

By: Representatives Woods, Baker (8th),  
Hamilton (6th), Mayhall

To: Public Health and Human  
Services; Appropriations

HOUSE BILL NO. 646

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A  
3 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW ACUTE CARE  
4 HOSPITAL IN THE CITY OF OLIVE BRANCH IN DESOTO COUNTY; AND FOR  
5 RELATED PURPOSES.

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

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

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

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

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

23 (c) Any change in the existing bed complement of any  
24 health care facility through the addition or conversion of any  
25 beds or the alteration, modernizing or refurbishing of any unit or  
26 department in which the beds may be located; however, if a health  
27 care facility has voluntarily delicensed some of its existing bed  
28 complement, it may later relicense some or all of its delicensed

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

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

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

62 (x) Swing-bed services;

63 (xi) Ambulatory surgical services;

64 (xii) Magnetic resonance imaging services;

65 (xiii) [Deleted]

66 (xiv) Long-term care hospital services;

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

68 (e) The relocation of one or more health services from

69 one physical facility or site to another physical facility or

70 site, unless such relocation, which does not involve a capital

71 expenditure by or on behalf of a health care facility, (i) is to a

72 physical facility or site within five thousand two hundred eighty

73 (5,280) feet from the main entrance of the health care facility

74 where the health care service is located, or (ii) is the result of

75 an order of a court of appropriate jurisdiction or a result of

76 pending litigation in such court, or by order of the State

77 Department of Health, or by order of any other agency or legal

78 entity of the state, the federal government, or any political

79 subdivision of either, whose order is also approved by the State

80 Department of Health;

81 (f) The acquisition or otherwise control of any major

82 medical equipment for the provision of medical services; \* \* \*

83 however, (i) the acquisition of any major medical equipment used

84 only for research purposes, and (ii) the acquisition of major

85 medical equipment to replace medical equipment for which a

86 facility is already providing medical services and for which the

87 State Department of Health has been notified before the date of

88 such acquisition shall be exempt from this paragraph; an

89 acquisition for less than fair market value must be reviewed, if

90 the acquisition at fair market value would be subject to review;

91 (g) Changes of ownership of existing health care

92 facilities in which a notice of intent is not filed with the State

93 Department of Health at least thirty (30) days prior to the date

94 such change of ownership occurs, or a change in services or bed

95 capacity as prescribed in paragraph (c) or (d) of this subsection  
96 as a result of the change of ownership; an acquisition for less  
97 than fair market value must be reviewed, if the acquisition at  
98 fair market value would be subject to review;

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

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

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

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

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

125 (m) Reopening a health care facility that has ceased to  
126 operate for a period of sixty (60) months or more, which reopening

127 requires a certificate of need for the establishment of a new  
128 health care facility.

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

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

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

153 (c) The department may issue a certificate of need for  
154 the addition to or expansion of any skilled nursing facility that  
155 is part of an existing continuing care retirement community  
156 located in Madison County, provided that the recipient of the  
157 certificate of need agrees in writing that the skilled nursing  
158 facility will not at any time participate in the Medicaid program  
159 (Section 43-13-101 et seq.) or admit or keep any patients in the

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

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

190 (e) The State Department of Health may issue a  
191 certificate of need for the construction of a nursing facility or  
192 the conversion of beds to nursing facility beds at a personal care

193 facility for the elderly in Lowndes County that is owned and  
194 operated by a Mississippi nonprofit corporation, not to exceed  
195 sixty (60) beds. From and after July 1, 1999, there shall be no  
196 prohibition or restrictions on participation in the Medicaid  
197 program (Section 43-13-101 et seq.) for the beds in the nursing  
198 facility that were authorized under this paragraph (e).

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

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

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

223 (i) The department may issue a certificate of need for  
224 the new construction of a skilled nursing facility in Leake  
225 County, provided that the recipient of the certificate of need

226 agrees in writing that the skilled nursing facility will not at  
227 any time participate in the Medicaid program (Section 43-13-101 et  
228 seq.) or admit or keep any patients in the skilled nursing  
229 facility who are participating in the Medicaid program. This  
230 written agreement by the recipient of the certificate of need  
231 shall be fully binding on any subsequent owner of the skilled  
232 nursing facility, if the ownership of the facility is transferred  
233 at any time after the issuance of the certificate of need.

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



259 outstanding, and shall not issue a license for the skilled nursing  
260 facility at any time after the expiration of the eighteen-month  
261 period.

262           (j) The department may issue certificates of need to  
263 allow any existing freestanding long-term care facility in  
264 Tishomingo County and Hancock County that on July 1, 1995, is  
265 licensed with fewer than sixty (60) beds. For the purposes of  
266 this paragraph (j), the provision of Section 41-7-193(1) requiring  
267 substantial compliance with the projection of need as reported in  
268 the current State Health Plan is waived. From and after July 1,  
269 1999, there shall be no prohibition or restrictions on  
270 participation in the Medicaid program (Section 43-13-101 et seq.)  
271 for the beds in the long-term care facilities that were authorized  
272 under this paragraph (j).

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

292 ownership of the facility is transferred at any time after July 1,  
293 2001. After this written agreement is executed, the Division of  
294 Medicaid and the State Department of Health shall not certify more  
295 than thirty (30) of the beds in the facility for participation in  
296 the Medicaid program. If the facility violates the terms of the  
297 written agreement by admitting or keeping in the facility on a  
298 regular or continuing basis more than thirty (30) patients who are  
299 participating in the Medicaid program, the State Department of  
300 Health shall revoke the license of the facility, at the time that  
301 the department determines, after a hearing complying with due  
302 process, that the facility has violated the written agreement.

