

By: Representative Smith (39th)

To: Medicaid; Appropriations

HOUSE BILL NO. 1087

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE THE PROHIBITION ON PARTICIPATION IN THE MEDICAID PROGRAM  
3 FOR THE BEDS IN A NURSING HOME AT A CONTINUING CARE RETIREMENT  
4 COMMUNITY IN LOWNDES COUNTY; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the  
9 following activities without obtaining the required certificate of  
10 need:

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

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

20 (c) Any change in the existing bed complement of any  
21 health care facility through the addition or conversion of any  
22 beds or the alteration, modernizing or refurbishing of any unit or  
23 department in which the beds may be located; however, if a health  
24 care facility has voluntarily delicensed some of its existing bed  
25 complement, it may later relicense some or all of its delicensed  
26 beds without the necessity of having to acquire a certificate of  
27 need. The State Department of Health shall maintain a record of  
28 the delicensing health care facility and its voluntarily

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

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

- 47 (i) Open heart surgery services;
- 48 (ii) Cardiac catheterization services;
- 49 (iii) Comprehensive inpatient rehabilitation  
50 services;
- 51 (iv) Licensed psychiatric services;
- 52 (v) Licensed chemical dependency services;
- 53 (vi) Radiation therapy services;
- 54 (vii) Diagnostic imaging services of an invasive  
55 nature, i.e. invasive digital angiography;
- 56 (viii) Nursing home care as defined in  
57 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 58 (ix) Home health services;
- 59 (x) Swing-bed services;
- 60 (xi) Ambulatory surgical services;
- 61 (xii) Magnetic resonance imaging services;

62 (xiii) Extracorporeal shock wave lithotripsy  
63 services;

64 (xiv) Long-term care hospital services;

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

66 (e) The relocation of one or more health services from  
67 one physical facility or site to another physical facility or  
68 site, unless such relocation, which does not involve a capital  
69 expenditure by or on behalf of a health care facility, (i) is to a  
70 physical facility or site within one thousand three hundred twenty  
71 (1,320) feet from the main entrance of the health care facility  
72 where the health care service is located, or (ii) is the result of  
73 an order of a court of appropriate jurisdiction or a result of  
74 pending litigation in such court, or by order of the State  
75 Department of Health, or by order of any other agency or legal  
76 entity of the state, the federal government, or any political  
77 subdivision of either, whose order is also approved by the State  
78 Department of Health;

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

89 (g) Changes of ownership of existing health care  
90 facilities in which a notice of intent is not filed with the State  
91 Department of Health at least thirty (30) days prior to the date  
92 such change of ownership occurs, or a change in services or bed  
93 capacity as prescribed in paragraph (c) or (d) of this subsection  
94 as a result of the change of ownership; an acquisition for less

95 than fair market value must be reviewed, if the acquisition at  
96 fair market value would be subject to review;

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

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

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

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

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

125 (a) The department may issue a certificate of need to  
126 any person proposing the new construction of any health care  
127 facility defined in subparagraphs (iv) and (vi) of Section

128 41-7-173(h) as part of a life care retirement facility, in any  
129 county bordering on the Gulf of Mexico in which is located a  
130 National Aeronautics and Space Administration facility, not to  
131 exceed forty (40) beds. From and after July 1, 1999, there shall  
132 be no prohibition or restrictions on participation in the Medicaid  
133 program (Section 43-13-101 et seq.) for the beds in the health  
134 care facility that were authorized under this paragraph (a).

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

142 (c) The department may issue a certificate of need for  
143 the addition to or expansion of any skilled nursing facility that  
144 is part of an existing continuing care retirement community  
145 located in Madison County, provided that the recipient of the  
146 certificate of need agrees in writing that the skilled nursing  
147 facility will not at any time participate in the Medicaid program  
148 (Section 43-13-101 et seq.) or admit or keep any patients in the  
149 skilled nursing facility who are participating in the Medicaid  
150 program. This written agreement by the recipient of the  
151 certificate of need shall be fully binding on any subsequent owner  
152 of the skilled nursing facility, if the ownership of the facility  
153 is transferred at any time after the issuance of the certificate  
154 of need. Agreement that the skilled nursing facility will not  
155 participate in the Medicaid program shall be a condition of the  
156 issuance of a certificate of need to any person under this  
157 paragraph (c), and if such skilled nursing facility at any time  
158 after the issuance of the certificate of need, regardless of the  
159 ownership of the facility, participates in the Medicaid program or  
160 admits or keeps any patients in the facility who are participating

161 in the Medicaid program, the State Department of Health shall  
162 revoke the certificate of need, if it is still outstanding, and  
163 shall deny or revoke the license of the skilled nursing facility,  
164 at the time that the department determines, after a hearing  
165 complying with due process, that the facility has failed to comply  
166 with any of the conditions upon which the certificate of need was  
167 issued, as provided in this paragraph and in the written agreement  
168 by the recipient of the certificate of need. The total number of  
169 beds that may be authorized under the authority of this paragraph  
170 (c) shall not exceed sixty (60) beds.

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

179 (e) The State Department of Health may issue a  
180 certificate of need for the construction of a nursing facility or  
181 the conversion of beds to nursing facility beds at a personal care  
182 facility for the elderly in Lowndes County that is owned and  
183 operated by a Mississippi nonprofit corporation, not to exceed  
184 sixty (60) beds. From and after July 1, 1999, there shall be no  
185 prohibition or restrictions on participation in the Medicaid  
186 program (Section 43-13-101 et seq.) for the beds in the nursing  
187 facility that were authorized under this paragraph (e).

188 (f) The State Department of Health may issue a  
189 certificate of need for conversion of a county hospital facility  
190 in Itawamba County to a nursing facility, not to exceed sixty (60)  
191 beds, including any necessary construction, renovation or  
192 expansion. From and after July 1, 1999, there shall be no  
193 prohibition or restrictions on participation in the Medicaid

194 program (Section 43-13-101 et seq.) for the beds in the nursing  
195 facility that were authorized under this paragraph (f).

