

By: Senator(s) Doxey

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2802

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ALL OF THE BEDS IN A PSYCHIATRIC RESIDENTIAL  
3 TREATMENT FACILITY AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED  
4 TO A HOSPITAL IN DESOTO COUNTY MAY PARTICIPATE IN MEDICAID; TO  
5 PROVIDE THAT UP TO 36 ACUTE CHILD/ADOLESCENT PSYCHIATRIC BEDS IN A  
6 HOSPITAL IN DESOTO COUNTY MAY BE CERTIFIED TO PARTICIPATE IN  
7 MEDICAID; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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. Notwithstanding the

754 restrictions on Medicaid participation set forth in the preceding  
755 sentence, from and after the effective date of this act, all forty  
756 (40) of the beds in the psychiatric residential treatment facility  
757 may be certified for participation in the Medicaid program, and  
758 claims may be submitted for Medicaid reimbursement for all  
759 patients in the psychiatric residential treatment facility. From  
760 and after the effective date of this act, any restrictions or  
761 limitations on Medicaid participation or reimbursement in  
762 connection with the psychiatric residential treatment facility,  
763 whether statutory or in any certificate of need, written agreement  
764 or otherwise, shall be deemed null and void, and the facility and  
765 all beds in the facility may participate fully in the Medicaid  
766 program. In order for all forty (40) beds in the psychiatric  
767 residential facility to become certified for Medicaid  
768 reimbursement, the recipient of the certificate of need for the  
769 facility shall not be required to obtain an additional certificate  
770 of need, but shall only be required to provide written notice to  
771 the State Department of Health, or its successor, and the Division  
772 of Medicaid, or its successor, shall promptly issue a written  
773 approval authorizing all forty (40) beds in the facility to be  
774 certified for Medicaid participation, and shall promptly take any  
775 and all action required to certify all forty (40) beds for  
776 participation in the Medicaid program. From and after the  
777 effective date of this act, the State Department of Health, or its  
778 successor, shall not be authorized to revoke the license of the  
779 psychiatric residential treatment facility on the grounds that the  
780 facility admits or keeps, on a regular or continuing basis, more  
781 than fifteen (15) patients who are participating in the Medicaid  
782 program. There shall be no restriction or limitation regarding  
783 Medicaid participation with respect to any subsequent owner of the  
784 psychiatric residential treatment facility. This written  
785 agreement by the recipient of the certificate of need shall be a  
786 condition of the issuance of the certificate of need under this



787 paragraph, and the agreement shall be fully binding on any  
788 subsequent owner of the psychiatric residential treatment facility  
789 if the ownership of the facility is transferred at any time after  
790 the issuance of the certificate of need. After this written  
791 agreement is executed, the Division of Medicaid and the State  
792 Department of Health shall not certify more than fifteen (15) of  
793 the beds in the psychiatric residential treatment facility for  
794 participation in the Medicaid program. If the psychiatric  
795 residential treatment facility violates the terms of the written  
796 agreement by admitting or keeping in the facility on a regular or  
797 continuing basis more than fifteen (15) patients who are  
798 participating in the Medicaid program, the State Department of  
799 Health shall revoke the license of the facility, at the time that  
800 the department determines, after a hearing complying with due  
801 process, that the facility has violated the condition upon which  
802 the certificate of need was issued, as provided in this paragraph  
803 and in the written agreement.