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

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

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

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

358 facility beds in Madison County, provided that the recipient of  
359 the certificate of need agrees in writing that the skilled nursing  
360 facility will not at any time participate in the Medicaid program  
361 (Section 43-13-101 et seq.) or admit or keep any patients in the  
362 skilled nursing facility who are participating in the Medicaid  
363 program. This written agreement by the recipient of the  
364 certificate of need shall be fully binding on any subsequent owner  
365 of the skilled nursing facility, if the ownership of the facility  
366 is transferred at any time after the issuance of the certificate  
367 of need. Agreement that the skilled nursing facility will not  
368 participate in the Medicaid program shall be a condition of the  
369 issuance of a certificate of need to any person under this  
370 paragraph (n), and if such skilled nursing facility at any time  
371 after the issuance of the certificate of need, regardless of the  
372 ownership of the facility, participates in the Medicaid program or  
373 admits or keeps any patients in the facility who are participating  
374 in the Medicaid program, the State Department of Health shall  
375 revoke the certificate of need, if it is still outstanding, and  
376 shall deny or revoke the license of the skilled nursing facility,  
377 at the time that the department determines, after a hearing  
378 complying with due process, that the facility has failed to comply  
379 with any of the conditions upon which the certificate of need was  
380 issued, as provided in this paragraph and in the written agreement  
381 by the recipient of the certificate of need. The total number of  
382 nursing facility beds that may be authorized by any certificate of  
383 need issued under this paragraph (n) shall not exceed sixty (60)  
384 beds. If the certificate of need authorized under this paragraph  
385 is not issued within twelve (12) months after July 1, 1998, the  
386 department shall deny the application for the certificate of need  
387 and shall not issue the certificate of need at any time after the  
388 twelve-month period, unless the issuance is contested. If the  
389 certificate of need is issued and substantial construction of the  
390 nursing facility beds has not commenced within eighteen (18)

391 months after the effective date of July 1, 1998, the State  
392 Department of Health, after a hearing complying with due process,  
393 shall revoke the certificate of need if it is still outstanding,  
394 and the department shall not issue a license for the nursing  
395 facility at any time after the eighteen-month period. \* \* \*  
396 However, \* \* \* if the issuance of the certificate of need is  
397 contested, the department shall require substantial construction  
398 of the nursing facility beds within six (6) months after final  
399 adjudication on the issuance of the certificate of need.

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

424 issued, as provided in this paragraph and in the written agreement  
425 by the recipient of the certificate of need. The total number of  
426 nursing facility beds that may be authorized by any certificate of  
427 need issued under this paragraph (o) shall not exceed sixty (60)  
428 beds. If the certificate of need authorized under this paragraph  
429 is not issued within twelve (12) months after July 1, 2001, the  
430 department shall deny the application for the certificate of need  
431 and shall not issue the certificate of need at any time after the  
432 twelve-month period, unless the issuance is contested. If the  
433 certificate of need is issued and substantial construction of the  
434 nursing facility beds has not commenced within eighteen (18)  
435 months after the effective date of July 1, 2001, the State  
436 Department of Health, after a hearing complying with due process,  
437 shall revoke the certificate of need if it is still outstanding,  
438 and the department shall not issue a license for the nursing  
439 facility at any time after the eighteen-month period. \* \* \*  
440 However, \* \* \* if the issuance of the certificate of need is  
441 contested, the department shall require substantial construction  
442 of the nursing facility beds within six (6) months after final  
443 adjudication on the issuance of the certificate of need.

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

456 Agreement that the skilled nursing facility will not participate

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

490           (q) (i) Beginning on July 1, 1999, the State  
491 Department of Health shall issue certificates of need during each  
492 of the next four (4) fiscal years for the construction or  
493 expansion of nursing facility beds or the conversion of other beds  
494 to nursing facility beds in each county in the state having a need  
495 for fifty (50) or more additional nursing facility beds, as shown  
496 in the fiscal year 1999 State Health Plan, in the manner provided  
497 in this paragraph (q). The total number of nursing facility beds  
498 that may be authorized by any certificate of need authorized under  
499 this paragraph (q) shall not exceed sixty (60) beds.

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



523                   (iii) Subject to the provisions of subparagraph  
524 (v), the certificate of need issued under subparagraph (ii) for  
525 nursing facility beds in each Long-Term Care Planning District  
526 during each fiscal year shall first be available for nursing  
527 facility beds in the county in the district having the highest  
528 need for those beds, as shown in the fiscal year 1999 State Health  
529 Plan. If there are no applications for a certificate of need for  
530 nursing facility beds in the county having the highest need for  
531 those beds by the date specified by the department, then the  
532 certificate of need shall be available for nursing facility beds  
533 in other counties in the district in descending order of the need  
534 for those beds, from the county with the second highest need to  
535 the county with the lowest need, until an application is received  
536 for nursing facility beds in an eligible county in the district.

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

555                   (v) If a certificate of need is authorized to be  
556 issued under this paragraph (q) for nursing facility beds in a  
557 county on the basis of the need in the Long-Term Care Planning  
558 District during any fiscal year of the four-year period, a  
559 certificate of need shall not also be available under this  
560 paragraph (q) for additional nursing facility beds in that county  
561 on the basis of the need in the state at large, and that county  
562 shall be excluded in determining which counties have the highest  
563 need for nursing facility beds in the state at large for that  
564 fiscal year. After a certificate of need has been issued under  
565 this paragraph (q) for nursing facility beds in a county during  
566 any fiscal year of the four-year period, a certificate of need  
567 shall not be available again under this paragraph (q) for  
568 additional nursing facility beds in that county during the  
569 four-year period, and that county shall be excluded in determining  
570 which counties have the highest need for nursing facility beds in  
571 succeeding fiscal years.

