

By: Representatives Compretta, Smith (59th), Dedeaux, Fredericks, Guice, Ishee, Patterson, Peranich, Simpson, Upshaw

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1221  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR  
3 NURSING FACILITY BEDS TO A NONPROFIT SKILLED NURSING FACILITY  
4 CONSTRUCTING A "GREEN HOUSE MODEL" CAMPUS TO BE LOCATED IN YAZOO  
5 CITY, MISSISSIPPI; TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE  
6 CERTIFICATE OF NEED FOR ICFMR BEDS IN A COMMUNITY LIVING PROGRAM  
7 FOR DEVELOPMENTALLY DISABLED ADULTS TO BE LOCATED IN MADISON  
8 COUNTY, MISSISSIPPI; TO PROVIDE THAT THE REOPENING OF A HEALTH  
9 CARE FACILITY WHICH HAS CEASED TO OPERATE FOR 60 MONTHS REQUIRES A  
10 CERTIFICATE OF NEED; TO REVISE THE DEFINITION OF NEW HEALTH  
11 SERVICES REQUIRING A CERTIFICATE OF NEED; TO REVISE THE DEFINITION  
12 OF RELOCATION OF HEALTH SERVICES REQUIRING A CERTIFICATE OF NEED  
13 AND TO PROVIDE THAT THE REPLACEMENT OR RELOCATION OF A CRITICAL  
14 ACCESS HOSPITAL IS EXEMPT FROM CERTIFICATE OF NEED REVIEW; TO  
15 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE  
16 CERTIFICATES OF NEED TO THE OWNER OF A NURSING FACILITY IN  
17 OPERATION AT THE TIME OF HURRICANE KATRINA IN HANCOCK COUNTY THAT  
18 WAS NOT OPERATIONAL ON DECEMBER 31, 2005, BECAUSE OF DAMAGE  
19 SUSTAINED FROM HURRICANE KATRINA TO AUTHORIZE THE CONSTRUCTION OF  
20 A NEW NURSING FACILITY IN HARRISON COUNTY, THE RELOCATION OF  
21 FORTY-NINE NURSING FACILITY BEDS FROM THE HANCOCK COUNTY FACILITY  
22 TO THE NEW HARRISON COUNTY FACILITY, THE ESTABLISHMENT OF NOT MORE  
23 THAN TWENTY NON-MEDICAID NURSING FACILITY BEDS AT THE HANCOCK  
24 COUNTY FACILITY, AND THE ESTABLISHMENT OF NOT MORE THAN TWENTY  
25 NON-MEDICAID BEDS AT THE NEW HARRISON COUNTY FACILITY; TO PROVIDE  
26 THAT THE CERTIFICATES OF NEED FOR THE NON-MEDICAID NURSING  
27 FACILITY BEDS SHALL BE SUBJECT TO THE CONDITION THAT THOSE BEDS  
28 SHALL ALWAYS BE NON-MEDICAID BEDS OR THE DEPARTMENT WILL REVOKE  
29 THE LICENSE OF THE FACILITY THAT VIOLATES THAT CONDITION; TO  
30 DIRECT THE STATE BOARD OF HEALTH TO DEVELOP AND MAKE CERTAIN  
31 REPORTS AND RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE STATE  
32 HEALTH PLAN AND THE CERTIFICATE OF NEED PROCESS; AND FOR RELATED  
33 PURPOSES.

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

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

37 41-7-191. (1) No person shall engage in any of the  
38 following activities without obtaining the required certificate of  
39 need:

40 (a) The construction, development or other  
41 establishment of a new health care facility, which establishment

42 shall include the reopening of a health care facility that has  
43 ceased to operate for a period of sixty (60) months or more;

44 (b) The relocation of a health care facility or portion  
45 thereof, or major medical equipment, unless such relocation of a  
46 health care facility or portion thereof, or major medical  
47 equipment, which does not involve a capital expenditure by or on  
48 behalf of a health care facility, is within five thousand two  
49 hundred eighty (5,280) feet from the main entrance of the health  
50 care facility;

51 (c) Any change in the existing bed complement of any  
52 health care facility through the addition or conversion of any  
53 beds or the alteration, modernizing or refurbishing of any unit or  
54 department in which the beds may be located; however, if a health  
55 care facility has voluntarily delicensed some of its existing bed  
56 complement, it may later relicense some or all of its delicensed  
57 beds without the necessity of having to acquire a certificate of  
58 need. The State Department of Health shall maintain a record of  
59 the delicensing health care facility and its voluntarily  
60 delicensed beds and continue counting those beds as part of the  
61 state's total bed count for health care planning purposes. If a  
62 health care facility that has voluntarily delicensed some of its  
63 beds later desires to relicense some or all of its voluntarily  
64 delicensed beds, it shall notify the State Department of Health of  
65 its intent to increase the number of its licensed beds. The State  
66 Department of Health shall survey the health care facility within  
67 thirty (30) days of that notice and, if appropriate, issue the  
68 health care facility a new license reflecting the new contingent  
69 of beds. However, in no event may a health care facility that has  
70 voluntarily delicensed some of its beds be reissued a license to  
71 operate beds in excess of its bed count before the voluntary  
72 delicensure of some of its beds without seeking certificate of  
73 need approval;

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

78 (i) Open heart surgery services;

79 (ii) Cardiac catheterization services;

80 (iii) Comprehensive inpatient rehabilitation  
81 services;

82 (iv) Licensed psychiatric services;

83 (v) Licensed chemical dependency services;

84 (vi) Radiation therapy services;

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

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

89 (ix) Home health services;

90 (x) Swing-bed services;

91 (xi) Ambulatory surgical services;

92 (xii) Magnetic resonance imaging services;

93 (xiii) [Deleted]

94 (xiv) Long-term care hospital services;

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

96 (e) The relocation of one or more health services from  
97 one physical facility or site to another physical facility or  
98 site, unless such relocation, which does not involve a capital  
99 expenditure by or on behalf of a health care facility, (i) is to a  
100 physical facility or site within five thousand two hundred eighty  
101 (5,280) feet from the main entrance of the health care facility  
102 where the health care service is located, or (ii) is the result of  
103 an order of a court of appropriate jurisdiction or a result of  
104 pending litigation in such court, or by order of the State  
105 Department of Health, or by order of any other agency or legal  
106 entity of the state, the federal government, or any political

