

By: Representative Holland

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1192

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE CERTIFICATES  
3 OF NEED TO A REGIONAL MEDICAL CENTER IN WASHINGTON COUNTY FOR THE  
4 CONSTRUCTION OR CONVERSION OF PSYCHIATRIC RESIDENTIAL TREATMENT  
5 FACILITY BEDS AND CHILD/ADOLESCENT PSYCHIATRIC BEDS IN WASHINGTON  
6 COUNTY; TO REVOKE CERTAIN PREVIOUSLY ISSUED CERTIFICATES OF NEED  
7 THAT AUTHORIZED THOSE BEDS IN WARREN COUNTY; AND FOR RELATED  
8 PURPOSES.

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

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

12 41-7-191. (1) No person shall engage in any of the  
13 following activities without obtaining the required certificate of  
14 need:

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

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

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

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

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

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

64 (ix) Home health services;  
65 (x) Swing-bed services;  
66 (xi) Ambulatory surgical services;  
67 (xii) Magnetic resonance imaging services;  
68 (xiii) [Deleted]  
69 (xiv) Long-term care hospital services;  
70 (xv) Positron Emission Tomography (PET) services;  
71 (e) The relocation of one or more health services from  
72 one physical facility or site to another physical facility or  
73 site, unless such relocation, which does not involve a capital  
74 expenditure by or on behalf of a health care facility, (i) is to a  
75 physical facility or site within five thousand two hundred eighty  
76 (5,280) feet from the main entrance of the health care facility  
77 where the health care service is located, or (ii) is the result of  
78 an order of a court of appropriate jurisdiction or a result of  
79 pending litigation in such court, or by order of the State  
80 Department of Health, or by order of any other agency or legal  
81 entity of the state, the federal government, or any political  
82 subdivision of either, whose order is also approved by the State  
83 Department of Health;  
84 (f) The acquisition or otherwise control of any major  
85 medical equipment for the provision of medical services; provided,  
86 however, (i) the acquisition of any major medical equipment used  
87 only for research purposes, and (ii) the acquisition of major  
88 medical equipment to replace medical equipment for which a  
89 facility is already providing medical services and for which the  
90 State Department of Health has been notified before the date of  
91 such acquisition shall be exempt from this paragraph; an  
92 acquisition for less than fair market value must be reviewed, if  
93 the acquisition at fair market value would be subject to review;  
94 (g) Changes of ownership of existing health care  
95 facilities in which a notice of intent is not filed with the State  
96 Department of Health at least thirty (30) days prior to the date

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

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

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

114 (j) Any capital expenditure or deferred capital  
115 expenditure by or on behalf of a health care facility not covered  
116 by paragraphs (a) through (h);

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

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

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

130 requires a certificate of need for the establishment of a new  
131 health care facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

681 (3) The State Department of Health may grant approval for  
682 and issue certificates of need to any person proposing the new  
683 construction of, addition to, conversion of beds of or expansion  
684 of any health care facility defined in subparagraph (x)  
685 (psychiatric residential treatment facility) of Section  
686 41-7-173(h). The total number of beds which may be authorized by  
687 such certificates of need shall not exceed three hundred  
688 thirty-four (334) beds for the entire state.

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

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

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

735 The State Department of Health, on or before July 1, 2007,  
736 shall revoke the certificate of need that was issued under the  
737 authority of this paragraph (b) \* \* \*.

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

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

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

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



787 to Mississippi residents who are presently being treated in  
788 out-of-state facilities.

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

816 (g) Of the total number of beds authorized under this  
817 subsection, from and after July 1, 2007, the department may issue  
818 a certificate or certificates of need to a regional medical center  
819 in Washington County for the construction or expansion of

820 psychiatric residential treatment facility beds or the conversion  
821 of other beds to psychiatric residential treatment facility beds  
822 in Washington County, not to exceed sixty (60) psychiatric  
823 residential treatment facility beds. For purposes of this  
824 paragraph, the provisions of Section 41-7-193(1) requiring  
825 substantial compliance with the projection of need as reported in  
826 the current State Health Plan are waived. There shall be no  
827 prohibition or restrictions on participation in the Medicaid  
828 program (Section 43-13-101 et seq.) for the person receiving the  
829 certificate of need authorized under this paragraph or for the  
830 beds converted under the authority of that certificate of need.