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

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

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

588           (r) (i) Beginning on July 1, 1999, the State  
589 Department of Health shall issue certificates of need during each  
590 of the next two (2) fiscal years for the construction or expansion  
591 of nursing facility beds or the conversion of other beds to  
592 nursing facility beds in each of the four (4) Long-Term Care  
593 Planning Districts designated in the fiscal year 1999 State Health  
594 Plan, to provide care exclusively to patients with Alzheimer's  
595 disease.

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

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

619           (s) The State Department of Health may issue a  
620 certificate of need to a nonprofit skilled nursing facility using

621 the Green House model of skilled nursing care and located in Yazoo  
622 City, Yazoo County, Mississippi, for the construction, expansion  
623 or conversion of not more than nineteen (19) nursing facility  
624 beds. For purposes of this paragraph (s), the provisions of  
625 Section 41-7-193(1) requiring substantial compliance with the  
626 projection of need as reported in the current State Health Plan  
627 and the provisions of Section 41-7-197 requiring a formal  
628 certificate of need hearing process are waived. There shall be no  
629 prohibition or restrictions on participation in the Medicaid  
630 program for the person receiving the certificate of need  
631 authorized under this paragraph (s).

632 (t) The State Department of Health shall issue  
633 certificates of need to the owner of a nursing facility in  
634 operation at the time of Hurricane Katrina in Hancock County that  
635 was not operational on December 31, 2005, because of damage  
636 sustained from Hurricane Katrina to authorize the following: (i)  
637 the construction of a new nursing facility in Harrison County;  
638 (ii) the relocation of forty-nine (49) nursing facility beds from  
639 the Hancock County facility to the new Harrison County facility;  
640 (iii) the establishment of not more than twenty (20) non-Medicaid  
641 nursing facility beds at the Hancock County facility; and (iv) the  
642 establishment of not more than twenty (20) non-Medicaid beds at  
643 the new Harrison County facility. The certificates of need that  
644 authorize the non-Medicaid nursing facility beds under  
645 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
646 subject to the following conditions: The owner of the Hancock  
647 County facility and the new Harrison County facility must agree in  
648 writing that no more than fifty (50) of the beds at the Hancock  
649 County facility and no more than forty-nine (49) of the beds at  
650 the Harrison County facility will be certified for participation  
651 in the Medicaid program, and that no claim will be submitted for  
652 Medicaid reimbursement for more than fifty (50) patients in the  
653 Hancock County facility in any month, or for more than forty-nine

654 (49) patients in the Harrison County facility in any month, or for  
655 any patient in either facility who is in a bed that is not  
656 Medicaid-certified. This written agreement by the owner of the  
657 nursing facilities shall be a condition of the issuance of the  
658 certificates of need under this paragraph (t), and the agreement  
659 shall be fully binding on any later owner or owners of either  
660 facility if the ownership of either facility is transferred at any  
661 time after the certificates of need are issued. After this  
662 written agreement is executed, the Division of Medicaid and the  
663 State Department of Health shall not certify more than fifty (50)  
664 of the beds at the Hancock County facility or more than forty-nine  
665 (49) of the beds at the Harrison County facility for participation  
666 in the Medicaid program. If the Hancock County facility violates  
667 the terms of the written agreement by admitting or keeping in the  
668 facility on a regular or continuing basis more than fifty (50)  
669 patients who are participating in the Medicaid program, or if the  
670 Harrison County facility violates the terms of the written  
671 agreement by admitting or keeping in the facility on a regular or  
672 continuing basis more than forty-nine (49) patients who are  
673 participating in the Medicaid program, the State Department of  
674 Health shall revoke the license of the facility that is in  
675 violation of the agreement, at the time that the department  
676 determines, after a hearing complying with due process, that the  
677 facility has violated the agreement.

678 (3) The State Department of Health may grant approval for  
679 and issue certificates of need to any person proposing the new  
680 construction of, addition to, conversion of beds of or expansion  
681 of any health care facility defined in subparagraph (x)  
682 (psychiatric residential treatment facility) of Section  
683 41-7-173(h). The total number of beds which may be authorized by  
684 such certificates of need shall not exceed three hundred  
685 thirty-four (334) beds for the entire state.

686           (a) Of the total number of beds authorized under this  
687 subsection, the department shall issue a certificate of need to a  
688 privately-owned psychiatric residential treatment facility in  
689 Simpson County for the conversion of sixteen (16) intermediate  
690 care facility for the mentally retarded (ICF-MR) beds to  
691 psychiatric residential treatment facility beds, provided that  
692 facility agrees in writing that the facility shall give priority  
693 for the use of those sixteen (16) beds to Mississippi residents  
694 who are presently being treated in out-of-state facilities.