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

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

212 (i) The department may issue a certificate of need for  
213 the new construction of a skilled nursing facility in Leake  
214 County, provided that the recipient of the certificate of need  
215 agrees in writing that the skilled nursing facility will not at  
216 any time participate in the Medicaid program (Section 43-13-101 et  
217 seq.) or admit or keep any patients in the skilled nursing  
218 facility who are participating in the Medicaid program. This  
219 written agreement by the recipient of the certificate of need  
220 shall be fully binding on any subsequent owner of the skilled  
221 nursing facility, if the ownership of the facility is transferred  
222 at any time after the issuance of the certificate of need.  
223 Agreement that the skilled nursing facility will not participate  
224 in the Medicaid program shall be a condition of the issuance of a  
225 certificate of need to any person under this paragraph (i), and if  
226 such skilled nursing facility at any time after the issuance of

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

251 (j) The department may issue certificates of need to  
252 allow any existing freestanding long-term care facility in  
253 Tishomingo County and Hancock County that on July 1, 1995, is  
254 licensed with fewer than sixty (60) beds. For the purposes of  
255 this paragraph (j), the provision of Section 41-7-193(1) requiring  
256 substantial compliance with the projection of need as reported in  
257 the current State Health Plan is waived. From and after July 1,  
258 1999, there shall be no prohibition or restrictions on  
259 participation in the Medicaid program (Section 43-13-101 et seq.)



260 for the beds in the long-term care facilities that were authorized  
261 under this paragraph (j).

262 (k) The department may issue a certificate of need for  
263 the construction of a nursing facility at a continuing care  
264 retirement community in Lowndes County. The total number of beds  
265 that may be authorized under the authority of this paragraph (k)  
266 shall not exceed sixty (60) beds. From and after July 1, 2005,  
267 there shall be no prohibition or restrictions on participation in  
268 the Medicaid program (Section 43-13-101 et seq.) for the beds in  
269 the nursing facility that were authorized under this paragraph  
270 (k).

271 (l) Provided that funds are specifically appropriated  
272 therefor by the Legislature, the department may issue a  
273 certificate of need to a rehabilitation hospital in Hinds County  
274 for the construction of a sixty-bed long-term care nursing  
275 facility dedicated to the care and treatment of persons with  
276 severe disabilities including persons with spinal cord and  
277 closed-head injuries and ventilator-dependent patients. The  
278 provision of Section 41-7-193(1) regarding substantial compliance  
279 with projection of need as reported in the current State Health  
280 Plan is hereby waived for the purpose of this paragraph.

281 (m) The State Department of Health may issue a  
282 certificate of need to a county-owned hospital in the Second  
283 Judicial District of Panola County for the conversion of not more  
284 than seventy-two (72) hospital beds to nursing facility beds,  
285 provided that the recipient of the certificate of need agrees in  
286 writing that none of the beds at the nursing facility will be  
287 certified for participation in the Medicaid program (Section  
288 43-13-101 et seq.), and that no claim will be submitted for  
289 Medicaid reimbursement in the nursing facility in any day or for  
290 any patient in the nursing facility. This written agreement by  
291 the recipient of the certificate of need shall be a condition of  
292 the issuance of the certificate of need under this paragraph, and

293 the agreement shall be fully binding on any subsequent owner of  
294 the nursing facility if the ownership of the nursing facility is  
295 transferred at any time after the issuance of the certificate of  
296 need. After this written agreement is executed, the Division of  
297 Medicaid and the State Department of Health shall not certify any  
298 of the beds in the nursing facility for participation in the  
299 Medicaid program. If the nursing facility violates the terms of  
300 the written agreement by admitting or keeping in the nursing  
301 facility on a regular or continuing basis any patients who are  
302 participating in the Medicaid program, the State Department of  
303 Health shall revoke the license of the nursing facility, at the  
304 time that the department determines, after a hearing complying  
305 with due process, that the nursing facility has violated the  
306 condition upon which the certificate of need was issued, as  
307 provided in this paragraph and in the written agreement. If the  
308 certificate of need authorized under this paragraph is not issued  
309 within twelve (12) months after July 1, 2001, the department shall  
310 deny the application for the certificate of need and shall not  
311 issue the certificate of need at any time after the twelve-month  
312 period, unless the issuance is contested. If the certificate of  
313 need is issued and substantial construction of the nursing  
314 facility beds has not commenced within eighteen (18) months after  
315 July 1, 2001, the State Department of Health, after a hearing  
316 complying with due process, shall revoke the certificate of need  
317 if it is still outstanding, and the department shall not issue a  
318 license for the nursing facility at any time after the  
319 eighteen-month period. Provided, however, that if the issuance of  
320 the certificate of need is contested, the department shall require  
321 substantial construction of the nursing facility beds within six  
322 (6) months after final adjudication on the issuance of the  
323 certificate of need.

324 (n) The department may issue a certificate of need for  
325 the new construction, addition or conversion of skilled nursing

326 facility beds in Madison County, provided that the recipient of  
327 the certificate of need agrees in writing that the skilled nursing  
328 facility will not at any time participate in the Medicaid program  
329 (Section 43-13-101 et seq.) or admit or keep any patients in the  
330 skilled nursing facility who are participating in the Medicaid  
331 program. This written agreement by the recipient of the  
332 certificate of need shall be fully binding on any subsequent owner  
333 of the skilled nursing facility, if the ownership of the facility  
334 is transferred at any time after the issuance of the certificate  
335 of need. Agreement that the skilled nursing facility will not  
336 participate in the Medicaid program shall be a condition of the  
337 issuance of a certificate of need to any person under this  
338 paragraph (n), and if such skilled nursing facility at any time  
339 after the issuance of the certificate of need, regardless of the  
340 ownership of the facility, participates in the Medicaid program or  
341 admits or keeps any patients in the facility who are participating  
342 in the Medicaid program, the State Department of Health shall  
343 revoke the certificate of need, if it is still outstanding, and  
344 shall deny or revoke the license of the skilled nursing facility,  
345 at the time that the department determines, after a hearing  
346 complying with due process, that the facility has failed to comply  
347 with any of the conditions upon which the certificate of need was  
348 issued, as provided in this paragraph and in the written agreement  
349 by the recipient of the certificate of need. The total number of  
350 nursing facility beds that may be authorized by any certificate of  
351 need issued under this paragraph (n) shall not exceed sixty (60)  
352 beds. If the certificate of need authorized under this paragraph  
353 is not issued within twelve (12) months after July 1, 1998, the  
354 department shall deny the application for the certificate of need  
355 and shall not issue the certificate of need at any time after the  
356 twelve-month period, unless the issuance is contested. If the  
357 certificate of need is issued and substantial construction of the  
358 nursing facility beds has not commenced within eighteen (18)

359 months after the effective date of July 1, 1998, the State  
360 Department of Health, after a hearing complying with due process,  
361 shall revoke the certificate of need if it is still outstanding,  
362 and the department shall not issue a license for the nursing  
363 facility at any time after the eighteen-month period. Provided,  
364 however, that if the issuance of the certificate of need is  
365 contested, the department shall require substantial construction  
366 of the nursing facility beds within six (6) months after final  
367 adjudication on the issuance of the certificate of need.