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

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

820           (f) The department shall issue a certificate of need to  
821 a one-hundred-thirty-four-bed specialty hospital located on  
822 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
823 at 5900 Highway 39 North in Meridian (Lauderdale County),  
824 Mississippi, for the addition, construction or expansion of  
825 child/adolescent psychiatric residential treatment facility beds  
826 in Lauderdale County. As a condition of issuance of the  
827 certificate of need under this paragraph, the facility shall give  
828 priority in admissions to the child/adolescent psychiatric  
829 residential treatment facility beds authorized under this  
830 paragraph to patients who otherwise would require out-of-state  
831 placement. The Division of Medicaid, in conjunction with the  
832 Department of Human Services, shall furnish the facility a list of  
833 all out-of-state patients on a quarterly basis. Furthermore,  
834 notice shall also be provided to the parent, custodial parent or  
835 guardian of each out-of-state patient notifying them of the  
836 priority status granted by this paragraph. For purposes of this  
837 paragraph, the provisions of Section 41-7-193(1) requiring  
838 substantial compliance with the projection of need as reported in  
839 the current State Health Plan are waived. The total number of  
840 child/adolescent psychiatric residential treatment facility beds  
841 that may be authorized under the authority of this paragraph shall  
842 be sixty (60) beds. There shall be no prohibition or restrictions  
843 on participation in the Medicaid program (Section 43-13-101 et  
844 seq.) for the person receiving the certificate of need authorized  
845 under this paragraph or for the beds converted pursuant to the  
846 authority of that certificate of need.

847           (4) (a) From and after July 1, 1993, the department shall  
848 not issue a certificate of need to any person for the new  
849 construction of any hospital, psychiatric hospital or chemical  
850 dependency hospital that will contain any child/adolescent  
851 psychiatric or child/adolescent chemical dependency beds, or for  
852 the conversion of any other health care facility to a hospital,

853 psychiatric hospital or chemical dependency hospital that will  
854 contain any child/adolescent psychiatric or child/adolescent  
855 chemical dependency beds, or for the addition of any  
856 child/adolescent psychiatric or child/adolescent chemical  
857 dependency beds in any hospital, psychiatric hospital or chemical  
858 dependency hospital, or for the conversion of any beds of another  
859 category in any hospital, psychiatric hospital or chemical  
860 dependency hospital to child/adolescent psychiatric or  
861 child/adolescent chemical dependency beds, except as hereinafter  
862 authorized:

863                   (i) The department may issue certificates of need  
864 to any person for any purpose described in this subsection,  
865 provided that the hospital, psychiatric hospital or chemical  
866 dependency hospital does not participate in the Medicaid program  
867 (Section 43-13-101 et seq.) at the time of the application for the  
868 certificate of need and the owner of the hospital, psychiatric  
869 hospital or chemical dependency hospital agrees in writing that  
870 the hospital, psychiatric hospital or chemical dependency hospital  
871 will not at any time participate in the Medicaid program or admit  
872 or keep any patients who are participating in the Medicaid program  
873 in the hospital, psychiatric hospital or chemical dependency  
874 hospital. This written agreement by the recipient of the  
875 certificate of need shall be fully binding on any subsequent owner  
876 of the hospital, psychiatric hospital or chemical dependency  
877 hospital, if the ownership of the facility is transferred at any  
878 time after the issuance of the certificate of need. Agreement  
879 that the hospital, psychiatric hospital or chemical dependency  
880 hospital will not participate in the Medicaid program shall be a  
881 condition of the issuance of a certificate of need to any person  
882 under this subparagraph \* \* \* (i), and if such hospital,  
883 psychiatric hospital or chemical dependency hospital at any time  
884 after the issuance of the certificate of need, regardless of the  
885 ownership of the facility, participates in the Medicaid program or

886 admits or keeps any patients in the hospital, psychiatric hospital  
887 or chemical dependency hospital who are participating in the  
888 Medicaid program, the State Department of Health shall revoke the  
889 certificate of need, if it is still outstanding, and shall deny or  
890 revoke the license of the hospital, psychiatric hospital or  
891 chemical dependency hospital, at the time that the department  
892 determines, after a hearing complying with due process, that the  
893 hospital, psychiatric hospital or chemical dependency hospital has  
894 failed to comply with any of the conditions upon which the  
895 certificate of need was issued, as provided in this subparagraph  
896 (i) and in the written agreement by the recipient of the  
897 certificate of need.