695           (b) Of the total number of beds authorized under this  
696 subsection, the department may issue a certificate or certificates  
697 of need for the construction or expansion of psychiatric  
698 residential treatment facility beds or the conversion of other  
699 beds to psychiatric residential treatment facility beds in Warren  
700 County, not to exceed sixty (60) psychiatric residential treatment  
701 facility beds, provided that the facility agrees in writing that  
702 no more than thirty (30) of the beds at the psychiatric  
703 residential treatment facility will be certified for participation  
704 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
705 any patients other than those who are participating only in the  
706 Medicaid program of another state, and that no claim will be  
707 submitted to the Division of Medicaid for Medicaid reimbursement  
708 for more than thirty (30) patients in the psychiatric residential  
709 treatment facility in any day or for any patient in the  
710 psychiatric residential treatment facility who is in a bed that is  
711 not Medicaid-certified. This written agreement by the recipient  
712 of the certificate of need shall be a condition of the issuance of  
713 the certificate of need under this paragraph, and the agreement  
714 shall be fully binding on any subsequent owner of the psychiatric  
715 residential treatment facility if the ownership of the facility is  
716 transferred at any time after the issuance of the certificate of  
717 need. After this written agreement is executed, the Division of  
718 Medicaid and the State Department of Health shall not certify more

719 than thirty (30) of the beds in the psychiatric residential  
720 treatment facility for participation in the Medicaid program for  
721 the use of any patients other than those who are participating  
722 only in the Medicaid program of another state. If the psychiatric  
723 residential treatment facility violates the terms of the written  
724 agreement by admitting or keeping in the facility on a regular or  
725 continuing basis more than thirty (30) patients who are  
726 participating in the Mississippi Medicaid program, the State  
727 Department of Health shall revoke the license of the facility, at  
728 the time that the department determines, after a hearing complying  
729 with due process, that the facility has violated the condition  
730 upon which the certificate of need was issued, as provided in this  
731 paragraph and in the written agreement.

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

736 (c) Of the total number of beds authorized under this  
737 subsection, the department shall issue a certificate of need to a  
738 hospital currently operating Medicaid-certified acute psychiatric  
739 beds for adolescents in DeSoto County, for the establishment of a  
740 forty-bed psychiatric residential treatment facility in DeSoto  
741 County, provided that the hospital agrees in writing (i) that the  
742 hospital shall give priority for the use of those forty (40) beds  
743 to Mississippi residents who are presently being treated in  
744 out-of-state facilities, and (ii) that no more than fifteen (15)  
745 of the beds at the psychiatric residential treatment facility will  
746 be certified for participation in the Medicaid program (Section  
747 43-13-101 et seq.), and that no claim will be submitted for  
748 Medicaid reimbursement for more than fifteen (15) patients in the  
749 psychiatric residential treatment facility in any day or for any  
750 patient in the psychiatric residential treatment facility who is  
751 in a bed that is not Medicaid-certified. This written agreement

752 by the recipient of the certificate of need shall be a condition  
753 of the issuance of the certificate of need under this paragraph,  
754 and the agreement shall be fully binding on any subsequent owner  
755 of the psychiatric residential treatment facility if the ownership  
756 of the facility is transferred at any time after the issuance of  
757 the certificate of need. After this written agreement is  
758 executed, the Division of Medicaid and the State Department of  
759 Health shall not certify more than fifteen (15) of the beds in the  
760 psychiatric residential treatment facility for participation in  
761 the Medicaid program. If the psychiatric residential treatment  
762 facility violates the terms of the written agreement by admitting  
763 or keeping in the facility on a regular or continuing basis more  
764 than fifteen (15) patients who are participating in the Medicaid  
765 program, the State Department of Health shall revoke the license  
766 of the facility, at the time that the department determines, after  
767 a hearing complying with due process, that the facility has  
768 violated the condition upon which the certificate of need was  
769 issued, as provided in this paragraph and in the written  
770 agreement.

771 (d) Of the total number of beds authorized under this  
772 subsection, the department may issue a certificate or certificates  
773 of need for the construction or expansion of psychiatric  
774 residential treatment facility beds or the conversion of other  
775 beds to psychiatric treatment facility beds, not to exceed thirty  
776 (30) psychiatric residential treatment facility beds, in either  
777 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
778 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

779 (e) Of the total number of beds authorized under this  
780 subsection (3) the department shall issue a certificate of need to  
781 a privately-owned, nonprofit psychiatric residential treatment  
782 facility in Hinds County for an eight-bed expansion of the  
783 facility, provided that the facility agrees in writing that the  
784 facility shall give priority for the use of those eight (8) beds



785 to Mississippi residents who are presently being treated in  
786 out-of-state facilities.

787 (f) The department shall issue a certificate of need to  
788 a one-hundred-thirty-four-bed specialty hospital located on  
789 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
790 at 5900 Highway 39 North in Meridian (Lauderdale County),  
791 Mississippi, for the addition, construction or expansion of  
792 child/adolescent psychiatric residential treatment facility beds  
793 in Lauderdale County. As a condition of issuance of the  
794 certificate of need under this paragraph, the facility shall give  
795 priority in admissions to the child/adolescent psychiatric  
796 residential treatment facility beds authorized under this  
797 paragraph to patients who otherwise would require out-of-state  
798 placement. The Division of Medicaid, in conjunction with the  
799 Department of Human Services, shall furnish the facility a list of  
800 all out-of-state patients on a quarterly basis. Furthermore,  
801 notice shall also be provided to the parent, custodial parent or  
802 guardian of each out-of-state patient notifying them of the  
803 priority status granted by this paragraph. For purposes of this  
804 paragraph, the provisions of Section 41-7-193(1) requiring  
805 substantial compliance with the projection of need as reported in  
806 the current State Health Plan are waived. The total number of  
807 child/adolescent psychiatric residential treatment facility beds  
808 that may be authorized under the authority of this paragraph shall  
809 be sixty (60) beds. There shall be no prohibition or restrictions  
810 on participation in the Medicaid program (Section 43-13-101 et  
811 seq.) for the person receiving the certificate of need authorized  
812 under this paragraph or for the beds converted pursuant to the  
813 authority of that certificate of need.