831       (4) (a) From and after July 1, 1993, the department shall  
832 not issue a certificate of need to any person for the new  
833 construction of any hospital, psychiatric hospital or chemical  
834 dependency hospital that will contain any child/adolescent  
835 psychiatric or child/adolescent chemical dependency beds, or for  
836 the conversion of any other health care facility to a hospital,  
837 psychiatric hospital or chemical dependency hospital that will  
838 contain any child/adolescent psychiatric or child/adolescent  
839 chemical dependency beds, or for the addition of any  
840 child/adolescent psychiatric or child/adolescent chemical  
841 dependency beds in any hospital, psychiatric hospital or chemical  
842 dependency hospital, or for the conversion of any beds of another  
843 category in any hospital, psychiatric hospital or chemical  
844 dependency hospital to child/adolescent psychiatric or  
845 child/adolescent chemical dependency beds, except as hereinafter  
846 authorized:

847               (i) The department may issue certificates of need  
848 to any person for any purpose described in this subsection,  
849 provided that the hospital, psychiatric hospital or chemical  
850 dependency hospital does not participate in the Medicaid program  
851 (Section 43-13-101 et seq.) at the time of the application for the  
852 certificate of need and the owner of the hospital, psychiatric

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

882                   (ii) The department may issue a certificate of  
883 need for the conversion of existing beds in a county hospital in  
884 Choctaw County from acute care beds to child/adolescent chemical  
885 dependency beds. For purposes of this subparagraph (ii), the

886 provisions of Section 41-7-193(1) requiring substantial compliance  
887 with the projection of need as reported in the current State  
888 Health Plan is waived. The total number of beds that may be  
889 authorized under authority of this subparagraph shall not exceed  
890 twenty (20) beds. There shall be no prohibition or restrictions  
891 on participation in the Medicaid program (Section 43-13-101 et  
892 seq.) for the hospital receiving the certificate of need  
893 authorized under this subparagraph \* \* \* or for the beds converted  
894 pursuant to the authority of that certificate of need.

895 (iii) The department may issue a certificate or  
896 certificates of need for the construction or expansion of  
897 child/adolescent psychiatric beds or the conversion of other beds  
898 to child/adolescent psychiatric beds in Warren County. For  
899 purposes of this subparagraph (iii), the provisions of Section  
900 41-7-193(1) requiring substantial compliance with the projection  
901 of need as reported in the current State Health Plan are waived.  
902 The total number of beds that may be authorized under the  
903 authority of this subparagraph shall not exceed twenty (20) beds.  
904 There shall be no prohibition or restrictions on participation in  
905 the Medicaid program (Section 43-13-101 et seq.) for the person  
906 receiving the certificate of need authorized under this  
907 subparagraph \* \* \* or for the beds converted pursuant to the  
908 authority of that certificate of need.

909 The State Department of Health, on or before July 1, 2007,  
910 shall revoke the certificate of need that was issued under the  
911 authority of this subparagraph (iii).

912 (iv) The department shall issue a certificate of  
913 need to the Region 7 Mental Health/Retardation Commission for the  
914 construction or expansion of child/adolescent psychiatric beds or  
915 the conversion of other beds to child/adolescent psychiatric beds  
916 in any of the counties served by the commission. For purposes of  
917 this subparagraph (iv), the provisions of Section 41-7-193(1)  
918 requiring substantial compliance with the projection of need as

919 reported in the current State Health Plan is waived. The total  
920 number of beds that may be authorized under the authority of this  
921 subparagraph shall not exceed twenty (20) beds. There shall be no  
922 prohibition or restrictions on participation in the Medicaid  
923 program (Section 43-13-101 et seq.) for the person receiving the  
924 certificate of need authorized under this subparagraph \* \* \* or  
925 for the beds converted pursuant to the authority of that  
926 certificate of need.

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

952 to comply with any of the conditions upon which the certificate of  
953 need was issued, as provided in this subparagraph and in the  
954 written agreement by the recipient of the certificate of need.

955 (vi) The department may issue a certificate or  
956 certificates of need for the expansion of child psychiatric beds  
957 or the conversion of other beds to child psychiatric beds at the  
958 University of Mississippi Medical Center. For purposes of this  
959 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
960 requiring substantial compliance with the projection of need as  
961 reported in the current State Health Plan is waived. The total  
962 number of beds that may be authorized under the authority of this  
963 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
964 shall be no prohibition or restrictions on participation in the  
965 Medicaid program (Section 43-13-101 et seq.) for the hospital  
966 receiving the certificate of need authorized under this  
967 subparagraph \* \* \* or for the beds converted pursuant to the  
968 authority of that certificate of need.