368           (o) The department may issue a certificate of need for  
369 the new construction, addition or conversion of skilled nursing  
370 facility beds in Leake County, provided that the recipient of the  
371 certificate of need agrees in writing that the skilled nursing  
372 facility will not at any time participate in the Medicaid program  
373 (Section 43-13-101 et seq.) or admit or keep any patients in the  
374 skilled nursing facility who are participating in the Medicaid  
375 program. This written agreement by the recipient of the  
376 certificate of need shall be fully binding on any subsequent owner  
377 of the skilled nursing facility, if the ownership of the facility  
378 is transferred at any time after the issuance of the certificate  
379 of need. Agreement that the skilled nursing facility will not  
380 participate in the Medicaid program shall be a condition of the  
381 issuance of a certificate of need to any person under this  
382 paragraph (o), and if such skilled nursing facility at any time  
383 after the issuance of the certificate of need, regardless of the  
384 ownership of the facility, participates in the Medicaid program or  
385 admits or keeps any patients in the facility who are participating  
386 in the Medicaid program, the State Department of Health shall  
387 revoke the certificate of need, if it is still outstanding, and  
388 shall deny or revoke the license of the skilled nursing facility,  
389 at the time that the department determines, after a hearing  
390 complying with due process, that the facility has failed to comply  
391 with any of the conditions upon which the certificate of need was

392 issued, as provided in this paragraph and in the written agreement  
393 by the recipient of the certificate of need. The total number of  
394 nursing facility beds that may be authorized by any certificate of  
395 need issued under this paragraph (o) shall not exceed sixty (60)  
396 beds. If the certificate of need authorized under this paragraph  
397 is not issued within twelve (12) months after July 1, 2001, the  
398 department shall deny the application for the certificate of need  
399 and shall not issue the certificate of need at any time after the  
400 twelve-month period, unless the issuance is contested. If the  
401 certificate of need is issued and substantial construction of the  
402 nursing facility beds has not commenced within eighteen (18)  
403 months after the effective date of July 1, 2001, the State  
404 Department of Health, after a hearing complying with due process,  
405 shall revoke the certificate of need if it is still outstanding,  
406 and the department shall not issue a license for the nursing  
407 facility at any time after the eighteen-month period. Provided,  
408 however, that if the issuance of the certificate of need is  
409 contested, the department shall require substantial construction  
410 of the nursing facility beds within six (6) months after final  
411 adjudication on the issuance of the certificate of need.

412 (p) The department may issue a certificate of need for  
413 the construction of a municipally-owned nursing facility within  
414 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
415 beds, provided that the recipient of the certificate of need  
416 agrees in writing that the skilled nursing facility will not at  
417 any time participate in the Medicaid program (Section 43-13-101 et  
418 seq.) or admit or keep any patients in the skilled nursing  
419 facility who are participating in the Medicaid program. This  
420 written agreement by the recipient of the certificate of need  
421 shall be fully binding on any subsequent owner of the skilled  
422 nursing facility, if the ownership of the facility is transferred  
423 at any time after the issuance of the certificate of need.  
424 Agreement that the skilled nursing facility will not participate

425 in the Medicaid program shall be a condition of the issuance of a  
426 certificate of need to any person under this paragraph (p), and if  
427 such skilled nursing facility at any time after the issuance of  
428 the certificate of need, regardless of the ownership of the  
429 facility, participates in the Medicaid program or admits or keeps  
430 any patients in the facility who are participating in the Medicaid  
431 program, the State Department of Health shall revoke the  
432 certificate of need, if it is still outstanding, and shall deny or  
433 revoke the license of the skilled nursing facility, at the time  
434 that the department determines, after a hearing complying with due  
435 process, that the facility has failed to comply with any of the  
436 conditions upon which the certificate of need was issued, as  
437 provided in this paragraph and in the written agreement by the  
438 recipient of the certificate of need. The provision of Section  
439 43-7-193(1) regarding substantial compliance of the projection of  
440 need as reported in the current State Health Plan is waived for  
441 the purposes of this paragraph. If the certificate of need  
442 authorized under this paragraph is not issued within twelve (12)  
443 months after July 1, 1998, the department shall deny the  
444 application for the certificate of need and shall not issue the  
445 certificate of need at any time after the twelve-month period,  
446 unless the issuance is contested. If the certificate of need is  
447 issued and substantial construction of the nursing facility beds  
448 has not commenced within eighteen (18) months after July 1, 1998,  
449 the State Department of Health, after a hearing complying with due  
450 process, shall revoke the certificate of need if it is still  
451 outstanding, and the department shall not issue a license for the  
452 nursing facility at any time after the eighteen-month period.  
453 Provided, however, that if the issuance of the certificate of need  
454 is contested, the department shall require substantial  
455 construction of the nursing facility beds within six (6) months  
456 after final adjudication on the issuance of the certificate of  
457 need.

458           (q) (i) Beginning on July 1, 1999, the State  
459 Department of Health shall issue certificates of need during each  
460 of the next four (4) fiscal years for the construction or  
461 expansion of nursing facility beds or the conversion of other beds  
462 to nursing facility beds in each county in the state having a need  
463 for fifty (50) or more additional nursing facility beds, as shown  
464 in the fiscal year 1999 State Health Plan, in the manner provided  
465 in this paragraph (q). The total number of nursing facility beds  
466 that may be authorized by any certificate of need authorized under  
467 this paragraph (q) shall not exceed sixty (60) beds.

468           (ii) Subject to the provisions of subparagraph  
469 (v), during each of the next four (4) fiscal years, the department  
470 shall issue six (6) certificates of need for new nursing facility  
471 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
472 (1) certificate of need shall be issued for new nursing facility  
473 beds in the county in each of the four (4) Long-Term Care Planning  
474 Districts designated in the fiscal year 1999 State Health Plan  
475 that has the highest need in the district for those beds; and two  
476 (2) certificates of need shall be issued for new nursing facility  
477 beds in the two (2) counties from the state at large that have the  
478 highest need in the state for those beds, when considering the  
479 need on a statewide basis and without regard to the Long-Term Care  
480 Planning Districts in which the counties are located. During  
481 fiscal year 2003, one (1) certificate of need shall be issued for  
482 new nursing facility beds in any county having a need for fifty  
483 (50) or more additional nursing facility beds, as shown in the  
484 fiscal year 1999 State Health Plan, that has not received a  
485 certificate of need under this paragraph (q) during the three (3)  
486 previous fiscal years. During fiscal year 2000, in addition to  
487 the six (6) certificates of need authorized in this subparagraph,  
488 the department also shall issue a certificate of need for new  
489 nursing facility beds in Amite County and a certificate of need  
490 for new nursing facility beds in Carroll County.