107 subdivision of either, whose order is also approved by the State  
108 Department of Health;

109 (f) The acquisition or otherwise control of any major  
110 medical equipment for the provision of medical services; provided,  
111 however, (i) the acquisition of any major medical equipment used  
112 only for research purposes, and (ii) the acquisition of major  
113 medical equipment to replace medical equipment for which a  
114 facility is already providing medical services and for which the  
115 State Department of Health has been notified before the date of  
116 such acquisition shall be exempt from this paragraph; an  
117 acquisition for less than fair market value must be reviewed, if  
118 the acquisition at fair market value would be subject to review;

119 (g) Changes of ownership of existing health care  
120 facilities in which a notice of intent is not filed with the State  
121 Department of Health at least thirty (30) days prior to the date  
122 such change of ownership occurs, or a change in services or bed  
123 capacity as prescribed in paragraph (c) or (d) of this subsection  
124 as a result of the change of ownership; an acquisition for less  
125 than fair market value must be reviewed, if the acquisition at  
126 fair market value would be subject to review;

127 (h) The change of ownership of any health care facility  
128 defined in subparagraphs (iv), (vi) and (viii) of Section  
129 41-7-173(h), in which a notice of intent as described in paragraph  
130 (g) has not been filed and if the Executive Director, Division of  
131 Medicaid, Office of the Governor, has not certified in writing  
132 that there will be no increase in allowable costs to Medicaid from  
133 revaluation of the assets or from increased interest and  
134 depreciation as a result of the proposed change of ownership;

135 (i) Any activity described in paragraphs (a) through  
136 (h) if undertaken by any person if that same activity would  
137 require certificate of need approval if undertaken by a health  
138 care facility;

139 (j) Any capital expenditure or deferred capital  
140 expenditure by or on behalf of a health care facility not covered  
141 by paragraphs (a) through (h);

142 (k) The contracting of a health care facility as  
143 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
144 to establish a home office, subunit, or branch office in the space  
145 operated as a health care facility through a formal arrangement  
146 with an existing health care facility as defined in subparagraph  
147 (ix) of Section 41-7-173(h);

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

153 (m) Reopening a health care facility that has ceased to  
154 operate for a period of sixty (60) months or more, which reopening  
155 requires a certificate of need for the establishment of a new  
156 health care facility.

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

164 (a) The department may issue a certificate of need to  
165 any person proposing the new construction of any health care  
166 facility defined in subparagraphs (iv) and (vi) of Section  
167 41-7-173(h) as part of a life care retirement facility, in any  
168 county bordering on the Gulf of Mexico in which is located a  
169 National Aeronautics and Space Administration facility, not to  
170 exceed forty (40) beds. From and after July 1, 1999, there shall  
171 be no prohibition or restrictions on participation in the Medicaid

172 program (Section 43-13-101 et seq.) for the beds in the health  
173 care facility that were authorized under this paragraph (a).

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

181 (c) The department may issue a certificate of need for  
182 the addition to or expansion of any skilled nursing facility that  
183 is part of an existing continuing care retirement community  
184 located in Madison County, provided that the recipient of the  
185 certificate of need agrees in writing that the skilled nursing  
186 facility will not at any time participate in the Medicaid program  
187 (Section 43-13-101 et seq.) or admit or keep any patients in the  
188 skilled nursing facility who are participating in the Medicaid  
189 program. This written agreement by the recipient of the  
190 certificate of need shall be fully binding on any subsequent owner  
191 of the skilled nursing facility, if the ownership of the facility  
192 is transferred at any time after the issuance of the certificate  
193 of need. Agreement that the skilled nursing facility will not  
194 participate in the Medicaid program shall be a condition of the  
195 issuance of a certificate of need to any person under this  
196 paragraph (c), and if such skilled nursing facility at any time  
197 after the issuance of the certificate of need, regardless of the  
198 ownership of the facility, participates in the Medicaid program or  
199 admits or keeps any patients in the facility who are participating  
200 in the Medicaid program, the State Department of Health shall  
201 revoke the certificate of need, if it is still outstanding, and  
202 shall deny or revoke the license of the skilled nursing facility,  
203 at the time that the department determines, after a hearing  
204 complying with due process, that the facility has failed to comply

205 with any of the conditions upon which the certificate of need was  
206 issued, as provided in this paragraph and in the written agreement  
207 by the recipient of the certificate of need. The total number of  
208 beds that may be authorized under the authority of this paragraph  
209 (c) shall not exceed sixty (60) beds.

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

218 (e) The State Department of Health may issue a  
219 certificate of need for the construction of a nursing facility or  
220 the conversion of beds to nursing facility beds at a personal care  
221 facility for the elderly in Lowndes County that is owned and  
222 operated by a Mississippi nonprofit corporation, not to exceed  
223 sixty (60) beds. From and after July 1, 1999, there shall be no  
224 prohibition or restrictions on participation in the Medicaid  
225 program (Section 43-13-101 et seq.) for the beds in the nursing  
226 facility that were authorized under this paragraph (e).

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

235 (g) The State Department of Health may issue a  
236 certificate of need for the construction or expansion of nursing  
237 facility beds or the conversion of other beds to nursing facility

238 beds in either Hinds, Madison or Rankin County, not to exceed  
239 sixty (60) beds. From and after July 1, 1999, there shall be no  
240 prohibition or restrictions on participation in the Medicaid  
241 program (Section 43-13-101 et seq.) for the beds in the nursing  
242 facility that were authorized under this paragraph (g).