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

818 psychiatric or child/adolescent chemical dependency beds, or for  
819 the conversion of any other health care facility to a hospital,  
820 psychiatric hospital or chemical dependency hospital that will  
821 contain any child/adolescent psychiatric or child/adolescent  
822 chemical dependency beds, or for the addition of any  
823 child/adolescent psychiatric or child/adolescent chemical  
824 dependency beds in any hospital, psychiatric hospital or chemical  
825 dependency hospital, or for the conversion of any beds of another  
826 category in any hospital, psychiatric hospital or chemical  
827 dependency hospital to child/adolescent psychiatric or  
828 child/adolescent chemical dependency beds, except as hereinafter  
829 authorized:

830           (i) The department may issue certificates of need  
831 to any person for any purpose described in this subsection,  
832 provided that the hospital, psychiatric hospital or chemical  
833 dependency hospital does not participate in the Medicaid program  
834 (Section 43-13-101 et seq.) at the time of the application for the  
835 certificate of need and the owner of the hospital, psychiatric  
836 hospital or chemical dependency hospital agrees in writing that  
837 the hospital, psychiatric hospital or chemical dependency hospital  
838 will not at any time participate in the Medicaid program or admit  
839 or keep any patients who are participating in the Medicaid program  
840 in the hospital, psychiatric hospital or chemical dependency  
841 hospital. This written agreement by the recipient of the  
842 certificate of need shall be fully binding on any subsequent owner  
843 of the hospital, psychiatric hospital or chemical dependency  
844 hospital, if the ownership of the facility is transferred at any  
845 time after the issuance of the certificate of need. Agreement  
846 that the hospital, psychiatric hospital or chemical dependency  
847 hospital will not participate in the Medicaid program shall be a  
848 condition of the issuance of a certificate of need to any person  
849 under this subparagraph \* \* \* (i), and if such hospital,  
850 psychiatric hospital or chemical dependency hospital at any time

851 after the issuance of the certificate of need, regardless of the  
852 ownership of the facility, participates in the Medicaid program or  
853 admits or keeps any patients in the hospital, psychiatric hospital  
854 or chemical dependency hospital who are participating in the  
855 Medicaid program, the State Department of Health shall revoke the  
856 certificate of need, if it is still outstanding, and shall deny or  
857 revoke the license of the hospital, psychiatric hospital or  
858 chemical dependency hospital, at the time that the department  
859 determines, after a hearing complying with due process, that the  
860 hospital, psychiatric hospital or chemical dependency hospital has  
861 failed to comply with any of the conditions upon which the  
862 certificate of need was issued, as provided in this subparagraph  
863 (i) and in the written agreement by the recipient of the  
864 certificate of need.

865           (ii) The department may issue a certificate of  
866 need for the conversion of existing beds in a county hospital in  
867 Choctaw County from acute care beds to child/adolescent chemical  
868 dependency beds. For purposes of this subparagraph (ii), the  
869 provisions of Section 41-7-193(1) requiring substantial compliance  
870 with the projection of need as reported in the current State  
871 Health Plan is waived. The total number of beds that may be  
872 authorized under authority of this subparagraph shall not exceed  
873 twenty (20) beds. There shall be no prohibition or restrictions  
874 on participation in the Medicaid program (Section 43-13-101 et  
875 seq.) for the hospital receiving the certificate of need  
876 authorized under this subparagraph \* \* \* or for the beds converted  
877 pursuant to the authority of that certificate of need.

878           (iii) The department may issue a certificate or  
879 certificates of need for the construction or expansion of  
880 child/adolescent psychiatric beds or the conversion of other beds  
881 to child/adolescent psychiatric beds in Warren County. For  
882 purposes of this subparagraph (iii), the provisions of Section  
883 41-7-193(1) requiring substantial compliance with the projection

884 of need as reported in the current State Health Plan are waived.  
885 The total number of beds that may be authorized under the  
886 authority of this subparagraph shall not exceed twenty (20) beds.  
887 There shall be no prohibition or restrictions on participation in  
888 the Medicaid program (Section 43-13-101 et seq.) for the person  
889 receiving the certificate of need authorized under this  
890 subparagraph \* \* \* or for the beds converted pursuant to the  
891 authority of that certificate of need.

892 If by January 1, 2002, there has been no significant  
893 commencement of construction of the beds authorized under this  
894 subparagraph \* \* \* (iii), or no significant action taken to  
895 convert existing beds to the beds authorized under this  
896 subparagraph, then the certificate of need that was previously  
897 issued under this subparagraph shall expire. If the previously  
898 issued certificate of need expires, the department may accept  
899 applications for issuance of another certificate of need for the  
900 beds authorized under this subparagraph, and may issue a  
901 certificate of need to authorize the construction, expansion or  
902 conversion of the beds authorized under this subparagraph.

903 (iv) The department shall issue a certificate of  
904 need to the Region 7 Mental Health/Retardation Commission for the  
905 construction or expansion of child/adolescent psychiatric beds or  
906 the conversion of other beds to child/adolescent psychiatric beds  
907 in any of the counties served by the commission. For purposes of  
908 this subparagraph (iv), the provisions of Section 41-7-193(1)  
909 requiring substantial compliance with the projection of need as  
910 reported in the current State Health Plan is waived. The total  
911 number of beds that may be authorized under the authority of this  
912 subparagraph shall not exceed twenty (20) beds. There shall be no  
913 prohibition or restrictions on participation in the Medicaid  
914 program (Section 43-13-101 et seq.) for the person receiving the  
915 certificate of need authorized under this subparagraph \* \* \* or

916 for the beds converted pursuant to the authority of that  
917 certificate of need.