491                   (iii) Subject to the provisions of subparagraph  
492 (v), the certificate of need issued under subparagraph (ii) for  
493 nursing facility beds in each Long-Term Care Planning District  
494 during each fiscal year shall first be available for nursing  
495 facility beds in the county in the district having the highest  
496 need for those beds, as shown in the fiscal year 1999 State Health  
497 Plan. If there are no applications for a certificate of need for  
498 nursing facility beds in the county having the highest need for  
499 those beds by the date specified by the department, then the  
500 certificate of need shall be available for nursing facility beds  
501 in other counties in the district in descending order of the need  
502 for those beds, from the county with the second highest need to  
503 the county with the lowest need, until an application is received  
504 for nursing facility beds in an eligible county in the district.

505                   (iv) Subject to the provisions of subparagraph  
506 (v), the certificate of need issued under subparagraph (ii) for  
507 nursing facility beds in the two (2) counties from the state at  
508 large during each fiscal year shall first be available for nursing  
509 facility beds in the two (2) counties that have the highest need  
510 in the state for those beds, as shown in the fiscal year 1999  
511 State Health Plan, when considering the need on a statewide basis  
512 and without regard to the Long-Term Care Planning Districts in  
513 which the counties are located. If there are no applications for  
514 a certificate of need for nursing facility beds in either of the  
515 two (2) counties having the highest need for those beds on a  
516 statewide basis by the date specified by the department, then the  
517 certificate of need shall be available for nursing facility beds  
518 in other counties from the state at large in descending order of  
519 the need for those beds on a statewide basis, from the county with  
520 the second highest need to the county with the lowest need, until  
521 an application is received for nursing facility beds in an  
522 eligible county from the state at large.



523                   (v) If a certificate of need is authorized to be  
524 issued under this paragraph (q) for nursing facility beds in a  
525 county on the basis of the need in the Long-Term Care Planning  
526 District during any fiscal year of the four-year period, a  
527 certificate of need shall not also be available under this  
528 paragraph (q) for additional nursing facility beds in that county  
529 on the basis of the need in the state at large, and that county  
530 shall be excluded in determining which counties have the highest  
531 need for nursing facility beds in the state at large for that  
532 fiscal year. After a certificate of need has been issued under  
533 this paragraph (q) for nursing facility beds in a county during  
534 any fiscal year of the four-year period, a certificate of need  
535 shall not be available again under this paragraph (q) for  
536 additional nursing facility beds in that county during the  
537 four-year period, and that county shall be excluded in determining  
538 which counties have the highest need for nursing facility beds in  
539 succeeding fiscal years.

540                   (vi) If more than one (1) application is made for  
541 a certificate of need for nursing home facility beds available  
542 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
543 County, and one (1) of the applicants is a county-owned hospital  
544 located in the county where the nursing facility beds are  
545 available, the department shall give priority to the county-owned  
546 hospital in granting the certificate of need if the following  
547 conditions are met:

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

551                   2. The county-owned hospital's qualifications  
552 for the certificate of need, as shown in its application and as  
553 determined by the department, are at least equal to the  
554 qualifications of the other applicants for the certificate of  
555 need.

556           (r) (i) Beginning on July 1, 1999, the State  
557 Department of Health shall issue certificates of need during each  
558 of the next two (2) fiscal years for the construction or expansion  
559 of nursing facility beds or the conversion of other beds to  
560 nursing facility beds in each of the four (4) Long-Term Care  
561 Planning Districts designated in the fiscal year 1999 State Health  
562 Plan, to provide care exclusively to patients with Alzheimer's  
563 disease.

564           (ii) Not more than twenty (20) beds may be  
565 authorized by any certificate of need issued under this paragraph  
566 (r), and not more than a total of sixty (60) beds may be  
567 authorized in any Long-Term Care Planning District by all  
568 certificates of need issued under this paragraph (r). However,  
569 the total number of beds that may be authorized by all  
570 certificates of need issued under this paragraph (r) during any  
571 fiscal year shall not exceed one hundred twenty (120) beds, and  
572 the total number of beds that may be authorized in any Long-Term  
573 Care Planning District during any fiscal year shall not exceed  
574 forty (40) beds. Of the certificates of need that are issued for  
575 each Long-Term Care Planning District during the next two (2)  
576 fiscal years, at least one (1) shall be issued for beds in the  
577 northern part of the district, at least one (1) shall be issued  
578 for beds in the central part of the district, and at least one (1)  
579 shall be issued for beds in the southern part of the district.

580           (iii) The State Department of Health, in  
581 consultation with the Department of Mental Health and the Division  
582 of Medicaid, shall develop and prescribe the staffing levels,  
583 space requirements and other standards and requirements that must  
584 be met with regard to the nursing facility beds authorized under  
585 this paragraph (r) to provide care exclusively to patients with  
586 Alzheimer's disease.

587           (3) The State Department of Health may grant approval for  
588 and issue certificates of need to any person proposing the new

589 construction of, addition to, conversion of beds of or expansion  
590 of any health care facility defined in subparagraph (x)  
591 (psychiatric residential treatment facility) of Section  
592 41-7-173(h). The total number of beds which may be authorized by  
593 such certificates of need shall not exceed three hundred  
594 thirty-four (334) beds for the entire state.

595 (a) Of the total number of beds authorized under this  
596 subsection, the department shall issue a certificate of need to a  
597 privately-owned psychiatric residential treatment facility in  
598 Simpson County for the conversion of sixteen (16) intermediate  
599 care facility for the mentally retarded (ICF-MR) beds to  
600 psychiatric residential treatment facility beds, provided that  
601 facility agrees in writing that the facility shall give priority  
602 for the use of those sixteen (16) beds to Mississippi residents  
603 who are presently being treated in out-of-state facilities.