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

251 (i) The department may issue a certificate of need for  
252 the new construction of a skilled nursing facility in Leake  
253 County, provided that the recipient of the certificate of need  
254 agrees in writing that the skilled nursing facility will not at  
255 any time participate in the Medicaid program (Section 43-13-101 et  
256 seq.) or admit or keep any patients in the skilled nursing  
257 facility who are participating in the Medicaid program. This  
258 written agreement by the recipient of the certificate of need  
259 shall be fully binding on any subsequent owner of the skilled  
260 nursing facility, if the ownership of the facility is transferred  
261 at any time after the issuance of the certificate of need.  
262 Agreement that the skilled nursing facility will not participate  
263 in the Medicaid program shall be a condition of the issuance of a  
264 certificate of need to any person under this paragraph (i), and if  
265 such skilled nursing facility at any time after the issuance of  
266 the certificate of need, regardless of the ownership of the  
267 facility, participates in the Medicaid program or admits or keeps  
268 any patients in the facility who are participating in the Medicaid  
269 program, the State Department of Health shall revoke the  
270 certificate of need, if it is still outstanding, and shall deny or



271 revoke the license of the skilled nursing facility, at the time  
272 that the department determines, after a hearing complying with due  
273 process, that the facility has failed to comply with any of the  
274 conditions upon which the certificate of need was issued, as  
275 provided in this paragraph and in the written agreement by the  
276 recipient of the certificate of need. The provision of Section  
277 43-7-193(1) regarding substantial compliance of the projection of  
278 need as reported in the current State Health Plan is waived for  
279 the purposes of this paragraph. The total number of nursing  
280 facility beds that may be authorized by any certificate of need  
281 issued under this paragraph (i) shall not exceed sixty (60) beds.  
282 If the skilled nursing facility authorized by the certificate of  
283 need issued under this paragraph is not constructed and fully  
284 operational within eighteen (18) months after July 1, 1994, the  
285 State Department of Health, after a hearing complying with due  
286 process, shall revoke the certificate of need, if it is still  
287 outstanding, and shall not issue a license for the skilled nursing  
288 facility at any time after the expiration of the eighteen-month  
289 period.

290 (j) The department may issue certificates of need to  
291 allow any existing freestanding long-term care facility in  
292 Tishomingo County and Hancock County that on July 1, 1995, is  
293 licensed with fewer than sixty (60) beds. For the purposes of  
294 this paragraph (j), the provision of Section 41-7-193(1) requiring  
295 substantial compliance with the projection of need as reported in  
296 the current State Health Plan is waived. From and after July 1,  
297 1999, there shall be no prohibition or restrictions on  
298 participation in the Medicaid program (Section 43-13-101 et seq.)  
299 for the beds in the long-term care facilities that were authorized  
300 under this paragraph (j).

301 (k) The department may issue a certificate of need for  
302 the construction of a nursing facility at a continuing care  
303 retirement community in Lowndes County. The total number of beds

304 that may be authorized under the authority of this paragraph (k)  
305 shall not exceed sixty (60) beds. From and after July 1, 2001,  
306 the prohibition on the facility participating in the Medicaid  
307 program (Section 43-13-101 et seq.) that was a condition of  
308 issuance of the certificate of need under this paragraph (k) shall  
309 be revised as follows: The nursing facility may participate in  
310 the Medicaid program from and after July 1, 2001, if the owner of  
311 the facility on July 1, 2001, agrees in writing that no more than  
312 thirty (30) of the beds at the facility will be certified for  
313 participation in the Medicaid program, and that no claim will be  
314 submitted for Medicaid reimbursement for more than thirty (30)  
315 patients in the facility in any month or for any patient in the  
316 facility who is in a bed that is not Medicaid-certified. This  
317 written agreement by the owner of the facility shall be a  
318 condition of licensure of the facility, and the agreement shall be  
319 fully binding on any subsequent owner of the facility if the  
320 ownership of the facility is transferred at any time after July 1,  
321 2001. After this written agreement is executed, the Division of  
322 Medicaid and the State Department of Health shall not certify more  
323 than thirty (30) of the beds in the facility for participation in  
324 the Medicaid program. If the facility violates the terms of the  
325 written agreement by admitting or keeping in the facility on a  
326 regular or continuing basis more than thirty (30) patients who are  
327 participating in the Medicaid program, the State Department of  
328 Health shall revoke the license of the facility, at the time that  
329 the department determines, after a hearing complying with due  
330 process, that the facility has violated the written agreement.

331 (1) Provided that funds are specifically appropriated  
332 therefor by the Legislature, the department may issue a  
333 certificate of need to a rehabilitation hospital in Hinds County  
334 for the construction of a sixty-bed long-term care nursing  
335 facility dedicated to the care and treatment of persons with  
336 severe disabilities including persons with spinal cord and

337 closed-head injuries and ventilator-dependent patients. The  
338 provision of Section 41-7-193(1) regarding substantial compliance  
339 with projection of need as reported in the current State Health  
340 Plan is hereby waived for the purpose of this paragraph.

341 (m) The State Department of Health may issue a  
342 certificate of need to a county-owned hospital in the Second  
343 Judicial District of Panola County for the conversion of not more  
344 than seventy-two (72) hospital beds to nursing facility beds,  
345 provided that the recipient of the certificate of need agrees in  
346 writing that none of the beds at the nursing facility will be  
347 certified for participation in the Medicaid program (Section  
348 43-13-101 et seq.), and that no claim will be submitted for  
349 Medicaid reimbursement in the nursing facility in any day or for  
350 any patient in the nursing facility. This written agreement by  
351 the recipient of the certificate of need shall be a condition of  
352 the issuance of the certificate of need under this paragraph, and  
353 the agreement shall be fully binding on any subsequent owner of  
354 the nursing facility if the ownership of the nursing facility is  
355 transferred at any time after the issuance of the certificate of  
356 need. After this written agreement is executed, the Division of  
357 Medicaid and the State Department of Health shall not certify any  
358 of the beds in the nursing facility for participation in the  
359 Medicaid program. If the nursing facility violates the terms of  
360 the written agreement by admitting or keeping in the nursing  
361 facility on a regular or continuing basis any patients who are  
362 participating in the Medicaid program, the State Department of  
363 Health shall revoke the license of the nursing facility, at the  
364 time that the department determines, after a hearing complying  
365 with due process, that the nursing facility has violated the  
366 condition upon which the certificate of need was issued, as  
367 provided in this paragraph and in the written agreement. If the  
368 certificate of need authorized under this paragraph is not issued  
369 within twelve (12) months after July 1, 2001, the department shall

370 deny the application for the certificate of need and shall not  
371 issue the certificate of need at any time after the twelve-month  
372 period, unless the issuance is contested. If the certificate of  
373 need is issued and substantial construction of the nursing  
374 facility beds has not commenced within eighteen (18) months after  
375 July 1, 2001, the State Department of Health, after a hearing  
376 complying with due process, shall revoke the certificate of need  
377 if it is still outstanding, and the department shall not issue a  
378 license for the nursing facility at any time after the  
379 eighteen-month period. Provided, however, that if the issuance of  
380 the certificate of need is contested, the department shall require  
381 substantial construction of the nursing facility beds within six  
382 (6) months after final adjudication on the issuance of the  
383 certificate of need.

