

By: Representative Holland

To: Public Health and
Welfare; Appropriations

HOUSE BILL NO. 567

1 AN ACT TO AMEND SECTIONS 43-11-1, 43-11-7, 43-11-9, 43-11-13,
2 41-7-191, 41-49-3, 43-7-55 AND 73-17-5, MISSISSIPPI CODE OF 1972,
3 TO CHANGE REFERENCES TO "PERSONAL CARE" AND "PERSONAL CARE HOMES"
4 TO "PERSONAL CARE/ASSISTED LIVING" AND "PERSONAL CARE
5 HOMES/ASSISTED LIVING FACILITIES"; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-11-1, Mississippi Code of 1972, is
8 amended as follows:

9 43-11-1. When used in this chapter, the following words
10 shall have the following meaning:

11 (a) "Institutions for the aged or infirm" means a place
12 either governmental or private that provides group living
13 arrangements for four (4) or more persons who are unrelated to the
14 operator and who are being provided food, shelter and personal
15 care/assisted living, whether any such place is organized or
16 operated for profit or not. The term "institution for aged or
17 infirm" includes nursing homes, pediatric skilled nursing
18 facilities, psychiatric residential treatment facilities,
19 convalescent homes and homes for the aged, provided that these
20 institutions fall within the scope of the definitions set forth
21 above. The term "institution for the aged or infirm" does not
22 include hospitals, clinics or mental institutions devoted
23 primarily to providing medical service.

24 (b) "Person" means any individual, firm, partnership,
25 corporation, company, association or joint stock association, or
26 any licensee herein or the legal successor thereof.

27 (c) "Personal care/assisted living" means assistance
28 rendered by personnel of the home to aged or infirm residents in



29 performing one or more of the activities of daily living, which
30 includes, but is not limited to, the bathing, walking, excretory
31 functions, feeding, personal grooming and dressing of the
32 residents.

33 (d) "Psychiatric residential treatment facility" means
34 any nonhospital establishment with permanent facilities which
35 provides a 24-hour program of care by qualified therapists
36 including, but not limited to, duly licensed mental health
37 professionals, psychiatrists, psychologists, psychotherapists and
38 licensed certified social workers, for emotionally disturbed
39 children and adolescents referred to the facility by a court,
40 local school district or by the Department of Human Services, who
41 are not in an acute phase of illness requiring the services of a
42 psychiatric hospital, and are in need of those restorative
43 treatment services. For purposes of this paragraph, the term
44 "emotionally disturbed" means a condition exhibiting one or more
45 of the following characteristics over a long period of time and to
46 a marked degree, which adversely affects educational performance:

- 47 1. An inability to learn that cannot be explained
48 by intellectual, sensory or health factors;
- 49 2. An inability to build or maintain satisfactory
50 relationships with peers and teachers;
- 51 3. Inappropriate types of behavior or feelings
52 under normal circumstances;
- 53 4. A general pervasive mood of unhappiness or
54 depression; or
- 55 5. A tendency to develop physical symptoms or
56 fears associated with personal or school problems. An
57 establishment furnishing primarily domiciliary care is not within
58 this definition.

59 (e) "Pediatric skilled nursing facility" means an
60 institution or a distinct part of an institution that is primarily
61 engaged in providing to inpatients skilled nursing care and



62 related services for persons under twenty-one (21) years of age
63 who require medical or nursing care or rehabilitation services for
64 the rehabilitation of injured, disabled or sick persons.

65 (f) "Licensing agency" means the State Department of
66 Health.

67 **SECTION 2.** Section 43-11-7, Mississippi Code of 1972, is
68 amended as follows:

69 43-11-7. An application for a license shall be made to the
70 licensing agency upon forms provided by it and shall contain such
71 information as the licensing agency reasonably requires, which may
72 include affirmative evidence of ability to comply with such
73 reasonable standards, rules and regulations as are lawfully
74 prescribed hereunder. Each application for a license for an
75 institution for the aged or infirm, except for personal care
76 homes/assisted living facilities, shall be accompanied by a
77 license fee of Twenty Dollars (\$20.00) for each bed in the
78 institution, with a minimum fee per institution of Two Hundred
79 Dollars (\$200.00), which shall be paid to the licensing agency.
80 Each application for a license for a personal care home/assisted
81 living facility shall be accompanied by a license fee of Fifteen
82 Dollars (\$15.00) for each bed in the institution, with a minimum
83 fee per institution of One Hundred Dollars (\$100.00), which shall
84 be paid to the licensing agency.