604 (b) Of the total number of beds authorized under this  
605 subsection, the department may issue a certificate or certificates  
606 of need for the construction or expansion of psychiatric  
607 residential treatment facility beds or the conversion of other  
608 beds to psychiatric residential treatment facility beds in Warren  
609 County, not to exceed sixty (60) psychiatric residential treatment  
610 facility beds, provided that the facility agrees in writing that  
611 no more than thirty (30) of the beds at the psychiatric  
612 residential treatment facility will be certified for participation  
613 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
614 any patients other than those who are participating only in the  
615 Medicaid program of another state, and that no claim will be  
616 submitted to the Division of Medicaid for Medicaid reimbursement  
617 for more than thirty (30) patients in the psychiatric residential  
618 treatment facility in any day or for any patient in the  
619 psychiatric residential treatment facility who is in a bed that is  
620 not Medicaid-certified. This written agreement by the recipient  
621 of the certificate of need shall be a condition of the issuance of

622 the certificate of need under this paragraph, and the agreement  
623 shall be fully binding on any subsequent owner of the psychiatric  
624 residential treatment facility if the ownership of the facility is  
625 transferred at any time after the issuance of the certificate of  
626 need. After this written agreement is executed, the Division of  
627 Medicaid and the State Department of Health shall not certify more  
628 than thirty (30) of the beds in the psychiatric residential  
629 treatment facility for participation in the Medicaid program for  
630 the use of any patients other than those who are participating  
631 only in the Medicaid program of another state. If the psychiatric  
632 residential treatment facility violates the terms of the written  
633 agreement by admitting or keeping in the facility on a regular or  
634 continuing basis more than thirty (30) patients who are  
635 participating in the Mississippi Medicaid program, the State  
636 Department of Health shall revoke the license of the facility, at  
637 the time that the department determines, after a hearing complying  
638 with due process, that the facility has violated the condition  
639 upon which the certificate of need was issued, as provided in this  
640 paragraph and in the written agreement.

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

645 (c) Of the total number of beds authorized under this  
646 subsection, the department shall issue a certificate of need to a  
647 hospital currently operating Medicaid-certified acute psychiatric  
648 beds for adolescents in DeSoto County, for the establishment of a  
649 forty-bed psychiatric residential treatment facility in DeSoto  
650 County, provided that the hospital agrees in writing (i) that the  
651 hospital shall give priority for the use of those forty (40) beds  
652 to Mississippi residents who are presently being treated in  
653 out-of-state facilities, and (ii) that no more than fifteen (15)  
654 of the beds at the psychiatric residential treatment facility will

655 be certified for participation in the Medicaid program (Section  
656 43-13-101 et seq.), and that no claim will be submitted for  
657 Medicaid reimbursement for more than fifteen (15) patients in the  
658 psychiatric residential treatment facility in any day or for any  
659 patient in the psychiatric residential treatment facility who is  
660 in a bed that is not Medicaid-certified. This written agreement  
661 by the recipient of the certificate of need shall be a condition  
662 of the issuance of the certificate of need under this paragraph,  
663 and the agreement shall be fully binding on any subsequent owner  
664 of the psychiatric residential treatment facility if the ownership  
665 of the facility is transferred at any time after the issuance of  
666 the certificate of need. After this written agreement is  
667 executed, the Division of Medicaid and the State Department of  
668 Health shall not certify more than fifteen (15) of the beds in the  
669 psychiatric residential treatment facility for participation in  
670 the Medicaid program. If the psychiatric residential treatment  
671 facility violates the terms of the written agreement by admitting  
672 or keeping in the facility on a regular or continuing basis more  
673 than fifteen (15) patients who are participating in the Medicaid  
674 program, the State Department of Health shall revoke the license  
675 of the facility, at the time that the department determines, after  
676 a hearing complying with due process, that the facility has  
677 violated the condition upon which the certificate of need was  
678 issued, as provided in this paragraph and in the written  
679 agreement.

680 (d) Of the total number of beds authorized under this  
681 subsection, the department may issue a certificate or certificates  
682 of need for the construction or expansion of psychiatric  
683 residential treatment facility beds or the conversion of other  
684 beds to psychiatric treatment facility beds, not to exceed thirty  
685 (30) psychiatric residential treatment facility beds, in either  
686 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
687 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

688           (e) Of the total number of beds authorized under this  
689 subsection (3) the department shall issue a certificate of need to  
690 a privately-owned, nonprofit psychiatric residential treatment  
691 facility in Hinds County for an eight-bed expansion of the  
692 facility, provided that the facility agrees in writing that the  
693 facility shall give priority for the use of those eight (8) beds  
694 to Mississippi residents who are presently being treated in  
695 out-of-state facilities.

696           (f) The department shall issue a certificate of need to  
697 a one-hundred-thirty-four-bed specialty hospital located on  
698 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
699 at 5900 Highway 39 North in Meridian (Lauderdale County),  
700 Mississippi, for the addition, construction or expansion of  
701 child/adolescent psychiatric residential treatment facility beds  
702 in Lauderdale County. As a condition of issuance of the  
703 certificate of need under this paragraph, the facility shall give  
704 priority in admissions to the child/adolescent psychiatric  
705 residential treatment facility beds authorized under this  
706 paragraph to patients who otherwise would require out-of-state  
707 placement. The Division of Medicaid, in conjunction with the  
708 Department of Human Services, shall furnish the facility a list of  
709 all out-of-state patients on a quarterly basis. Furthermore,  
710 notice shall also be provided to the parent, custodial parent or  
711 guardian of each out-of-state patient notifying them of the  
712 priority status granted by this paragraph. For purposes of this  
713 paragraph, the provisions of Section 41-7-193(1) requiring  
714 substantial compliance with the projection of need as reported in  
715 the current State Health Plan are waived. The total number of  
716 child/adolescent psychiatric residential treatment facility beds  
717 that may be authorized under the authority of this paragraph shall  
718 be sixty (60) beds. There shall be no prohibition or restrictions  
719 on participation in the Medicaid program (Section 43-13-101 et  
720 seq.) for the person receiving the certificate of need authorized

721 under this paragraph or for the beds converted pursuant to the  
722 authority of that certificate of need.

