion of other beds to nursing
1420 facility beds described in this section must be either a part of a
1421 completely new continuing care retirement community, as described
1422 in the latest edition of the Mississippi State Health Plan, or an
1423 addition to existing personal care and independent living
1424 components, and so that the completed project will be a continuing
1425 care retirement community, containing (i) independent living
1426 accommodations, (ii) personal care beds, and (iii) the nursing
1427 home facility beds. The three (3) components must be located on a
1428 single site and be operated as one (1) inseparable facility. The
1429 nursing facility component must contain a minimum of thirty (30)
1430 beds. Any nursing facility beds authorized by this section will
1431 not be counted against the bed need set forth in the State Health
1432 Plan, as identified in Section 41-7-171 et seq.

1433 This subsection (13) shall stand repealed from and after July
1434 1, 2005.

1435 (14) The State Department of Health shall issue a
1436 certificate of need to any hospital which is currently licensed
1437 for two hundred fifty (250) or more acute care beds and is located
1438 in any general hospital service area not having a comprehensive
1439 cancer center, for the establishment and equipping of such a

1440 center which provides facilities and services for outpatient
1441 radiation oncology therapy, outpatient medical oncology therapy,
1442 and appropriate support services including the provision of
1443 radiation therapy services. The provision of Section 41-7-193(1)
1444 regarding substantial compliance with the projection of need as
1445 reported in the current State Health Plan is waived for the
1446 purpose of this subsection.

1447 (15) The State Department of Health may authorize the
1448 transfer of hospital beds, not to exceed sixty (60) beds, from the
1449 North Panola Community Hospital to the South Panola Community
1450 Hospital. The authorization for the transfer of those beds shall
1451 be exempt from the certificate of need review process.

1452 (16) The State Department of Health shall issue any
1453 certificates of need necessary for Mississippi State University
1454 and a public or private health care provider to jointly acquire
1455 and operate a linear accelerator and a magnetic resonance imaging
1456 unit. Those certificates of need shall cover all capital
1457 expenditures related to the project between Mississippi State
1458 University and the health care provider, including, but not
1459 limited to, the acquisition of the linear accelerator, the
1460 magnetic resonance imaging unit and other radiological modalities;
1461 the offering of linear accelerator and magnetic resonance imaging
1462 services; and the cost of construction of facilities in which to
1463 locate these services. The linear accelerator and the magnetic
1464 resonance imaging unit shall be (a) located in the City of
1465 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1466 Mississippi State University and the public or private health care
1467 provider selected by Mississippi State University through a
1468 request for proposals (RFP) process in which Mississippi State
1469 University selects, and the Board of Trustees of State
1470 Institutions of Higher Learning approves, the health care provider
1471 that makes the best overall proposal; (c) available to Mississippi
1472 State University for research purposes two-thirds (2/3) of the

1473 time that the linear accelerator and magnetic resonance imaging
1474 unit are operational; and (d) available to the public or private
1475 health care provider selected by Mississippi State University and
1476 approved by the Board of Trustees of State Institutions of Higher
1477 Learning one-third (1/3) of the time for clinical, diagnostic and
1478 treatment purposes. For purposes of this subsection, the
1479 provisions of Section 41-7-193(1) requiring substantial compliance
1480 with the projection of need as reported in the current State
1481 Health Plan are waived.

1482 (17) Nothing in this section or in any other provision of
1483 Section 41-7-171 et seq. shall prevent any nursing facility from
1484 designating an appropriate number of existing beds in the facility
1485 as beds for providing care exclusively to patients with
1486 Alzheimer's disease.

1487 **SECTION 3.** This act shall take effect and be in force from
1488 and after July 1, 2005.