85 No governmental entity or agency shall be required to pay the
86 fee or fees set forth in this section.

87 **SECTION 3.** Section 43-11-9, Mississippi Code of 1972, is
88 amended as follows:

89 43-11-9. (1) Upon receipt of an application for license and
90 the license fee, the licensing agency shall issue a license if the
91 applicant and the institutional facilities meet the requirements
92 established under this chapter and the requirements of Section
93 41-7-173 et seq., where determined by the licensing agency to be
94 applicable. A license, unless suspended or revoked, shall be



95 renewable annually upon payment by (a) the licensee of an
96 institution for the aged or infirm, except for personal care
97 homes/assisted living facilities, of a renewal fee of Twenty
98 Dollars (\$20.00) for each bed in the institution, with a minimum
99 fee per institution of Two Hundred Dollars (\$200.00), or (b) the
100 licensee of a personal care home/assisted living facility of a
101 renewal fee of Fifteen Dollars (\$15.00) for each bed in the
102 institution, with a minimum fee per institution of One Hundred
103 Dollars (\$100.00), which shall be paid to the licensing agency,
104 and upon filing by the licensee and approval by the licensing
105 agency of an annual report upon such uniform dates and containing
106 such information in such form as the licensing agency prescribes
107 by regulation. Each license shall be issued only for the premises
108 and person or persons or other legal entity or entities named in
109 the application and shall not be transferable or assignable except
110 with the written approval of the licensing agency. Licenses shall
111 be posted in a conspicuous place on the licensed premises.

112 (2) A fee known as a "User Fee" shall be applicable and
113 shall be paid to the licensing agency as set out in subsection (1)
114 hereof. This user fee shall be assessed for the purpose of the
115 required reviewing and inspections of the proposal of any
116 institution in which there are additions, renovations,
117 modernizations, expansion, alterations, conversions, modifications
118 or replacement of the entire facility involved in such proposal.
119 This fee includes the reviewing of architectural plans in all
120 steps required. There shall be a minimum user fee of Fifty
121 Dollars (\$50.00) and a maximum user fee of Five Thousand Dollars
122 (\$5,000.00).

123 (3) No governmental entity or agency shall be required to
124 pay the fee or fees set forth in this section.

125 **SECTION 4.** Section 43-11-13, Mississippi Code of 1972, is
126 amended as follows:



127 43-11-13. (1) The licensing agency shall adopt, amend,
128 promulgate and enforce such rules, regulations and standards,
129 including classifications, with respect to all institutions for
130 the aged or infirm to be licensed under this chapter as may be
131 designed to further the accomplishment of the purpose of this
132 chapter in promoting adequate care of individuals in those
133 institutions in the interest of public health, safety and welfare.
134 Those rules, regulations and standards shall be adopted and
135 promulgated by the licensing agency and shall be recorded and
136 indexed in a book to be maintained by the licensing agency in its
137 main office in the State of Mississippi, entitled "Rules,
138 Regulations and Minimum Standards for Institutions for the Aged or
139 Infirm" and the book shall be open and available to all
140 institutions for the aged or infirm and the public generally at
141 all reasonable times. Upon the adoption of those rules,
142 regulations and standards, the licensing agency shall mail copies
143 thereof to all those institutions in the state that have filed
144 with the agency their names and addresses for this purpose, but
145 the failure to mail the same or the failure of the institutions to
146 receive the same shall in no way affect the validity thereof. The
147 rules, regulations and standards may be amended by the licensing
148 agency, from time to time, as necessary to promote the health,
149 safety and welfare of persons living in those institutions.

150 (2) The licensee shall keep posted in a conspicuous place on
151 the licensed premises all current rules, regulations and minimum
152 standards applicable to fire protection measures as adopted by the
153 licensing agency. The licensee shall furnish to the licensing
154 agency at least once each six (6) months a certificate of approval
155 and inspection by state or local fire authorities. Failure to
156 comply with state laws and/or municipal ordinances and current
157 rules, regulations and minimum standards as adopted by the
158 licensing agency, relative to fire prevention measures, shall be
159 prima facie evidence for revocation of license.