723 (4) (a) From and after July 1, 1993, the department shall  
724 not issue a certificate of need to any person for the new  
725 construction of any hospital, psychiatric hospital or chemical  
726 dependency hospital that will contain any child/adolescent  
727 psychiatric or child/adolescent chemical dependency beds, or for  
728 the conversion of any other health care facility to a hospital,  
729 psychiatric hospital or chemical dependency hospital that will  
730 contain any child/adolescent psychiatric or child/adolescent  
731 chemical dependency beds, or for the addition of any  
732 child/adolescent psychiatric or child/adolescent chemical  
733 dependency beds in any hospital, psychiatric hospital or chemical  
734 dependency hospital, or for the conversion of any beds of another  
735 category in any hospital, psychiatric hospital or chemical  
736 dependency hospital to child/adolescent psychiatric or  
737 child/adolescent chemical dependency beds, except as hereinafter  
738 authorized:

739 (i) The department may issue certificates of need  
740 to any person for any purpose described in this subsection,  
741 provided that the hospital, psychiatric hospital or chemical  
742 dependency hospital does not participate in the Medicaid program  
743 (Section 43-13-101 et seq.) at the time of the application for the  
744 certificate of need and the owner of the hospital, psychiatric  
745 hospital or chemical dependency hospital agrees in writing that  
746 the hospital, psychiatric hospital or chemical dependency hospital  
747 will not at any time participate in the Medicaid program or admit  
748 or keep any patients who are participating in the Medicaid program  
749 in the hospital, psychiatric hospital or chemical dependency  
750 hospital. This written agreement by the recipient of the  
751 certificate of need shall be fully binding on any subsequent owner  
752 of the hospital, psychiatric hospital or chemical dependency  
753 hospital, if the ownership of the facility is transferred at any

754 time after the issuance of the certificate of need. Agreement  
755 that the hospital, psychiatric hospital or chemical dependency  
756 hospital will not participate in the Medicaid program shall be a  
757 condition of the issuance of a certificate of need to any person  
758 under this subparagraph (a)(i), and if such hospital, psychiatric  
759 hospital or chemical dependency hospital at any time after the  
760 issuance of the certificate of need, regardless of the ownership  
761 of the facility, participates in the Medicaid program or admits or  
762 keeps any patients in the hospital, psychiatric hospital or  
763 chemical dependency hospital who are participating in the Medicaid  
764 program, the State Department of Health shall revoke the  
765 certificate of need, if it is still outstanding, and shall deny or  
766 revoke the license of the hospital, psychiatric hospital or  
767 chemical dependency hospital, at the time that the department  
768 determines, after a hearing complying with due process, that the  
769 hospital, psychiatric hospital or chemical dependency hospital has  
770 failed to comply with any of the conditions upon which the  
771 certificate of need was issued, as provided in this subparagraph  
772 and in the written agreement by the recipient of the certificate  
773 of need.

774 (ii) The department may issue a certificate of  
775 need for the conversion of existing beds in a county hospital in  
776 Choctaw County from acute care beds to child/adolescent chemical  
777 dependency beds. For purposes of this subparagraph, the  
778 provisions of Section 41-7-193(1) requiring substantial compliance  
779 with the projection of need as reported in the current State  
780 Health Plan is waived. The total number of beds that may be  
781 authorized under authority of this subparagraph shall not exceed  
782 twenty (20) beds. There shall be no prohibition or restrictions  
783 on participation in the Medicaid program (Section 43-13-101 et  
784 seq.) for the hospital receiving the certificate of need  
785 authorized under this subparagraph (a)(ii) or for the beds  
786 converted pursuant to the authority of that certificate of need.



787                   (iii) The department may issue a certificate or  
788 certificates of need for the construction or expansion of  
789 child/adolescent psychiatric beds or the conversion of other beds  
790 to child/adolescent psychiatric beds in Warren County. For  
791 purposes of this subparagraph, the provisions of Section  
792 41-7-193(1) requiring substantial compliance with the projection  
793 of need as reported in the current State Health Plan are waived.  
794 The total number of beds that may be authorized under the  
795 authority of this subparagraph shall not exceed twenty (20) beds.  
796 There shall be no prohibition or restrictions on participation in  
797 the Medicaid program (Section 43-13-101 et seq.) for the person  
798 receiving the certificate of need authorized under this  
799 subparagraph (a)(iii) or for the beds converted pursuant to the  
800 authority of that certificate of need.

801           If by January 1, 2002, there has been no significant  
802 commencement of construction of the beds authorized under this  
803 subparagraph (a)(iii), or no significant action taken to convert  
804 existing beds to the beds authorized under this subparagraph, then  
805 the certificate of need that was previously issued under this  
806 subparagraph shall expire. If the previously issued certificate  
807 of need expires, the department may accept applications for  
808 issuance of another certificate of need for the beds authorized  
809 under this subparagraph, and may issue a certificate of need to  
810 authorize the construction, expansion or conversion of the beds  
811 authorized under this subparagraph.

812                   (iv) The department shall issue a certificate of  
813 need to the Region 7 Mental Health/Retardation Commission for the  
814 construction or expansion of child/adolescent psychiatric beds or  
815 the conversion of other beds to child/adolescent psychiatric beds  
816 in any of the counties served by the commission. For purposes of  
817 this subparagraph, the provisions of Section 41-7-193(1) requiring  
818 substantial compliance with the projection of need as reported in  
819 the current State Health Plan is waived. The total number of beds

820 that may be authorized under the authority of this subparagraph  
821 shall not exceed twenty (20) beds. There shall be no prohibition  
822 or restrictions on participation in the Medicaid program (Section  
823 43-13-101 et seq.) for the person receiving the certificate of  
824 need authorized under this subparagraph (a)(iv) or for the beds  
825 converted pursuant to the authority of that certificate of need.

826 (v) The department may issue a certificate of need  
827 to any county hospital located in Leflore County for the  
828 construction or expansion of adult psychiatric beds or the  
829 conversion of other beds to adult psychiatric beds, not to exceed  
830 twenty (20) beds, provided that the recipient of the certificate  
831 of need agrees in writing that the adult psychiatric beds will not  
832 at any time be certified for participation in the Medicaid program  
833 and that the hospital will not admit or keep any patients who are  
834 participating in the Medicaid program in any of such adult  
835 psychiatric beds. This written agreement by the recipient of the  
836 certificate of need shall be fully binding on any subsequent owner  
837 of the hospital if the ownership of the hospital is transferred at  
838 any time after the issuance of the certificate of need. Agreement  
839 that the adult psychiatric beds will not be certified for  
840 participation in the Medicaid program shall be a condition of the  
841 issuance of a certificate of need to any person under this  
842 subparagraph (a)(v), and if such hospital at any time after the  
843 issuance of the certificate of need, regardless of the ownership  
844 of the hospital, has any of such adult psychiatric beds certified  
845 for participation in the Medicaid program or admits or keeps any  
846 Medicaid patients in such adult psychiatric beds, the State  
847 Department of Health shall revoke the certificate of need, if it  
848 is still outstanding, and shall deny or revoke the license of the  
849 hospital at the time that the department determines, after a  
850 hearing complying with due process, that the hospital has failed  
851 to comply with any of the conditions upon which the certificate of

852 need was issued, as provided in this subparagraph and in the  
853 written agreement by the recipient of the certificate of need.