898           (ii) The department may issue a certificate of  
899 need for the conversion of existing beds in a county hospital in  
900 Choctaw County from acute care beds to child/adolescent chemical  
901 dependency beds. For purposes of this subparagraph (ii), the  
902 provisions of Section 41-7-193(1) requiring substantial compliance  
903 with the projection of need as reported in the current State  
904 Health Plan is waived. The total number of beds that may be  
905 authorized under authority of this subparagraph shall not exceed  
906 twenty (20) beds. There shall be no prohibition or restrictions  
907 on participation in the Medicaid program (Section 43-13-101 et  
908 seq.) for the hospital receiving the certificate of need  
909 authorized under this subparagraph \* \* \* or for the beds converted  
910 pursuant to the authority of that certificate of need.

911           (iii) The department may issue a certificate or  
912 certificates of need for the construction or expansion of  
913 child/adolescent psychiatric beds or the conversion of other beds  
914 to child/adolescent psychiatric beds in Warren County. For  
915 purposes of this subparagraph (iii), the provisions of Section  
916 41-7-193(1) requiring substantial compliance with the projection  
917 of need as reported in the current State Health Plan are waived.  
918 The total number of beds that may be authorized under the

919 authority of this subparagraph shall not exceed twenty (20) beds.  
920 There shall be no prohibition or restrictions on participation in  
921 the Medicaid program (Section 43-13-101 et seq.) for the person  
922 receiving the certificate of need authorized under this  
923 subparagraph \* \* \* or for the beds converted pursuant to the  
924 authority of that certificate of need.

925         If by January 1, 2002, there has been no significant  
926 commencement of construction of the beds authorized under this  
927 subparagraph \* \* \* (iii), or no significant action taken to  
928 convert existing beds to the beds authorized under this  
929 subparagraph, then the certificate of need that was previously  
930 issued under this subparagraph shall expire. If the previously  
931 issued certificate of need expires, the department may accept  
932 applications for issuance of another certificate of need for the  
933 beds authorized under this subparagraph, and may issue a  
934 certificate of need to authorize the construction, expansion or  
935 conversion of the beds authorized under this subparagraph.

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

951                   (v) The department may issue a certificate of need  
952 to any county hospital located in Leflore County for the  
953 construction or expansion of adult psychiatric beds or the  
954 conversion of other beds to adult psychiatric beds, not to exceed  
955 twenty (20) beds, provided that the recipient of the certificate  
956 of need agrees in writing that the adult psychiatric beds will not  
957 at any time be certified for participation in the Medicaid program  
958 and that the hospital will not admit or keep any patients who are  
959 participating in the Medicaid program in any of such adult  
960 psychiatric beds. This written agreement by the recipient of the  
961 certificate of need shall be fully binding on any subsequent owner  
962 of the hospital if the ownership of the hospital is transferred at  
963 any time after the issuance of the certificate of need. Agreement  
964 that the adult psychiatric beds will not be certified for  
965 participation in the Medicaid program shall be a condition of the  
966 issuance of a certificate of need to any person under this  
967 subparagraph \* \* \* (v), and if such hospital at any time after the  
968 issuance of the certificate of need, regardless of the ownership  
969 of the hospital, has any of such adult psychiatric beds certified  
970 for participation in the Medicaid program or admits or keeps any  
971 Medicaid patients in such adult psychiatric beds, the State  
972 Department of Health shall revoke the certificate of need, if it  
973 is still outstanding, and shall deny or revoke the license of the  
974 hospital at the time that the department determines, after a  
975 hearing complying with due process, that the hospital has failed  
976 to comply with any of the conditions upon which the certificate of  
977 need was issued, as provided in this subparagraph and in the  
978 written agreement by the recipient of the certificate of need.

979                   (vi) The department may issue a certificate or  
980 certificates of need for the expansion of child psychiatric beds  
981 or the conversion of other beds to child psychiatric beds at the  
982 University of Mississippi Medical Center. For purposes of this  
983 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)

984 requiring substantial compliance with the projection of need as  
985 reported in the current State Health Plan is waived. The total  
986 number of beds that may be authorized under the authority of this  
987 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
988 shall be no prohibition or restrictions on participation in the  
989 Medicaid program (Section 43-13-101 et seq.) for the hospital  
990 receiving the certificate of need authorized under this  
991 subparagraph \* \* \* or for the beds converted pursuant to the  
992 authority of that certificate of need.