384 (n) The department may issue a certificate of need for  
385 the new construction, addition or conversion of skilled nursing  
386 facility beds in Madison County, provided that the recipient of  
387 the certificate of need agrees in writing that the skilled nursing  
388 facility will not at any time participate in the Medicaid program  
389 (Section 43-13-101 et seq.) or admit or keep any patients in the  
390 skilled nursing facility who are participating in the Medicaid  
391 program. This written agreement by the recipient of the  
392 certificate of need shall be fully binding on any subsequent owner  
393 of the skilled nursing facility, if the ownership of the facility  
394 is transferred at any time after the issuance of the certificate  
395 of need. Agreement that the skilled nursing facility will not  
396 participate in the Medicaid program shall be a condition of the  
397 issuance of a certificate of need to any person under this  
398 paragraph (n), and if such skilled nursing facility at any time  
399 after the issuance of the certificate of need, regardless of the  
400 ownership of the facility, participates in the Medicaid program or  
401 admits or keeps any patients in the facility who are participating  
402 in the Medicaid program, the State Department of Health shall

403 revoke the certificate of need, if it is still outstanding, and  
404 shall deny or revoke the license of the skilled nursing facility,  
405 at the time that the department determines, after a hearing  
406 complying with due process, that the facility has failed to comply  
407 with any of the conditions upon which the certificate of need was  
408 issued, as provided in this paragraph and in the written agreement  
409 by the recipient of the certificate of need. The total number of  
410 nursing facility beds that may be authorized by any certificate of  
411 need issued under this paragraph (n) shall not exceed sixty (60)  
412 beds. If the certificate of need authorized under this paragraph  
413 is not issued within twelve (12) months after July 1, 1998, the  
414 department shall deny the application for the certificate of need  
415 and shall not issue the certificate of need at any time after the  
416 twelve-month period, unless the issuance is contested. If the  
417 certificate of need is issued and substantial construction of the  
418 nursing facility beds has not commenced within eighteen (18)  
419 months after the effective date of July 1, 1998, the State  
420 Department of Health, after a hearing complying with due process,  
421 shall revoke the certificate of need if it is still outstanding,  
422 and the department shall not issue a license for the nursing  
423 facility at any time after the eighteen-month period. Provided,  
424 however, that if the issuance of the certificate of need is  
425 contested, the department shall require substantial construction  
426 of the nursing facility beds within six (6) months after final  
427 adjudication on the issuance of the certificate of need.

428           (o) The department may issue a certificate of need for  
429 the new construction, addition or conversion of skilled nursing  
430 facility beds in Leake County, provided that the recipient of the  
431 certificate of need agrees in writing that the skilled nursing  
432 facility will not at any time participate in the Medicaid program  
433 (Section 43-13-101 et seq.) or admit or keep any patients in the  
434 skilled nursing facility who are participating in the Medicaid  
435 program. This written agreement by the recipient of the

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

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

472 (p) The department may issue a certificate of need for  
473 the construction of a municipally owned nursing facility within  
474 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
475 beds, provided that the recipient of the certificate of need  
476 agrees in writing that the skilled nursing facility will not at  
477 any time participate in the Medicaid program (Section 43-13-101 et  
478 seq.) or admit or keep any patients in the skilled nursing  
479 facility who are participating in the Medicaid program. This  
480 written agreement by the recipient of the certificate of need  
481 shall be fully binding on any subsequent owner of the skilled  
482 nursing facility, if the ownership of the facility is transferred  
483 at any time after the issuance of the certificate of need.  
484 Agreement that the skilled nursing facility will not participate  
485 in the Medicaid program shall be a condition of the issuance of a  
486 certificate of need to any person under this paragraph (p), and if  
487 such skilled nursing facility at any time after the issuance of  
488 the certificate of need, regardless of the ownership of the  
489 facility, participates in the Medicaid program or admits or keeps  
490 any patients in the facility who are participating in the Medicaid  
491 program, the State Department of Health shall revoke the  
492 certificate of need, if it is still outstanding, and shall deny or  
493 revoke the license of the skilled nursing facility, at the time  
494 that the department determines, after a hearing complying with due  
495 process, that the facility has failed to comply with any of the  
496 conditions upon which the certificate of need was issued, as  
497 provided in this paragraph and in the written agreement by the  
498 recipient of the certificate of need. The provision of Section  
499 43-7-193(1) regarding substantial compliance of the projection of  
500 need as reported in the current State Health Plan is waived for  
501 the purposes of this paragraph. If the certificate of need

502 authorized under this paragraph is not issued within twelve (12)  
503 months after July 1, 1998, the department shall deny the  
504 application for the certificate of need and shall not issue the  
505 certificate of need at any time after the twelve-month period,  
506 unless the issuance is contested. If the certificate of need is  
507 issued and substantial construction of the nursing facility beds  
508 has not commenced within eighteen (18) months after July 1, 1998,  
509 the State Department of Health, after a hearing complying with due  
510 process, shall revoke the certificate of need if it is still  
511 outstanding, and the department shall not issue a license for the  
512 nursing facility at any time after the eighteen-month period.  
513 Provided, however, that if the issuance of the certificate of need  
514 is contested, the department shall require substantial  
515 construction of the nursing facility beds within six (6) months  
516 after final adjudication on the issuance of the certificate of  
517 need.

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

528 (ii) Subject to the provisions of subparagraph  
529 (v), during each of the next four (4) fiscal years, the department  
530 shall issue six (6) certificates of need for new nursing facility  
531 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
532 (1) certificate of need shall be issued for new nursing facility  
533 beds in the county in each of the four (4) Long-Term Care Planning  
534 Districts designated in the fiscal year 1999 State Health Plan



535 that has the highest need in the district for those beds; and two  
536 (2) certificates of need shall be issued for new nursing facility  
537 beds in the two (2) counties from the state at large that have the  
538 highest need in the state for those beds, when considering the  
539 need on a statewide basis and without regard to the Long-Term Care  
540 Planning Districts in which the counties are located. During  
541 fiscal year 2003, one (1) certificate of need shall be issued for  
542 new nursing facility beds in any county having a need for fifty  
543 (50) or more additional nursing facility beds, as shown in the  
544 fiscal year 1999 State Health Plan, that has not received a  
545 certificate of need under this paragraph (q) during the three (3)  
546 previous fiscal years. During fiscal year 2000, in addition to  
547 the six (6) certificates of need authorized in this subparagraph,  
548 the department also shall issue a certificate of need for new  
549 nursing facility beds in Amite County and a certificate of need  
550 for new nursing facility beds in Carroll County.