918           (v) The department may issue a certificate of need  
919 to any county hospital located in Leflore County for the  
920 construction or expansion of adult psychiatric beds or the  
921 conversion of other beds to adult psychiatric beds, not to exceed  
922 twenty (20) beds, provided that the recipient of the certificate  
923 of need agrees in writing that the adult psychiatric beds will not  
924 at any time be certified for participation in the Medicaid program  
925 and that the hospital will not admit or keep any patients who are  
926 participating in the Medicaid program in any of such adult  
927 psychiatric beds. This written agreement by the recipient of the  
928 certificate of need shall be fully binding on any subsequent owner  
929 of the hospital if the ownership of the hospital is transferred at  
930 any time after the issuance of the certificate of need. Agreement  
931 that the adult psychiatric beds will not be certified for  
932 participation in the Medicaid program shall be a condition of the  
933 issuance of a certificate of need to any person under this  
934 subparagraph \* \* \* (v), and if such hospital at any time after the  
935 issuance of the certificate of need, regardless of the ownership  
936 of the hospital, has any of such adult psychiatric beds certified  
937 for participation in the Medicaid program or admits or keeps any  
938 Medicaid patients in such adult psychiatric beds, the State  
939 Department of Health shall revoke the certificate of need, if it  
940 is still outstanding, and shall deny or revoke the license of the  
941 hospital at the time that the department determines, after a  
942 hearing complying with due process, that the hospital has failed  
943 to comply with any of the conditions upon which the certificate of  
944 need was issued, as provided in this subparagraph and in the  
945 written agreement by the recipient of the certificate of need.

946           (vi) The department may issue a certificate or  
947 certificates of need for the expansion of child psychiatric beds  
948 or the conversion of other beds to child psychiatric beds at the

949 University of Mississippi Medical Center. For purposes of this  
950 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
951 requiring substantial compliance with the projection of need as  
952 reported in the current State Health Plan is waived. The total  
953 number of beds that may be authorized under the authority of this  
954 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
955 shall be no prohibition or restrictions on participation in the  
956 Medicaid program (Section 43-13-101 et seq.) for the hospital  
957 receiving the certificate of need authorized under this  
958 subparagraph \* \* \* or for the beds converted pursuant to the  
959 authority of that certificate of need.

960 (b) From and after July 1, 1990, no hospital,  
961 psychiatric hospital or chemical dependency hospital shall be  
962 authorized to add any child/adolescent psychiatric or  
963 child/adolescent chemical dependency beds or convert any beds of  
964 another category to child/adolescent psychiatric or  
965 child/adolescent chemical dependency beds without a certificate of  
966 need under the authority of subsection (1)(c) of this section.

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

970 (6) The State Department of Health shall issue a certificate  
971 of need to a Mississippi corporation qualified to manage a  
972 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
973 Harrison County, not to exceed eighty (80) beds, including any  
974 necessary renovation or construction required for licensure and  
975 certification, provided that the recipient of the certificate of  
976 need agrees in writing that the long-term care hospital will not  
977 at any time participate in the Medicaid program (Section 43-13-101  
978 et seq.) or admit or keep any patients in the long-term care  
979 hospital who are participating in the Medicaid program. This  
980 written agreement by the recipient of the certificate of need  
981 shall be fully binding on any subsequent owner of the long-term

982 care hospital, if the ownership of the facility is transferred at  
983 any time after the issuance of the certificate of need. Agreement  
984 that the long-term care hospital will not participate in the  
985 Medicaid program shall be a condition of the issuance of a  
986 certificate of need to any person under this subsection (6), and  
987 if such long-term care hospital at any time after the issuance of  
988 the certificate of need, regardless of the ownership of the  
989 facility, participates in the Medicaid program or admits or keeps  
990 any patients in the facility who are participating in the Medicaid  
991 program, the State Department of Health shall revoke the  
992 certificate of need, if it is still outstanding, and shall deny or  
993 revoke the license of the long-term care hospital, at the time  
994 that the department determines, after a hearing complying with due  
995 process, that the facility has failed to comply with any of the  
996 conditions upon which the certificate of need was issued, as  
997 provided in this subsection and in the written agreement by the  
998 recipient of the certificate of need. For purposes of this  
999 subsection, the provision of Section 41-7-193(1) requiring  
1000 substantial compliance with the projection of need as reported in  
1001 the current State Health Plan is \* \* \* waived.