854 (vi) The department may issue a certificate or  
855 certificates of need for the expansion of child psychiatric beds  
856 or the conversion of other beds to child psychiatric beds at the  
857 University of Mississippi Medical Center. For purposes of this  
858 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
859 requiring substantial compliance with the projection of need as  
860 reported in the current State Health Plan is waived. The total  
861 number of beds that may be authorized under the authority of this  
862 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
863 shall be no prohibition or restrictions on participation in the  
864 Medicaid program (Section 43-13-101 et seq.) for the hospital  
865 receiving the certificate of need authorized under this  
866 subparagraph (a)(vi) or for the beds converted pursuant to the  
867 authority of that certificate of need.

868 (b) From and after July 1, 1990, no hospital,  
869 psychiatric hospital or chemical dependency hospital shall be  
870 authorized to add any child/adolescent psychiatric or  
871 child/adolescent chemical dependency beds or convert any beds of  
872 another category to child/adolescent psychiatric or  
873 child/adolescent chemical dependency beds without a certificate of  
874 need under the authority of subsection (1)(c) of this section.

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

878 (6) The State Department of Health shall issue a certificate  
879 of need to a Mississippi corporation qualified to manage a  
880 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
881 Harrison County, not to exceed eighty (80) beds, including any  
882 necessary renovation or construction required for licensure and  
883 certification, provided that the recipient of the certificate of  
884 need agrees in writing that the long-term care hospital will not

885 at any time participate in the Medicaid program (Section 43-13-101  
886 et seq.) or admit or keep any patients in the long-term care  
887 hospital who are participating in the Medicaid program. This  
888 written agreement by the recipient of the certificate of need  
889 shall be fully binding on any subsequent owner of the long-term  
890 care hospital, if the ownership of the facility is transferred at  
891 any time after the issuance of the certificate of need. Agreement  
892 that the long-term care hospital will not participate in the  
893 Medicaid program shall be a condition of the issuance of a  
894 certificate of need to any person under this subsection (6), and  
895 if such long-term care hospital at any time after the issuance of  
896 the certificate of need, regardless of the ownership of the  
897 facility, participates in the Medicaid program or admits or keeps  
898 any patients in the facility who are participating in the Medicaid  
899 program, the State Department of Health shall revoke the  
900 certificate of need, if it is still outstanding, and shall deny or  
901 revoke the license of the long-term care hospital, at the time  
902 that the department determines, after a hearing complying with due  
903 process, that the facility has failed to comply with any of the  
904 conditions upon which the certificate of need was issued, as  
905 provided in this subsection and in the written agreement by the  
906 recipient of the certificate of need. For purposes of this  
907 subsection, the provision of Section 41-7-193(1) requiring  
908 substantial compliance with the projection of need as reported in  
909 the current State Health Plan is hereby waived.

910 (7) The State Department of Health may issue a certificate  
911 of need to any hospital in the state to utilize a portion of its  
912 beds for the "swing-bed" concept. Any such hospital must be in  
913 conformance with the federal regulations regarding such swing-bed  
914 concept at the time it submits its application for a certificate  
915 of need to the State Department of Health, except that such  
916 hospital may have more licensed beds or a higher average daily  
917 census (ADC) than the maximum number specified in federal

918 regulations for participation in the swing-bed program. Any  
919 hospital meeting all federal requirements for participation in the  
920 swing-bed program which receives such certificate of need shall  
921 render services provided under the swing-bed concept to any  
922 patient eligible for Medicare (Title XVIII of the Social Security  
923 Act) who is certified by a physician to be in need of such  
924 services, and no such hospital shall permit any patient who is  
925 eligible for both Medicaid and Medicare or eligible only for  
926 Medicaid to stay in the swing beds of the hospital for more than  
927 thirty (30) days per admission unless the hospital receives prior  
928 approval for such patient from the Division of Medicaid, Office of  
929 the Governor. Any hospital having more licensed beds or a higher  
930 average daily census (ADC) than the maximum number specified in  
931 federal regulations for participation in the swing-bed program  
932 which receives such certificate of need shall develop a procedure  
933 to insure that before a patient is allowed to stay in the swing  
934 beds of the hospital, there are no vacant nursing home beds  
935 available for that patient located within a fifty-mile radius of  
936 the hospital. When any such hospital has a patient staying in the  
937 swing beds of the hospital and the hospital receives notice from a  
938 nursing home located within such radius that there is a vacant bed  
939 available for that patient, the hospital shall transfer the  
940 patient to the nursing home within a reasonable time after receipt  
941 of the notice. Any hospital which is subject to the requirements  
942 of the two (2) preceding sentences of this subsection may be  
943 suspended from participation in the swing-bed program for a  
944 reasonable period of time by the State Department of Health if the  
945 department, after a hearing complying with due process, determines  
946 that the hospital has failed to comply with any of those  
947 requirements.

948 (8) The Department of Health shall not grant approval for or  
949 issue a certificate of need to any person proposing the new  
950 construction of, addition to or expansion of a health care

951 facility as defined in subparagraph (viii) of Section 41-7-173(h).

952 (9) The Department of Health shall not grant approval for or  
953 issue a certificate of need to any person proposing the  
954 establishment of, or expansion of the currently approved territory  
955 of, or the contracting to establish a home office, subunit or  
956 branch office within the space operated as a health care facility  
957 as defined in Section 41-7-173(h)(i) through (viii) by a health  
958 care facility as defined in subparagraph (ix) of Section  
959 41-7-173(h).

960 (10) Health care facilities owned and/or operated by the  
961 state or its agencies are exempt from the restraints in this  
962 section against issuance of a certificate of need if such addition  
963 or expansion consists of repairing or renovation necessary to  
964 comply with the state licensure law. This exception shall not  
965 apply to the new construction of any building by such state  
966 facility. This exception shall not apply to any health care  
967 facilities owned and/or operated by counties, municipalities,  
968 districts, unincorporated areas, other defined persons, or any  
969 combination thereof.

970 (11) The new construction, renovation or expansion of or  
971 addition to any health care facility defined in subparagraph (ii)  
972 (psychiatric hospital), subparagraph (iv) (skilled nursing  
973 facility), subparagraph (vi) (intermediate care facility),  
974 subparagraph (viii) (intermediate care facility for the mentally  
975 retarded) and subparagraph (x) (psychiatric residential treatment  
976 facility) of Section 41-7-173(h) which is owned by the State of  
977 Mississippi and under the direction and control of the State  
978 Department of Mental Health, and the addition of new beds or the  
979 conversion of beds from one category to another in any such  
980 defined health care facility which is owned by the State of  
981 Mississippi and under the direction and control of the State  
982 Department of Mental Health, shall not require the issuance of a  
983 certificate of need under Section 41-7-171 et seq.,

984 notwithstanding any provision in Section 41-7-171 et seq. to the  
985 contrary.