993 (vii) Notwithstanding the restrictions placed on  
994 Medicaid participation in subsections (4)(a) and (4)(a)(i), from  
995 and after the effective date of this act, a hospital in DeSoto  
996 County currently operating Medicaid-certified acute  
997 child/adolescent psychiatric beds may be certified for  
998 participation in the Medicaid program for up to thirty-six (36) of  
999 those acute child/adolescent psychiatric beds and claims may be  
1000 submitted for Medicaid reimbursement for all patients occupying  
1001 those thirty-six (36) beds. From and after the effective date of  
1002 this act, any restrictions or limitations on Medicaid  
1003 participation or reimbursement in connection with acute  
1004 child/adolescent psychiatric beds, whether statutory or in any  
1005 certificate of need, written statement or otherwise shall be  
1006 deemed null and void. In order for all thirty-six (36) beds  
1007 currently in operation under a certificate of need to become  
1008 certified for Medicaid reimbursement, the recipient of the  
1009 certificate of need for the facility shall not be required to  
1010 obtain an additional certificate of need, but shall only be  
1011 required to provide written notice to the State Department of  
1012 Health, or its successor, and the Division of Medicaid, or its  
1013 successor, shall promptly issue a written approval authorizing all  
1014 thirty-six (36) beds currently in operation to be certified for  
1015 Medicaid participation, and shall promptly take any and all action  
1016 required to certify all thirty-six (36) beds for participation in

1017 the Medicaid program. From and after the effective date of this  
1018 act, the State Department of Health, or its successor, shall not  
1019 be authorized to revoke the license of the hospital in DeSoto  
1020 County on the grounds that the facility admits or keeps, on a  
1021 regular or continuing basis, all of the acute child/adolescent  
1022 psychiatric patients occupying those thirty-six (36) beds as  
1023 participants in the Medicaid program. There shall be no  
1024 restriction or limitation regarding Medicaid participation with  
1025 respect to any subsequent owner of the relevant DeSoto County  
1026 hospital.

1027 (b) From and after July 1, 1990, no hospital,  
1028 psychiatric hospital or chemical dependency hospital shall be  
1029 authorized to add any child/adolescent psychiatric or  
1030 child/adolescent chemical dependency beds or convert any beds of  
1031 another category to child/adolescent psychiatric or  
1032 child/adolescent chemical dependency beds without a certificate of  
1033 need under the authority of subsection (1)(c) of this section.

1034 (5) The department may issue a certificate of need to a  
1035 county hospital in Winston County for the conversion of fifteen  
1036 (15) acute care beds to geriatric psychiatric care beds.

1037 (6) The State Department of Health shall issue a certificate  
1038 of need to a Mississippi corporation qualified to manage a  
1039 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1040 Harrison County, not to exceed eighty (80) beds, including any  
1041 necessary renovation or construction required for licensure and  
1042 certification, provided that the recipient of the certificate of  
1043 need agrees in writing that the long-term care hospital will not  
1044 at any time participate in the Medicaid program (Section 43-13-101  
1045 et seq.) or admit or keep any patients in the long-term care  
1046 hospital who are participating in the Medicaid program. This  
1047 written agreement by the recipient of the certificate of need  
1048 shall be fully binding on any subsequent owner of the long-term  
1049 care hospital, if the ownership of the facility is transferred at



1050 any time after the issuance of the certificate of need. Agreement  
1051 that the long-term care hospital will not participate in the  
1052 Medicaid program shall be a condition of the issuance of a  
1053 certificate of need to any person under this subsection (6), and  
1054 if such long-term care hospital at any time after the issuance of  
1055 the certificate of need, regardless of the ownership of the  
1056 facility, participates in the Medicaid program or admits or keeps  
1057 any patients in the facility who are participating in the Medicaid  
1058 program, the State Department of Health shall revoke the  
1059 certificate of need, if it is still outstanding, and shall deny or  
1060 revoke the license of the long-term care hospital, at the time  
1061 that the department determines, after a hearing complying with due  
1062 process, that the facility has failed to comply with any of the  
1063 conditions upon which the certificate of need was issued, as  
1064 provided in this subsection and in the written agreement by the  
1065 recipient of the certificate of need. For purposes of this  
1066 subsection, the provision of Section 41-7-193(1) requiring  
1067 substantial compliance with the projection of need as reported in  
1068 the current State Health Plan is hereby waived.