1002 (7) The State Department of Health may issue a certificate  
1003 of need to any hospital in the state to utilize a portion of its  
1004 beds for the "swing-bed" concept. Any such hospital must be in  
1005 conformance with the federal regulations regarding such swing-bed  
1006 concept at the time it submits its application for a certificate  
1007 of need to the State Department of Health, except that such  
1008 hospital may have more licensed beds or a higher average daily  
1009 census (ADC) than the maximum number specified in federal  
1010 regulations for participation in the swing-bed program. Any  
1011 hospital meeting all federal requirements for participation in the  
1012 swing-bed program which receives such certificate of need shall  
1013 render services provided under the swing-bed concept to any  
1014 patient eligible for Medicare (Title XVIII of the Social Security

1015 Act) who is certified by a physician to be in need of such  
1016 services, and no such hospital shall permit any patient who is  
1017 eligible for both Medicaid and Medicare or eligible only for  
1018 Medicaid to stay in the swing beds of the hospital for more than  
1019 thirty (30) days per admission unless the hospital receives prior  
1020 approval for such patient from the Division of Medicaid, Office of  
1021 the Governor. Any hospital having more licensed beds or a higher  
1022 average daily census (ADC) than the maximum number specified in  
1023 federal regulations for participation in the swing-bed program  
1024 which receives such certificate of need shall develop a procedure  
1025 to insure that before a patient is allowed to stay in the swing  
1026 beds of the hospital, there are no vacant nursing home beds  
1027 available for that patient located within a fifty-mile radius of  
1028 the hospital. When any such hospital has a patient staying in the  
1029 swing beds of the hospital and the hospital receives notice from a  
1030 nursing home located within such radius that there is a vacant bed  
1031 available for that patient, the hospital shall transfer the  
1032 patient to the nursing home within a reasonable time after receipt  
1033 of the notice. Any hospital which is subject to the requirements  
1034 of the two (2) preceding sentences of this subsection may be  
1035 suspended from participation in the swing-bed program for a  
1036 reasonable period of time by the State Department of Health if the  
1037 department, after a hearing complying with due process, determines  
1038 that the hospital has failed to comply with any of those  
1039 requirements.

1040 (8) The Department of Health shall not grant approval for or  
1041 issue a certificate of need to any person proposing the new  
1042 construction of, addition to or expansion of a health care  
1043 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1044 except as hereinafter provided: The department may issue a  
1045 certificate of need to a nonprofit corporation located in Madison  
1046 County, Mississippi, for the construction, expansion or conversion  
1047 of not more than twenty (20) beds in a community living program



1048 for developmentally disabled adults in a facility as defined in  
1049 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1050 subsection (8), the provisions of Section 41-7-193(1) requiring  
1051 substantial compliance with the projection of need as reported in  
1052 the current State Health Plan and the provisions of Section  
1053 41-7-197 requiring a formal certificate of need hearing process  
1054 are waived. There shall be no prohibition or restrictions on  
1055 participation in the Medicaid program for the person receiving the  
1056 certificate of need authorized under this subsection (8).

1057 (9) The Department of Health shall not grant approval for or  
1058 issue a certificate of need to any person proposing the  
1059 establishment of, or expansion of the currently approved territory  
1060 of, or the contracting to establish a home office, subunit or  
1061 branch office within the space operated as a health care facility  
1062 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1063 care facility as defined in subparagraph (ix) of Section  
1064 41-7-173(h).

1065 (10) Health care facilities owned and/or operated by the  
1066 state or its agencies are exempt from the restraints in this  
1067 section against issuance of a certificate of need if such addition  
1068 or expansion consists of repairing or renovation necessary to  
1069 comply with the state licensure law. This exception shall not  
1070 apply to the new construction of any building by such state  
1071 facility. This exception shall not apply to any health care  
1072 facilities owned and/or operated by counties, municipalities,  
1073 districts, unincorporated areas, other defined persons, or any  
1074 combination thereof.

1075 (11) The new construction, renovation or expansion of or  
1076 addition to any health care facility defined in subparagraph (ii)  
1077 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1078 facility), subparagraph (vi) (intermediate care facility),  
1079 subparagraph (viii) (intermediate care facility for the mentally  
1080 retarded) and subparagraph (x) (psychiatric residential treatment

1081 facility) of Section 41-7-173(h) which is owned by the State of  
1082 Mississippi and under the direction and control of the State  
1083 Department of Mental Health, and the addition of new beds or the  
1084 conversion of beds from one category to another in any such  
1085 defined health care facility which is owned by the State of  
1086 Mississippi and under the direction and control of the State  
1087 Department of Mental Health, shall not require the issuance of a  
1088 certificate of need under Section 41-7-171 et seq.,  
1089 notwithstanding any provision in Section 41-7-171 et seq. to the  
1090 contrary.

1091 (12) The new construction, renovation or expansion of or  
1092 addition to any veterans homes or domiciliaries for eligible  
1093 veterans of the State of Mississippi as authorized under Section  
1094 35-1-19 shall not require the issuance of a certificate of need,  
1095 notwithstanding any provision in Section 41-7-171 et seq. to the  
1096 contrary.

1097 (13) The new construction of a nursing facility or nursing  
1098 facility beds or the conversion of other beds to nursing facility  
1099 beds shall not require the issuance of a certificate of need,  
1100 notwithstanding any provision in Section 41-7-171 et seq. to the  
1101 contrary, if the conditions of this subsection are met.