969 (vii) From and after July 1, 2007, the department  
970 may issue a certificate or certificates of need to a regional  
971 medical center in Washington County for the construction or  
972 expansion of child/adolescent psychiatric beds or the conversion  
973 of other beds to child/adolescent psychiatric beds in Washington  
974 County, not to exceed twenty (20) beds. For purposes of this  
975 subparagraph (vii), the provisions of Section 41-7-193(1)  
976 requiring substantial compliance with the projection of need as  
977 reported in the current State Health Plan are waived. There shall  
978 be no prohibition or restrictions on participation in the Medicaid  
979 program (Section 43-13-101 et seq.) for the person receiving the  
980 certificate of need authorized under this subparagraph or for the  
981 beds converted under the authority of that certificate of need.

982 (b) From and after July 1, 1990, no hospital,  
983 psychiatric hospital or chemical dependency hospital shall be  
984 authorized to add any child/adolescent psychiatric or

985 child/adolescent chemical dependency beds or convert any beds of  
986 another category to child/adolescent psychiatric or  
987 child/adolescent chemical dependency beds without a certificate of  
988 need under the authority of subsection (1)(c) of this section.

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

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

1018 conditions upon which the certificate of need was issued, as  
1019 provided in this subsection and in the written agreement by the  
1020 recipient of the certificate of need. For purposes of this  
1021 subsection, the provision of Section 41-7-193(1) requiring  
1022 substantial compliance with the projection of need as reported in  
1023 the current State Health Plan is hereby waived.

1024 (7) The State Department of Health may issue a certificate  
1025 of need to any hospital in the state to utilize a portion of its  
1026 beds for the "swing-bed" concept. Any such hospital must be in  
1027 conformance with the federal regulations regarding such swing-bed  
1028 concept at the time it submits its application for a certificate  
1029 of need to the State Department of Health, except that such  
1030 hospital may have more licensed beds or a higher average daily  
1031 census (ADC) than the maximum number specified in federal  
1032 regulations for participation in the swing-bed program. Any  
1033 hospital meeting all federal requirements for participation in the  
1034 swing-bed program which receives such certificate of need shall  
1035 render services provided under the swing-bed concept to any  
1036 patient eligible for Medicare (Title XVIII of the Social Security  
1037 Act) who is certified by a physician to be in need of such  
1038 services, and no such hospital shall permit any patient who is  
1039 eligible for both Medicaid and Medicare or eligible only for  
1040 Medicaid to stay in the swing beds of the hospital for more than  
1041 thirty (30) days per admission unless the hospital receives prior  
1042 approval for such patient from the Division of Medicaid, Office of  
1043 the Governor. Any hospital having more licensed beds or a higher  
1044 average daily census (ADC) than the maximum number specified in  
1045 federal regulations for participation in the swing-bed program  
1046 which receives such certificate of need shall develop a procedure  
1047 to insure that before a patient is allowed to stay in the swing  
1048 beds of the hospital, there are no vacant nursing home beds  
1049 available for that patient located within a fifty-mile radius of  
1050 the hospital. When any such hospital has a patient staying in the



1051 swing beds of the hospital and the hospital receives notice from a  
1052 nursing home located within such radius that there is a vacant bed  
1053 available for that patient, the hospital shall transfer the  
1054 patient to the nursing home within a reasonable time after receipt  
1055 of the notice. Any hospital which is subject to the requirements  
1056 of the two (2) preceding sentences of this subsection may be  
1057 suspended from participation in the swing-bed program for a  
1058 reasonable period of time by the State Department of Health if the  
1059 department, after a hearing complying with due process, determines  
1060 that the hospital has failed to comply with any of those  
1061 requirements.