1069 (7) The State Department of Health may issue a certificate  
1070 of need to any hospital in the state to utilize a portion of its  
1071 beds for the "swing-bed" concept. Any such hospital must be in  
1072 conformance with the federal regulations regarding such swing-bed  
1073 concept at the time it submits its application for a certificate  
1074 of need to the State Department of Health, except that such  
1075 hospital may have more licensed beds or a higher average daily  
1076 census (ADC) than the maximum number specified in federal  
1077 regulations for participation in the swing-bed program. Any  
1078 hospital meeting all federal requirements for participation in the  
1079 swing-bed program which receives such certificate of need shall  
1080 render services provided under the swing-bed concept to any  
1081 patient eligible for Medicare (Title XVIII of the Social Security  
1082 Act) who is certified by a physician to be in need of such

1083 services, and no such hospital shall permit any patient who is  
1084 eligible for both Medicaid and Medicare or eligible only for  
1085 Medicaid to stay in the swing beds of the hospital for more than  
1086 thirty (30) days per admission unless the hospital receives prior  
1087 approval for such patient from the Division of Medicaid, Office of  
1088 the Governor. Any hospital having more licensed beds or a higher  
1089 average daily census (ADC) than the maximum number specified in  
1090 federal regulations for participation in the swing-bed program  
1091 which receives such certificate of need shall develop a procedure  
1092 to insure that before a patient is allowed to stay in the swing  
1093 beds of the hospital, there are no vacant nursing home beds  
1094 available for that patient located within a fifty-mile radius of  
1095 the hospital. When any such hospital has a patient staying in the  
1096 swing beds of the hospital and the hospital receives notice from a  
1097 nursing home located within such radius that there is a vacant bed  
1098 available for that patient, the hospital shall transfer the  
1099 patient to the nursing home within a reasonable time after receipt  
1100 of the notice. Any hospital which is subject to the requirements  
1101 of the two (2) preceding sentences of this subsection may be  
1102 suspended from participation in the swing-bed program for a  
1103 reasonable period of time by the State Department of Health if the  
1104 department, after a hearing complying with due process, determines  
1105 that the hospital has failed to comply with any of those  
1106 requirements.

1107 (8) The Department of Health shall not grant approval for or  
1108 issue a certificate of need to any person proposing the new  
1109 construction of, addition to or expansion of a health care  
1110 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
1111 except as hereinafter provided: The department may issue a  
1112 certificate of need to a nonprofit corporation located in Madison  
1113 County, Mississippi, for the construction, expansion or conversion  
1114 of not more than twenty (20) beds in a community living program  
1115 for developmentally disabled adults in a facility as defined in

1116 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
1117 subsection (8), the provisions of Section 41-7-193(1) requiring  
1118 substantial compliance with the projection of need as reported in  
1119 the current State Health Plan and the provisions of Section  
1120 41-7-197 requiring a formal certificate of need hearing process  
1121 are waived. There shall be no prohibition or restrictions on  
1122 participation in the Medicaid program for the person receiving the  
1123 certificate of need authorized under this subsection (8).

1124 (9) The Department of Health shall not grant approval for or  
1125 issue a certificate of need to any person proposing the  
1126 establishment of, or expansion of the currently approved territory  
1127 of, or the contracting to establish a home office, subunit or  
1128 branch office within the space operated as a health care facility  
1129 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1130 care facility as defined in subparagraph (ix) of Section  
1131 41-7-173(h).