1102 (a) Before any construction or conversion may be  
1103 undertaken without a certificate of need, the owner of the nursing  
1104 facility, in the case of an existing facility, or the applicant to  
1105 construct a nursing facility, in the case of new construction,  
1106 first must file a written notice of intent and sign a written  
1107 agreement with the State Department of Health that the entire  
1108 nursing facility will not at any time participate in or have any  
1109 beds certified for participation in the Medicaid program (Section  
1110 43-13-101 et seq.), will not admit or keep any patients in the  
1111 nursing facility who are participating in the Medicaid program,  
1112 and will not submit any claim for Medicaid reimbursement for any  
1113 patient in the facility. This written agreement by the owner or

1114 applicant shall be a condition of exercising the authority under  
1115 this subsection without a certificate of need, and the agreement  
1116 shall be fully binding on any subsequent owner of the nursing  
1117 facility if the ownership of the facility is transferred at any  
1118 time after the agreement is signed. After the written agreement  
1119 is signed, the Division of Medicaid and the State Department of  
1120 Health shall not certify any beds in the nursing facility for  
1121 participation in the Medicaid program. If the nursing facility  
1122 violates the terms of the written agreement by participating in  
1123 the Medicaid program, having any beds certified for participation  
1124 in the Medicaid program, admitting or keeping any patient in the  
1125 facility who is participating in the Medicaid program, or  
1126 submitting any claim for Medicaid reimbursement for any patient in  
1127 the facility, the State Department of Health shall revoke the  
1128 license of the nursing facility at the time that the department  
1129 determines, after a hearing complying with due process, that the  
1130 facility has violated the terms of the written agreement.

1131 (b) For the purposes of this subsection, participation  
1132 in the Medicaid program by a nursing facility includes Medicaid  
1133 reimbursement of coinsurance and deductibles for recipients who  
1134 are qualified Medicare beneficiaries and/or those who are dually  
1135 eligible. Any nursing facility exercising the authority under  
1136 this subsection may not bill or submit a claim to the Division of  
1137 Medicaid for services to qualified Medicare beneficiaries and/or  
1138 those who are dually eligible.

1139 (c) The new construction of a nursing facility or  
1140 nursing facility beds or the conversion of other beds to nursing  
1141 facility beds described in this section must be either a part of a  
1142 completely new continuing care retirement community, as described  
1143 in the latest edition of the Mississippi State Health Plan, or an  
1144 addition to existing personal care and independent living  
1145 components, and so that the completed project will be a continuing  
1146 care retirement community, containing (i) independent living

1147 accommodations, (ii) personal care beds, and (iii) the nursing  
1148 home facility beds. The three (3) components must be located on a  
1149 single site and be operated as one (1) inseparable facility. The  
1150 nursing facility component must contain a minimum of thirty (30)  
1151 beds. Any nursing facility beds authorized by this section will  
1152 not be counted against the bed need set forth in the State Health  
1153 Plan, as identified in Section 41-7-171 et seq.

1154 This subsection (13) shall stand repealed from and after July  
1155 1, 2005.

1156 (14) The State Department of Health shall issue a  
1157 certificate of need to any hospital which is currently licensed  
1158 for two hundred fifty (250) or more acute care beds and is located  
1159 in any general hospital service area not having a comprehensive  
1160 cancer center, for the establishment and equipping of such a  
1161 center which provides facilities and services for outpatient  
1162 radiation oncology therapy, outpatient medical oncology therapy,  
1163 and appropriate support services including the provision of  
1164 radiation therapy services. The provision of Section 41-7-193(1)  
1165 regarding substantial compliance with the projection of need as  
1166 reported in the current State Health Plan is waived for the  
1167 purpose of this subsection.

1168 (15) The State Department of Health may authorize the  
1169 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1170 North Panola Community Hospital to the South Panola Community  
1171 Hospital. The authorization for the transfer of those beds shall  
1172 be exempt from the certificate of need review process.

1173 (16) The State Department of Health shall issue any  
1174 certificates of need necessary for Mississippi State University  
1175 and a public or private health care provider to jointly acquire  
1176 and operate a linear accelerator and a magnetic resonance imaging  
1177 unit. Those certificates of need shall cover all capital  
1178 expenditures related to the project between Mississippi State  
1179 University and the health care provider, including, but not

1180 limited to, the acquisition of the linear accelerator, the  
1181 magnetic resonance imaging unit and other radiological modalities;  
1182 the offering of linear accelerator and magnetic resonance imaging  
1183 services; and the cost of construction of facilities in which to  
1184 locate these services. The linear accelerator and the magnetic  
1185 resonance imaging unit shall be (a) located in the City of  
1186 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1187 Mississippi State University and the public or private health care  
1188 provider selected by Mississippi State University through a  
1189 request for proposals (RFP) process in which Mississippi State  
1190 University selects, and the Board of Trustees of State  
1191 Institutions of Higher Learning approves, the health care provider  
1192 that makes the best overall proposal; (c) available to Mississippi  
1193 State University for research purposes two-thirds (2/3) of the  
1194 time that the linear accelerator and magnetic resonance imaging  
1195 unit are operational; and (d) available to the public or private  
1196 health care provider selected by Mississippi State University and  
1197 approved by the Board of Trustees of State Institutions of Higher  
1198 Learning one-third (1/3) of the time for clinical, diagnostic and  
1199 treatment purposes. For purposes of this subsection, the  
1200 provisions of Section 41-7-193(1) requiring substantial compliance  
1201 with the projection of need as reported in the current State  
1202 Health Plan are waived.

1203       (17) The State Department of Health shall issue a  
1204 certificate of need for the construction of a new acute care  
1205 hospital in the City of Olive Branch in DeSoto County, not to  
1206 exceed one hundred (100) acute care beds. For purposes of this  
1207 subsection, the provisions of Section 41-7-193(1) requiring  
1208 substantial compliance with the projection of need as reported in  
1209 the current State Health Plan are waived.

1210       (18) Nothing in this section or in any other provision of  
1211 Section 41-7-171 et seq. shall prevent any nursing facility from  
1212 designating an appropriate number of existing beds in the facility

1213 as beds for providing care exclusively to patients with  
1214 Alzheimer's disease.

1215           **SECTION 2.** This act shall take effect and be in force from  
1216 and after July 1, 2007.