1062 (8) The Department of Health shall not grant approval for or  
1063 issue a certificate of need to any person proposing the new  
1064 construction of, addition to or expansion of a health care  
1065 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1066 except as hereinafter provided: The department may issue a  
1067 certificate of need to a nonprofit corporation located in Madison  
1068 County, Mississippi, for the construction, expansion or conversion  
1069 of not more than twenty (20) beds in a community living program  
1070 for developmentally disabled adults in a facility as defined in  
1071 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1072 subsection (8), the provisions of Section 41-7-193(1) requiring  
1073 substantial compliance with the projection of need as reported in  
1074 the current State Health Plan and the provisions of Section  
1075 41-7-197 requiring a formal certificate of need hearing process  
1076 are waived. There shall be no prohibition or restrictions on  
1077 participation in the Medicaid program for the person receiving the  
1078 certificate of need authorized under this subsection (8).

1079 (9) The Department of Health shall not grant approval for or  
1080 issue a certificate of need to any person proposing the  
1081 establishment of, or expansion of the currently approved territory  
1082 of, or the contracting to establish a home office, subunit or  
1083 branch office within the space operated as a health care facility

1084 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1085 care facility as defined in subparagraph (ix) of Section  
1086 41-7-173(h).

1087 (10) Health care facilities owned and/or operated by the  
1088 state or its agencies are exempt from the restraints in this  
1089 section against issuance of a certificate of need if such addition  
1090 or expansion consists of repairing or renovation necessary to  
1091 comply with the state licensure law. This exception shall not  
1092 apply to the new construction of any building by such state  
1093 facility. This exception shall not apply to any health care  
1094 facilities owned and/or operated by counties, municipalities,  
1095 districts, unincorporated areas, other defined persons, or any  
1096 combination thereof.

1097 (11) The new construction, renovation or expansion of or  
1098 addition to any health care facility defined in subparagraph (ii)  
1099 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1100 facility), subparagraph (vi) (intermediate care facility),  
1101 subparagraph (viii) (intermediate care facility for the mentally  
1102 retarded) and subparagraph (x) (psychiatric residential treatment  
1103 facility) of Section 41-7-173(h) which is owned by the State of  
1104 Mississippi and under the direction and control of the State  
1105 Department of Mental Health, and the addition of new beds or the  
1106 conversion of beds from one category to another in any such  
1107 defined health care facility which is owned by the State of  
1108 Mississippi and under the direction and control of the State  
1109 Department of Mental Health, shall not require the issuance of a  
1110 certificate of need under Section 41-7-171 et seq.,  
1111 notwithstanding any provision in Section 41-7-171 et seq. to the  
1112 contrary.

1113 (12) The new construction, renovation or expansion of or  
1114 addition to any veterans homes or domiciliaries for eligible  
1115 veterans of the State of Mississippi as authorized under Section  
1116 35-1-19 shall not require the issuance of a certificate of need,

1117 notwithstanding any provision in Section 41-7-171 et seq. to the  
1118 contrary.

1119 (13) The new construction of a nursing facility or nursing  
1120 facility beds or the conversion of other beds to nursing facility  
1121 beds 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, if the conditions of this subsection are met.

1124 (a) Before any construction or conversion may be  
1125 undertaken without a certificate of need, the owner of the nursing  
1126 facility, in the case of an existing facility, or the applicant to  
1127 construct a nursing facility, in the case of new construction,  
1128 first must file a written notice of intent and sign a written  
1129 agreement with the State Department of Health that the entire  
1130 nursing facility will not at any time participate in or have any  
1131 beds certified for participation in the Medicaid program (Section  
1132 43-13-101 et seq.), will not admit or keep any patients in the  
1133 nursing facility who are participating in the Medicaid program,  
1134 and will not submit any claim for Medicaid reimbursement for any  
1135 patient in the facility. This written agreement by the owner or  
1136 applicant shall be a condition of exercising the authority under  
1137 this subsection without a certificate of need, and the agreement  
1138 shall be fully binding on any subsequent owner of the nursing  
1139 facility if the ownership of the facility is transferred at any  
1140 time after the agreement is signed. After the written agreement  
1141 is signed, the Division of Medicaid and the State Department of  
1142 Health shall not certify any beds in the nursing facility for  
1143 participation in the Medicaid program. If the nursing facility  
1144 violates the terms of the written agreement by participating in  
1145 the Medicaid program, having any beds certified for participation  
1146 in the Medicaid program, admitting or keeping any patient in the  
1147 facility who is participating in the Medicaid program, or  
1148 submitting any claim for Medicaid reimbursement for any patient in  
1149 the facility, the State Department of Health shall revoke the

1150 license of the nursing facility at the time that the department  
1151 determines, after a hearing complying with due process, that the  
1152 facility has violated the terms of the written agreement.