1132 (10) Health care facilities owned and/or operated by the  
1133 state or its agencies are exempt from the restraints in this  
1134 section against issuance of a certificate of need if such addition  
1135 or expansion consists of repairing or renovation necessary to  
1136 comply with the state licensure law. This exception shall not  
1137 apply to the new construction of any building by such state  
1138 facility. This exception shall not apply to any health care  
1139 facilities owned and/or operated by counties, municipalities,  
1140 districts, unincorporated areas, other defined persons, or any  
1141 combination thereof.

1142 (11) The new construction, renovation or expansion of or  
1143 addition to any health care facility defined in subparagraph (ii)  
1144 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1145 facility), subparagraph (vi) (intermediate care facility),  
1146 subparagraph (viii) (intermediate care facility for the mentally  
1147 retarded) and subparagraph (x) (psychiatric residential treatment  
1148 facility) of Section 41-7-173(h) which is owned by the State of

1149 Mississippi and under the direction and control of the State  
1150 Department of Mental Health, and the addition of new beds or the  
1151 conversion of beds from one category to another in any such  
1152 defined health care facility which is owned by the State of  
1153 Mississippi and under the direction and control of the State  
1154 Department of Mental Health, shall not require the issuance of a  
1155 certificate of need under Section 41-7-171 et seq.,  
1156 notwithstanding any provision in Section 41-7-171 et seq. to the  
1157 contrary.

1158       (12) The new construction, renovation or expansion of or  
1159 addition to any veterans homes or domiciliaries for eligible  
1160 veterans of the State of Mississippi as authorized under Section  
1161 35-1-19 shall not require the issuance of a certificate of need,  
1162 notwithstanding any provision in Section 41-7-171 et seq. to the  
1163 contrary.

1164       (13) The new construction of a nursing facility or nursing  
1165 facility beds or the conversion of other beds to nursing facility  
1166 beds shall not require the issuance of a certificate of need,  
1167 notwithstanding any provision in Section 41-7-171 et seq. to the  
1168 contrary, if the conditions of this subsection are met.

1169       (a) Before any construction or conversion may be  
1170 undertaken without a certificate of need, the owner of the nursing  
1171 facility, in the case of an existing facility, or the applicant to  
1172 construct a nursing facility, in the case of new construction,  
1173 first must file a written notice of intent and sign a written  
1174 agreement with the State Department of Health that the entire  
1175 nursing facility will not at any time participate in or have any  
1176 beds certified for participation in the Medicaid program (Section  
1177 43-13-101 et seq.), will not admit or keep any patients in the  
1178 nursing facility who are participating in the Medicaid program,  
1179 and will not submit any claim for Medicaid reimbursement for any  
1180 patient in the facility. This written agreement by the owner or  
1181 applicant shall be a condition of exercising the authority under

1182 this subsection without a certificate of need, and the agreement  
1183 shall be fully binding on any subsequent owner of the nursing  
1184 facility if the ownership of the facility is transferred at any  
1185 time after the agreement is signed. After the written agreement  
1186 is signed, the Division of Medicaid and the State Department of  
1187 Health shall not certify any beds in the nursing facility for  
1188 participation in the Medicaid program. If the nursing facility  
1189 violates the terms of the written agreement by participating in  
1190 the Medicaid program, having any beds certified for participation  
1191 in the Medicaid program, admitting or keeping any patient in the  
1192 facility who is participating in the Medicaid program, or  
1193 submitting any claim for Medicaid reimbursement for any patient in  
1194 the facility, the State Department of Health shall revoke the  
1195 license of the nursing facility at the time that the department  
1196 determines, after a hearing complying with due process, that the  
1197 facility has violated the terms of the written agreement.

1198 (b) For the purposes of this subsection, participation  
1199 in the Medicaid program by a nursing facility includes Medicaid  
1200 reimbursement of coinsurance and deductibles for recipients who  
1201 are qualified Medicare beneficiaries and/or those who are dually  
1202 eligible. Any nursing facility exercising the authority under  
1203 this subsection may not bill or submit a claim to the Division of  
1204 Medicaid for services to qualified Medicare beneficiaries and/or  
1205 those who are dually eligible.