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

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

568 large during each fiscal year shall first be available for nursing  
569 facility beds in the two (2) counties that have the highest need  
570 in the state for those beds, as shown in the fiscal year 1999  
571 State Health Plan, when considering the need on a statewide basis  
572 and without regard to the Long-Term Care Planning Districts in  
573 which the counties are located. If there are no applications for  
574 a certificate of need for nursing facility beds in either of the  
575 two (2) counties having the highest need for those beds on a  
576 statewide basis by the date specified by the department, then the  
577 certificate of need shall be available for nursing facility beds  
578 in other counties from the state at large in descending order of  
579 the need for those beds on a statewide basis, from the county with  
580 the second highest need to the county with the lowest need, until  
581 an application is received for nursing facility beds in an  
582 eligible county from the state at large.

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

600                   (vi) If more than one (1) application is made for  
601 a certificate of need for nursing home facility beds available  
602 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
603 County, and one (1) of the applicants is a county-owned hospital  
604 located in the county where the nursing facility beds are  
605 available, the department shall give priority to the county-owned  
606 hospital in granting the certificate of need if the following  
607 conditions are met:

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

611                   2. The county-owned hospital's qualifications  
612 for the certificate of need, as shown in its application and as  
613 determined by the department, are at least equal to the  
614 qualifications of the other applicants for the certificate of  
615 need.

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

624                   (ii) Not more than twenty (20) beds may be  
625 authorized by any certificate of need issued under this paragraph  
626 (r), and not more than a total of sixty (60) beds may be  
627 authorized in any Long-Term Care Planning District by all  
628 certificates of need issued under this paragraph (r). However,  
629 the total number of beds that may be authorized by all  
630 certificates of need issued under this paragraph (r) during any  
631 fiscal year shall not exceed one hundred twenty (120) beds, and  
632 the total number of beds that may be authorized in any Long-Term

633 Care Planning District during any fiscal year shall not exceed  
634 forty (40) beds. Of the certificates of need that are issued for  
635 each Long-Term Care Planning District during the next two (2)  
636 fiscal years, at least one (1) shall be issued for beds in the  
637 northern part of the district, at least one (1) shall be issued  
638 for beds in the central part of the district, and at least one (1)  
639 shall be issued for beds in the southern part of the district.

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

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

660 (t) The State Department of Health shall issue  
661 certificates of need to the owner of a nursing facility in  
662 operation at the time of Hurricane Katrina in Hancock County that  
663 was not operational on December 31, 2005, because of damage  
664 sustained from Hurricane Katrina to authorize the following: (i)  
665 the construction of a new nursing facility in Harrison County;

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

699 agreement by admitting or keeping in the facility on a regular or  
700 continuing basis more than forty-nine (49) patients who are  
701 participating in the Medicaid program, the State Department of  
702 Health shall revoke the license of the facility that is in  
703 violation of the agreement, at the time that the department  
704 determines, after a hearing complying with due process, that the  
705 facility has violated the agreement.

706 (3) The State Department of Health may grant approval for  
707 and issue certificates of need to any person proposing the new  
708 construction of, addition to, conversion of beds of or expansion  
709 of any health care facility defined in subparagraph (x)  
710 (psychiatric residential treatment facility) of Section  
711 41-7-173(h). The total number of beds which may be authorized by  
712 such certificates of need shall not exceed three hundred  
713 thirty-four (334) beds for the entire state.

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

723 (b) Of the total number of beds authorized under this  
724 subsection, the department may issue a certificate or certificates  
725 of need for the construction or expansion of psychiatric  
726 residential treatment facility beds or the conversion of other  
727 beds to psychiatric residential treatment facility beds in Warren  
728 County, not to exceed sixty (60) psychiatric residential treatment  
729 facility beds, provided that the facility agrees in writing that  
730 no more than thirty (30) of the beds at the psychiatric  
731 residential treatment facility will be certified for participation

732 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
733 any patients other than those who are participating only in the  
734 Medicaid program of another state, and that no claim will be  
735 submitted to the Division of Medicaid for Medicaid reimbursement  
736 for more than thirty (30) patients in the psychiatric residential  
737 treatment facility in any day or for any patient in the  
738 psychiatric residential treatment facility who is in a bed that is  
739 not Medicaid-certified. This written agreement by the recipient  
740 of the certificate of need shall be a condition of the issuance of  
741 the certificate of need under this paragraph, and the agreement  
742 shall be fully binding on any subsequent owner of the psychiatric  
743 residential treatment facility if the ownership of the facility is  
744 transferred at any time after the issuance of the certificate of  
745 need. After this written agreement is executed, the Division of  
746 Medicaid and the State Department of Health shall not certify more  
747 than thirty (30) of the beds in the psychiatric residential  
748 treatment facility for participation in the Medicaid program for  
749 the use of any patients other than those who are participating  
750 only in the Medicaid program of another state. If the psychiatric  
751 residential treatment facility violates the terms of the written  
752 agreement by admitting or keeping in the facility on a regular or  
753 continuing basis more than thirty (30) patients who are  
754 participating in the Mississippi Medicaid program, the State  
755 Department of Health shall revoke the license of the facility, at  
756 the time that the department determines, after a hearing complying  
757 with due process, that the facility has violated the condition  
758 upon which the certificate of need was issued, as provided in this  
759 paragraph and in the written agreement.

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

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



797 issued, as provided in this paragraph and in the written  
798 agreement.

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

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

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

830 guardian of each out-of-state patient notifying them of the  
831 priority status granted by this paragraph. For purposes of this  
832 paragraph, the provisions of Section 41-7-193(1) requiring  
833 substantial compliance with the projection of need as reported in  
834 the current State Health Plan are waived. The total number of  
835 child/adolescent psychiatric residential treatment facility beds  
836 that may be authorized under the authority of this paragraph shall  
837 be sixty (60) beds. There shall be no prohibition or restrictions  
838 on participation in the Medicaid program (Section 43-13-101 et  
839 seq.) for the person receiving the certificate of need authorized  
840 under this paragraph or for the beds converted pursuant to the  
841 authority of that certificate of need.