1153 (b) For the purposes of this subsection, participation  
1154 in the Medicaid program by a nursing facility includes Medicaid  
1155 reimbursement of coinsurance and deductibles for recipients who  
1156 are qualified Medicare beneficiaries and/or those who are dually  
1157 eligible. Any nursing facility exercising the authority under  
1158 this subsection may not bill or submit a claim to the Division of  
1159 Medicaid for services to qualified Medicare beneficiaries and/or  
1160 those who are dually eligible.

1161 (c) The new construction of a nursing facility or  
1162 nursing facility beds or the conversion of other beds to nursing  
1163 facility beds described in this section must be either a part of a  
1164 completely new continuing care retirement community, as described  
1165 in the latest edition of the Mississippi State Health Plan, or an  
1166 addition to existing personal care and independent living  
1167 components, and so that the completed project will be a continuing  
1168 care retirement community, containing (i) independent living  
1169 accommodations, (ii) personal care beds, and (iii) the nursing  
1170 home facility beds. The three (3) components must be located on a  
1171 single site and be operated as one (1) inseparable facility. The  
1172 nursing facility component must contain a minimum of thirty (30)  
1173 beds. Any nursing facility beds authorized by this section will  
1174 not be counted against the bed need set forth in the State Health  
1175 Plan, as identified in Section 41-7-171 et seq.

1176 This subsection (13) shall stand repealed from and after July  
1177 1, 2005.

1178 (14) The State Department of Health shall issue a  
1179 certificate of need to any hospital which is currently licensed  
1180 for two hundred fifty (250) or more acute care beds and is located  
1181 in any general hospital service area not having a comprehensive  
1182 cancer center, for the establishment and equipping of such a

1183 center which provides facilities and services for outpatient  
1184 radiation oncology therapy, outpatient medical oncology therapy,  
1185 and appropriate support services including the provision of  
1186 radiation therapy services. The provision of Section 41-7-193(1)  
1187 regarding substantial compliance with the projection of need as  
1188 reported in the current State Health Plan is waived for the  
1189 purpose of this subsection.

1190 (15) The State Department of Health may authorize the  
1191 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1192 North Panola Community Hospital to the South Panola Community  
1193 Hospital. The authorization for the transfer of those beds shall  
1194 be exempt from the certificate of need review process.

1195 (16) The State Department of Health shall issue any  
1196 certificates of need necessary for Mississippi State University  
1197 and a public or private health care provider to jointly acquire  
1198 and operate a linear accelerator and a magnetic resonance imaging  
1199 unit. Those certificates of need shall cover all capital  
1200 expenditures related to the project between Mississippi State  
1201 University and the health care provider, including, but not  
1202 limited to, the acquisition of the linear accelerator, the  
1203 magnetic resonance imaging unit and other radiological modalities;  
1204 the offering of linear accelerator and magnetic resonance imaging  
1205 services; and the cost of construction of facilities in which to  
1206 locate these services. The linear accelerator and the magnetic  
1207 resonance imaging unit shall be (a) located in the City of  
1208 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1209 Mississippi State University and the public or private health care  
1210 provider selected by Mississippi State University through a  
1211 request for proposals (RFP) process in which Mississippi State  
1212 University selects, and the Board of Trustees of State  
1213 Institutions of Higher Learning approves, the health care provider  
1214 that makes the best overall proposal; (c) available to Mississippi  
1215 State University for research purposes two-thirds (2/3) of the

1216 time that the linear accelerator and magnetic resonance imaging  
1217 unit are operational; and (d) available to the public or private  
1218 health care provider selected by Mississippi State University and  
1219 approved by the Board of Trustees of State Institutions of Higher  
1220 Learning one-third (1/3) of the time for clinical, diagnostic and  
1221 treatment purposes. For purposes of this subsection, the  
1222 provisions of Section 41-7-193(1) requiring substantial compliance  
1223 with the projection of need as reported in the current State  
1224 Health Plan are waived.

1225 (17) Nothing in this section or in any other provision of  
1226 Section 41-7-171 et seq. shall prevent any nursing facility from  
1227 designating an appropriate number of existing beds in the facility  
1228 as beds for providing care exclusively to patients with  
1229 Alzheimer's disease.

1230 **SECTION 2.** This act shall take effect and be in force from  
1231 and after its passage.