1206 (c) The new construction of a nursing facility or  
1207 nursing facility beds or the conversion of other beds to nursing  
1208 facility beds described in this section must be either a part of a  
1209 completely new continuing care retirement community, as described  
1210 in the latest edition of the Mississippi State Health Plan, or an  
1211 addition to existing personal care and independent living  
1212 components, and so that the completed project will be a continuing  
1213 care retirement community, containing (i) independent living  
1214 accommodations, (ii) personal care beds, and (iii) the nursing

1215 home facility beds. The three (3) components must be located on a  
1216 single site and be operated as one (1) inseparable facility. The  
1217 nursing facility component must contain a minimum of thirty (30)  
1218 beds. Any nursing facility beds authorized by this section will  
1219 not be counted against the bed need set forth in the State Health  
1220 Plan, as identified in Section 41-7-171 et seq.

1221 This subsection (13) shall stand repealed from and after July  
1222 1, 2005.

1223 (14) The State Department of Health shall issue a  
1224 certificate of need to any hospital which is currently licensed  
1225 for two hundred fifty (250) or more acute care beds and is located  
1226 in any general hospital service area not having a comprehensive  
1227 cancer center, for the establishment and equipping of such a  
1228 center which provides facilities and services for outpatient  
1229 radiation oncology therapy, outpatient medical oncology therapy,  
1230 and appropriate support services including the provision of  
1231 radiation therapy services. The provision of Section 41-7-193(1)  
1232 regarding substantial compliance with the projection of need as  
1233 reported in the current State Health Plan is waived for the  
1234 purpose of this subsection.

1235 (15) The State Department of Health may authorize the  
1236 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1237 North Panola Community Hospital to the South Panola Community  
1238 Hospital. The authorization for the transfer of those beds shall  
1239 be exempt from the certificate of need review process.

1240 (16) The State Department of Health shall issue any  
1241 certificates of need necessary for Mississippi State University  
1242 and a public or private health care provider to jointly acquire  
1243 and operate a linear accelerator and a magnetic resonance imaging  
1244 unit. Those certificates of need shall cover all capital  
1245 expenditures related to the project between Mississippi State  
1246 University and the health care provider, including, but not  
1247 limited to, the acquisition of the linear accelerator, the

1248 magnetic resonance imaging unit and other radiological modalities;  
1249 the offering of linear accelerator and magnetic resonance imaging  
1250 services; and the cost of construction of facilities in which to  
1251 locate these services. The linear accelerator and the magnetic  
1252 resonance imaging unit shall be (a) located in the City of  
1253 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
1254 Mississippi State University and the public or private health care  
1255 provider selected by Mississippi State University through a  
1256 request for proposals (RFP) process in which Mississippi State  
1257 University selects, and the Board of Trustees of State  
1258 Institutions of Higher Learning approves, the health care provider  
1259 that makes the best overall proposal; (c) available to Mississippi  
1260 State University for research purposes two-thirds (2/3) of the  
1261 time that the linear accelerator and magnetic resonance imaging  
1262 unit are operational; and (d) available to the public or private  
1263 health care provider selected by Mississippi State University and  
1264 approved by the Board of Trustees of State Institutions of Higher  
1265 Learning one-third (1/3) of the time for clinical, diagnostic and  
1266 treatment purposes. For purposes of this subsection, the  
1267 provisions of Section 41-7-193(1) requiring substantial compliance  
1268 with the projection of need as reported in the current State  
1269 Health Plan are waived.

1270 (17) Nothing in this section or in any other provision of  
1271 Section 41-7-171 et seq. shall prevent any nursing facility from  
1272 designating an appropriate number of existing beds in the facility  
1273 as beds for providing care exclusively to patients with  
1274 Alzheimer's disease.

1275 **SECTION 2.** This act shall take effect and be in force from  
1276 and after its passage.