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

858 (i) The department may issue certificates of need  
859 to any person for any purpose described in this subsection,  
860 provided that the hospital, psychiatric hospital or chemical  
861 dependency hospital does not participate in the Medicaid program  
862 (Section 43-13-101 et seq.) at the time of the application for the

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

893 (ii) The department may issue a certificate of  
894 need for the conversion of existing beds in a county hospital in  
895 Choctaw County from acute care beds to child/adolescent chemical

896 dependency beds. For purposes of this subparagraph, the  
897 provisions of Section 41-7-193(1) requiring substantial compliance  
898 with the projection of need as reported in the current State  
899 Health Plan is waived. The total number of beds that may be  
900 authorized under authority of this subparagraph shall not exceed  
901 twenty (20) beds. There shall be no prohibition or restrictions  
902 on participation in the Medicaid program (Section 43-13-101 et  
903 seq.) for the hospital receiving the certificate of need  
904 authorized under this subparagraph (a)(ii) or for the beds  
905 converted pursuant to the authority of that certificate of need.

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

920 If by January 1, 2002, there has been no significant  
921 commencement of construction of the beds authorized under this  
922 subparagraph (a)(iii), or no significant action taken to convert  
923 existing beds to the beds authorized under this subparagraph, then  
924 the certificate of need that was previously issued under this  
925 subparagraph shall expire. If the previously issued certificate  
926 of need expires, the department may accept applications for  
927 issuance of another certificate of need for the beds authorized  
928 under this subparagraph, and may issue a certificate of need to

929 authorize the construction, expansion or conversion of the beds  
930 authorized under this subparagraph.

931           (iv) The department shall issue a certificate of  
932 need to the Region 7 Mental Health/Retardation Commission for the  
933 construction or expansion of child/adolescent psychiatric beds or  
934 the conversion of other beds to child/adolescent psychiatric beds  
935 in any of the counties served by the commission. For purposes of  
936 this subparagraph, the provisions of Section 41-7-193(1) requiring  
937 substantial compliance with the projection of need as reported in  
938 the current State Health Plan is waived. The total number of beds  
939 that may be authorized under the authority of this subparagraph  
940 shall not exceed twenty (20) beds. There shall be no prohibition  
941 or restrictions on participation in the Medicaid program (Section  
942 43-13-101 et seq.) for the person receiving the certificate of  
943 need authorized under this subparagraph (a)(iv) or for the beds  
944 converted pursuant to the authority of that certificate of need.

945           (v) The department may issue a certificate of need  
946 to any county hospital located in Leflore County for the  
947 construction or expansion of adult psychiatric beds or the  
948 conversion of other beds to adult psychiatric beds, not to exceed  
949 twenty (20) beds, provided that the recipient of the certificate  
950 of need agrees in writing that the adult psychiatric beds will not  
951 at any time be certified for participation in the Medicaid program  
952 and that the hospital will not admit or keep any patients who are  
953 participating in the Medicaid program in any of such adult  
954 psychiatric beds. This written agreement by the recipient of the  
955 certificate of need shall be fully binding on any subsequent owner  
956 of the hospital if the ownership of the hospital is transferred at  
957 any time after the issuance of the certificate of need. Agreement  
958 that the adult psychiatric beds will not be certified for  
959 participation in the Medicaid program shall be a condition of the  
960 issuance of a certificate of need to any person under this  
961 subparagraph (a)(v), and if such hospital at any time after the

962 issuance of the certificate of need, regardless of the ownership  
963 of the hospital, has any of such adult psychiatric beds certified  
964 for participation in the Medicaid program or admits or keeps any  
965 Medicaid patients in such adult psychiatric beds, the State  
966 Department of Health shall revoke the certificate of need, if it  
967 is still outstanding, and shall deny or revoke the license of the  
968 hospital at the time that the department determines, after a  
969 hearing complying with due process, that the hospital has failed  
970 to comply with any of the conditions upon which the certificate of  
971 need was issued, as provided in this subparagraph and in the  
972 written agreement by the recipient of the certificate of need.

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

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

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

997 (6) The State Department of Health shall issue a certificate  
998 of need to a Mississippi corporation qualified to manage a  
999 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1000 Harrison County, not to exceed eighty (80) beds, including any  
1001 necessary renovation or construction required for licensure and  
1002 certification, provided that the recipient of the certificate of  
1003 need agrees in writing that the long-term care hospital will not  
1004 at any time participate in the Medicaid program (Section 43-13-101  
1005 et seq.) or admit or keep any patients in the long-term care  
1006 hospital who are participating in the Medicaid program. This  
1007 written agreement by the recipient of the certificate of need  
1008 shall be fully binding on any subsequent owner of the long-term  
1009 care hospital, if the ownership of the facility is transferred at  
1010 any time after the issuance of the certificate of need. Agreement  
1011 that the long-term care hospital will not participate in the  
1012 Medicaid program shall be a condition of the issuance of a  
1013 certificate of need to any person under this subsection (6), and  
1014 if such long-term care hospital at any time after the issuance of  
1015 the certificate of need, regardless of the ownership of the  
1016 facility, participates in the Medicaid program or admits or keeps  
1017 any patients in the facility who are participating in the Medicaid  
1018 program, the State Department of Health shall revoke the  
1019 certificate of need, if it is still outstanding, and shall deny or  
1020 revoke the license of the long-term care hospital, at the time  
1021 that the department determines, after a hearing complying with due  
1022 process, that the facility has failed to comply with any of the  
1023 conditions upon which the certificate of need was issued, as  
1024 provided in this subsection and in the written agreement by the  
1025 recipient of the certificate of need. For purposes of this  
1026 subsection, the provision of Section 41-7-193(1) requiring

1027 substantial compliance with the projection of need as reported in  
1028 the current State Health Plan is hereby waived.