986 (12) The new construction, renovation or expansion of or  
987 addition to any veterans homes or domiciliaries for eligible  
988 veterans of the State of Mississippi as authorized under Section  
989 35-1-19 shall not require the issuance of a certificate of need,  
990 notwithstanding any provision in Section 41-7-171 et seq. to the  
991 contrary.

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

997 (a) Before any construction or conversion may be  
998 undertaken without a certificate of need, the owner of the nursing  
999 facility, in the case of an existing facility, or the applicant to  
1000 construct a nursing facility, in the case of new construction,  
1001 first must file a written notice of intent and sign a written  
1002 agreement with the State Department of Health that the entire  
1003 nursing facility will not at any time participate in or have any  
1004 beds certified for participation in the Medicaid program (Section  
1005 43-13-101 et seq.), will not admit or keep any patients in the  
1006 nursing facility who are participating in the Medicaid program,  
1007 and will not submit any claim for Medicaid reimbursement for any  
1008 patient in the facility. This written agreement by the owner or  
1009 applicant shall be a condition of exercising the authority under  
1010 this subsection without a certificate of need, and the agreement  
1011 shall be fully binding on any subsequent owner of the nursing  
1012 facility if the ownership of the facility is transferred at any  
1013 time after the agreement is signed. After the written agreement  
1014 is signed, the Division of Medicaid and the State Department of  
1015 Health shall not certify any beds in the nursing facility for  
1016 participation in the Medicaid program. If the nursing facility

1017 violates the terms of the written agreement by participating in  
1018 the Medicaid program, having any beds certified for participation  
1019 in the Medicaid program, admitting or keeping any patient in the  
1020 facility who is participating in the Medicaid program, or  
1021 submitting any claim for Medicaid reimbursement for any patient in  
1022 the facility, the State Department of Health shall revoke the  
1023 license of the nursing facility at the time that the department  
1024 determines, after a hearing complying with due process, that the  
1025 facility has violated the terms of the written agreement.

1026           (b) For the purposes of this subsection, participation  
1027 in the Medicaid program by a nursing facility includes Medicaid  
1028 reimbursement of coinsurance and deductibles for recipients who  
1029 are qualified Medicare beneficiaries and/or those who are dually  
1030 eligible. Any nursing facility exercising the authority under  
1031 this subsection may not bill or submit a claim to the Division of  
1032 Medicaid for services to qualified Medicare beneficiaries and/or  
1033 those who are dually eligible.

1034           (c) The new construction of a nursing facility or  
1035 nursing facility beds or the conversion of other beds to nursing  
1036 facility beds described in this section must be either a part of a  
1037 completely new continuing care retirement community, as described  
1038 in the latest edition of the Mississippi State Health Plan, or an  
1039 addition to existing personal care and independent living  
1040 components, and so that the completed project will be a continuing  
1041 care retirement community, containing (i) independent living  
1042 accommodations, (ii) personal care beds, and (iii) the nursing  
1043 home facility beds. The three (3) components must be located on a  
1044 single site and be operated as one (1) inseparable facility. The  
1045 nursing facility component must contain a minimum of thirty (30)  
1046 beds. Any nursing facility beds authorized by this section will  
1047 not be counted against the bed need set forth in the State Health  
1048 Plan, as identified in Section 41-7-171 et seq.



1049           This subsection (13) shall stand repealed from and after July  
1050 1, 2005.

1051           (14) The State Department of Health shall issue a  
1052 certificate of need to any hospital which is currently licensed  
1053 for two hundred fifty (250) or more acute care beds and is located  
1054 in any general hospital service area not having a comprehensive  
1055 cancer center, for the establishment and equipping of such a  
1056 center which provides facilities and services for outpatient  
1057 radiation oncology therapy, outpatient medical oncology therapy,  
1058 and appropriate support services including the provision of  
1059 radiation therapy services. The provision of Section 41-7-193(1)  
1060 regarding substantial compliance with the projection of need as  
1061 reported in the current State Health Plan is waived for the  
1062 purpose of this subsection.

1063           (15) The State Department of Health may authorize the  
1064 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1065 North Panola Community Hospital to the South Panola Community  
1066 Hospital. The authorization for the transfer of those beds shall  
1067 be exempt from the certificate of need review process.

1068           (16) The State Department of Health shall issue any  
1069 certificates of need necessary for Mississippi State University  
1070 and a public or private health care provider to jointly acquire  
1071 and operate a linear accelerator and a magnetic resonance imaging  
1072 unit. Those certificates of need shall cover all capital  
1073 expenditures related to the project between Mississippi State  
1074 University and the health care provider, including, but not  
1075 limited to, the acquisition of the linear accelerator, the  
1076 magnetic resonance imaging unit and other radiological modalities;  
1077 the offering of linear accelerator and magnetic resonance imaging  
1078 services; and the cost of construction of facilities in which to  
1079 locate these services. The linear accelerator and the magnetic  
1080 resonance imaging unit shall be (a) located in the City of  
1081 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by

1082 Mississippi State University and the public or private health care  
1083 provider selected by Mississippi State University through a  
1084 request for proposals (RFP) process in which Mississippi State  
1085 University selects, and the Board of Trustees of State  
1086 Institutions of Higher Learning approves, the health care provider  
1087 that makes the best overall proposal; (c) available to Mississippi  
1088 State University for research purposes two-thirds (2/3) of the  
1089 time that the linear accelerator and magnetic resonance imaging  
1090 unit are operational; and (d) available to the public or private  
1091 health care provider selected by Mississippi State University and  
1092 approved by the Board of Trustees of State Institutions of Higher  
1093 Learning one-third (1/3) of the time for clinical, diagnostic and  
1094 treatment purposes. For purposes of this subsection, the  
1095 provisions of Section 41-7-193(1) requiring substantial compliance  
1096 with the projection of need as reported in the current State  
1097 Health Plan are waived.

1098 (17) Nothing in this section or in any other provision of  
1099 Section 41-7-171 et seq. shall prevent any nursing facility from  
1100 designating an appropriate number of existing beds in the facility  
1101 as beds for providing care exclusively to patients with  
1102 Alzheimer's disease.

1103 **SECTION 2.** This act shall take effect and be in force from  
1104 and after July 1, 2006.