1029 (7) The State Department of Health may issue a certificate  
1030 of need to any hospital in the state to utilize a portion of its  
1031 beds for the "swing-bed" concept. Any such hospital must be in  
1032 conformance with the federal regulations regarding such swing-bed  
1033 concept at the time it submits its application for a certificate  
1034 of need to the State Department of Health, except that such  
1035 hospital may have more licensed beds or a higher average daily  
1036 census (ADC) than the maximum number specified in federal  
1037 regulations for participation in the swing-bed program. Any  
1038 hospital meeting all federal requirements for participation in the  
1039 swing-bed program which receives such certificate of need shall  
1040 render services provided under the swing-bed concept to any  
1041 patient eligible for Medicare (Title XVIII of the Social Security  
1042 Act) who is certified by a physician to be in need of such  
1043 services, and no such hospital shall permit any patient who is  
1044 eligible for both Medicaid and Medicare or eligible only for  
1045 Medicaid to stay in the swing beds of the hospital for more than  
1046 thirty (30) days per admission unless the hospital receives prior  
1047 approval for such patient from the Division of Medicaid, Office of  
1048 the Governor. Any hospital having more licensed beds or a higher  
1049 average daily census (ADC) than the maximum number specified in  
1050 federal regulations for participation in the swing-bed program  
1051 which receives such certificate of need shall develop a procedure  
1052 to insure that before a patient is allowed to stay in the swing  
1053 beds of the hospital, there are no vacant nursing home beds  
1054 available for that patient located within a fifty-mile radius of  
1055 the hospital. When any such hospital has a patient staying in the  
1056 swing beds of the hospital and the hospital receives notice from a  
1057 nursing home located within such radius that there is a vacant bed  
1058 available for that patient, the hospital shall transfer the  
1059 patient to the nursing home within a reasonable time after receipt



1060 of the notice. Any hospital which is subject to the requirements  
1061 of the two (2) preceding sentences of this subsection may be  
1062 suspended from participation in the swing-bed program for a  
1063 reasonable period of time by the State Department of Health if the  
1064 department, after a hearing complying with due process, determines  
1065 that the hospital has failed to comply with any of those  
1066 requirements.

1067 (8) The Department of Health shall not grant approval for or  
1068 issue a certificate of need to any person proposing the new  
1069 construction of, addition to or expansion of a health care  
1070 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1071 except as hereinafter provided: The department may issue a  
1072 certificate of need to a nonprofit corporation located in Madison  
1073 County, Mississippi, for the construction, expansion or conversion  
1074 of not more than twenty (20) beds in a community living program  
1075 for developmentally disabled adults in a facility as defined in  
1076 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1077 subsection (8), the provisions of Section 41-7-193(1) requiring  
1078 substantial compliance with the projection of need as reported in  
1079 the current State Health Plan and the provisions of Section  
1080 41-7-197 requiring a formal certificate of need hearing process  
1081 are waived. There shall be no prohibition or restrictions on  
1082 participation in the Medicaid program for the person receiving the  
1083 certificate of need authorized under this subsection (8).

1084 (9) The Department of Health shall not grant approval for or  
1085 issue a certificate of need to any person proposing the  
1086 establishment of, or expansion of the currently approved territory  
1087 of, or the contracting to establish a home office, subunit or  
1088 branch office within the space operated as a health care facility  
1089 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1090 care facility as defined in subparagraph (ix) of Section  
1091 41-7-173(h).

1092           (10) Health care facilities owned and/or operated by the  
1093 state or its agencies are exempt from the restraints in this  
1094 section against issuance of a certificate of need if such addition  
1095 or expansion consists of repairing or renovation necessary to  
1096 comply with the state licensure law. This exception shall not  
1097 apply to the new construction of any building by such state  
1098 facility. This exception shall not apply to any health care  
1099 facilities owned and/or operated by counties, municipalities,  
1100 districts, unincorporated areas, other defined persons, or any  
1101 combination thereof.

1102           (11) The new construction, renovation or expansion of or  
1103 addition to any health care facility defined in subparagraph (ii)  
1104 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1105 facility), subparagraph (vi) (intermediate care facility),  
1106 subparagraph (viii) (intermediate care facility for the mentally  
1107 retarded) and subparagraph (x) (psychiatric residential treatment  
1108 facility) of Section 41-7-173(h) which is owned by the State of  
1109 Mississippi and under the direction and control of the State  
1110 Department of Mental Health, and the addition of new beds or the  
1111 conversion of beds from one category to another in any such  
1112 defined health care facility which is owned by the State of  
1113 Mississippi and under the direction and control of the State  
1114 Department of Mental Health, shall not require the issuance of a  
1115 certificate of need under Section 41-7-171 et seq.,  
1116 notwithstanding any provision in Section 41-7-171 et seq. to the  
1117 contrary.

1118           (12) The new construction, renovation or expansion of or  
1119 addition to any veterans homes or domiciliaries for eligible  
1120 veterans of the State of Mississippi as authorized under Section  
1121 35-1-19 shall not require the issuance of a certificate of need,  
1122 notwithstanding any provision in Section 41-7-171 et seq. to the  
1123 contrary.

1124           (13) The new construction of a nursing facility or nursing  
1125 facility beds or the conversion of other beds to nursing facility  
1126 beds shall not require the issuance of a certificate of need,  
1127 notwithstanding any provision in Section 41-7-171 et seq. to the  
1128 contrary, if the conditions of this subsection are met.

1129           (a) Before any construction or conversion may be  
1130 undertaken without a certificate of need, the owner of the nursing  
1131 facility, in the case of an existing facility, or the applicant to  
1132 construct a nursing facility, in the case of new construction,  
1133 first must file a written notice of intent and sign a written  
1134 agreement with the State Department of Health that the entire  
1135 nursing facility will not at any time participate in or have any  
1136 beds certified for participation in the Medicaid program (Section  
1137 43-13-101 et seq.), will not admit or keep any patients in the  
1138 nursing facility who are participating in the Medicaid program,  
1139 and will not submit any claim for Medicaid reimbursement for any  
1140 patient in the facility. This written agreement by the owner or  
1141 applicant shall be a condition of exercising the authority under  
1142 this subsection without a certificate of need, and the agreement  
1143 shall be fully binding on any subsequent owner of the nursing  
1144 facility if the ownership of the facility is transferred at any  
1145 time after the agreement is signed. After the written agreement  
1146 is signed, the Division of Medicaid and the State Department of  
1147 Health shall not certify any beds in the nursing facility for  
1148 participation in the Medicaid program. If the nursing facility  
1149 violates the terms of the written agreement by participating in  
1150 the Medicaid program, having any beds certified for participation  
1151 in the Medicaid program, admitting or keeping any patient in the  
1152 facility who is participating in the Medicaid program, or  
1153 submitting any claim for Medicaid reimbursement for any patient in  
1154 the facility, the State Department of Health shall revoke the  
1155 license of the nursing facility at the time that the department

1156 determines, after a hearing complying with due process, that the  
1157 facility has violated the terms of the written agreement.

1158           (b) For the purposes of this subsection, participation  
1159 in the Medicaid program by a nursing facility includes Medicaid  
1160 reimbursement of coinsurance and deductibles for recipients who  
1161 are qualified Medicare beneficiaries and/or those who are dually  
1162 eligible. Any nursing facility exercising the authority under  
1163 this subsection may not bill or submit a claim to the Division of  
1164 Medicaid for services to qualified Medicare beneficiaries and/or  
1165 those who are dually eligible.

1166           (c) The new construction of a nursing facility or  
1167 nursing facility beds or the conversion of other beds to nursing  
1168 facility beds described in this section must be either a part of a  
1169 completely new continuing care retirement community, as described  
1170 in the latest edition of the Mississippi State Health Plan, or an  
1171 addition to existing personal care and independent living  
1172 components, and so that the completed project will be a continuing  
1173 care retirement community, containing (i) independent living  
1174 accommodations, (ii) personal care beds, and (iii) the nursing  
1175 home facility beds. The three (3) components must be located on a  
1176 single site and be operated as one (1) inseparable facility. The  
1177 nursing facility component must contain a minimum of thirty (30)  
1178 beds. Any nursing facility beds authorized by this section will  
1179 not be counted against the bed need set forth in the State Health  
1180 Plan, as identified in Section 41-7-171 et seq.

1181           This subsection (13) shall stand repealed from and after July  
1182 1, 2005.

1183           (14) The State Department of Health shall issue a  
1184 certificate of need to any hospital which is currently licensed  
1185 for two hundred fifty (250) or more acute care beds and is located  
1186 in any general hospital service area not having a comprehensive  
1187 cancer center, for the establishment and equipping of such a  
1188 center which provides facilities and services for outpatient

1189 radiation oncology therapy, outpatient medical oncology therapy,  
1190 and appropriate support services including the provision of  
1191 radiation therapy services. The provision of Section 41-7-193(1)  
1192 regarding substantial compliance with the projection of need as  
1193 reported in the current State Health Plan is waived for the  
1194 purpose of this subsection.

1195 (15) The State Department of Health may authorize the  
1196 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1197 North Panola Community Hospital to the South Panola Community  
1198 Hospital. The authorization for the transfer of those beds shall  
1199 be exempt from the certificate of need review process.

1200 (16) The State Department of Health shall issue any  
1201 certificates of need necessary for Mississippi State University  
1202 and a public or private health care provider to jointly acquire  
1203 and operate a linear accelerator and a magnetic resonance imaging  
1204 unit. Those certificates of need shall cover all capital  
1205 expenditures related to the project between Mississippi State  
1206 University and the health care provider, including, but not  
1207 limited to, the acquisition of the linear accelerator, the  
1208 magnetic resonance imaging unit and other radiological modalities;  
1209 the offering of linear accelerator and magnetic resonance imaging  
1210 services; and the cost of construction of facilities in which to  
1211 locate these services. The linear accelerator and the magnetic  
1212 resonance imaging unit shall be (a) located in the City of  
1213 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1214 Mississippi State University and the public or private health care  
1215 provider selected by Mississippi State University through a  
1216 request for proposals (RFP) process in which Mississippi State  
1217 University selects, and the Board of Trustees of State  
1218 Institutions of Higher Learning approves, the health care provider  
1219 that makes the best overall proposal; (c) available to Mississippi  
1220 State University for research purposes two-thirds (2/3) of the  
1221 time that the linear accelerator and magnetic resonance imaging

1222 unit are operational; and (d) available to the public or private  
1223 health care provider selected by Mississippi State University and  
1224 approved by the Board of Trustees of State Institutions of Higher  
1225 Learning one-third (1/3) of the time for clinical, diagnostic and  
1226 treatment purposes. For purposes of this subsection, the  
1227 provisions of Section 41-7-193(1) requiring substantial compliance  
1228 with the projection of need as reported in the current State  
1229 Health Plan are waived.

1230 (17) Nothing in this section or in any other provision of  
1231 Section 41-7-171 et seq. shall prevent any nursing facility from  
1232 designating an appropriate number of existing beds in the facility  
1233 as beds for providing care exclusively to patients with  
1234 Alzheimer's disease.

1235 **SECTION 2.** The State Board of Health shall, not later than  
1236 October 15, 2006, develop and make a report to the Chairmen of the  
1237 Public Health and Welfare Committees of the Senate and House of  
1238 Representatives, the Lieutenant Governor, the Speaker of the House  
1239 of Representatives and the Governor, including any recommended  
1240 legislation, on the following policies and procedures relating to  
1241 the State Health Plan and the Health Care Facility Certificate of  
1242 Need Law:

1243 (a) Review the procedures under which health care  
1244 facility certificates of need are requested and issued or denied.  
1245 Make reasonable recommendations (i) to reduce the time periods  
1246 required for certificate of need review and appeal therefrom  
1247 without compromising the fairness of the decision; (ii) to exempt  
1248 additional nonsubstantive transactions by health care facilities  
1249 from the certificate of need requirement; and (iii) to authorize  
1250 additional transactions by health care facilities which may  
1251 receive an expedited review.

1252 (b) Verify the fairness of how the annual State Health  
1253 Plan considers changing population projections and how residents  
1254 choose health care services.

1255                   (c) Verify the fairness of how the annual State Health  
1256 Plan considers that residents travel to neighboring states to  
1257 receive health care services.

1258                   (d) Verify the fairness of the different planning  
1259 districts applicable to each type of health care certificate of  
1260 need activity by a facility. For example, General Hospital  
1261 Service Areas compared to Long-Term Care Planning Districts,  
1262 compared to Ambulatory Surgical Planning Areas, compared to Home  
1263 Health Agency Planning Areas, compared to Perinatal Planning  
1264 Areas, compared to Adolescent and Adult Psychiatric Facility  
1265 Planning Areas, etc.

1266                   (e) Verify the fairness and appropriateness of the  
1267 formulas used to determine the need for health care services under  
1268 the certificate of need law.

1269                   (f) Review the existence of licensed beds listed in the  
1270 Directory of Licensed Health Care Facilities which are unused and  
1271 available for transfer to another facility or location under the  
1272 certificate of need process, and the effect of these unused beds  
1273 on the State Health Plan.

1274                   **SECTION 3.** This act shall take effect and be in force from  
1275 and after its passage.