160 (3) The State Board of Health shall promulgate rules and
161 regulations restricting the storage, quantity and classes of drugs
162 allowed in personal care homes/assisted living facilities.
163 Residents requiring administration of Schedule II Narcotics as
164 defined in the Uniform Controlled Substances Law may be admitted
165 to a personal care home/assisted living facility. Schedule drugs
166 may only be allowed in a personal care home/assisted living
167 facility if they are administered or stored utilizing proper
168 procedures under the direct supervision of a licensed physician or
169 nurse.

170 (4) (a) Notwithstanding any determination by the licensing
171 agency that skilled nursing services would be appropriate for a
172 resident of a personal care home/assisted living facility, that
173 resident, the resident's guardian or the legally recognized
174 responsible party for the resident may consent in writing for the
175 resident to continue to reside in the personal care home/assisted
176 living facility, if approved in writing by a licensed
177 physician. * * * However, * * * no personal care home/assisted
178 living facility shall allow more than two (2) residents, or ten
179 percent (10%) of the total number of residents in the
180 home/facility, whichever is greater, to remain in the * * *
181 home/facility under the provisions of this subsection (4). This
182 consent shall be deemed to be appropriately informed consent as
183 described in the regulations promulgated by the licensing agency.
184 After that written consent has been obtained, the resident shall
185 have the right to continue to reside in the personal care
186 home/assisted living facility for as long as the resident meets
187 the other conditions for residing in the * * * home/facility. A
188 copy of the written consent and the physician's approval shall be
189 forwarded by the personal care home/assisted living facility to
190 the licensing agency.

191 (b) The State Board of Health shall promulgate rules
192 and regulations restricting the handling of a resident's personal



193 deposits by the director of a personal care home/assisted living
194 facility. Any funds given or provided for the purpose of
195 supplying extra comforts, conveniences or services to any resident
196 in any personal care home/assisted living facility, and any funds
197 otherwise received and held from, for or on behalf of any such
198 resident, shall be deposited by the director or other proper
199 officer of the * * * home/facility to the credit of that resident
200 in an account that shall be known as the Resident's Personal
201 Deposit Fund. No more than one (1) month's charge for the care,
202 support, maintenance and medical attention of the resident shall
203 be applied from the account at any one time. After the death,
204 discharge or transfer of any resident for whose benefit any such
205 fund has been provided, any unexpended balance remaining in his
206 personal deposit fund shall be applied for the payment of care,
207 cost of support, maintenance and medical attention that is
208 accrued. If any unexpended balance remains in that resident's
209 personal deposit fund after complete reimbursement has been made
210 for payment of care, support, maintenance and medical attention,
211 and the director or other proper officer of the personal care
212 home/assisted living facility has been or shall be unable to
213 locate the person or persons entitled to the unexpended balance,
214 the director or other proper officer may, after the lapse of one
215 (1) year from the date of that death, discharge or transfer,
216 deposit the unexpended balance to the credit of the personal care
217 home/assisted living facility's operating fund.

218 (c) The State Board of Health shall promulgate rules
219 and regulations requiring personal care homes/assisted living
220 facilities to maintain records relating to health condition,
221 medicine dispensed and administered, and any reaction to that
222 medicine. The director of the personal care home/assisted living
223 facility shall be responsible for explaining the availability of
224 those records to the family of the resident at any time upon
225 reasonable request.



226 (d) The State Board of Health shall evaluate the
227 effects of this section as it promotes adequate care of
228 individuals in personal care homes/assisted living facilities in
229 the interest of public health, safety and welfare. It shall
230 report its findings to the Chairmen of the Public Health and
231 Welfare Committees of the House and Senate by January 1, 2003.
232 This subsection (4) shall stand repealed June 30, 2003.

233 (5) (a) Pursuant to regulations promulgated by the State
234 Department of Health, the licensing agency shall require to be
235 performed a criminal history record check on every new employee of
236 a licensed institution for the aged or infirm or care facility who
237 provides direct patient care or services and who is employed after
238 July 1, 2001. Except as otherwise provided, no such new employee
239 shall be permitted to provide direct patient care or services
240 until the results of the criminal history record check have
241 revealed no disqualifying record. Every such new employee shall
242 provide a valid current social security number and/or driver's
243 license number, which shall be furnished to the licensing agency
244 or to the private entity designated by the licensing agency to
245 conduct the criminal history record check. The institution for
246 the aged or infirm or care facility applying for the criminal
247 history record check will be promptly notified of any
248 disqualifying record found by the criminal history record check.
249 In order to determine the applicant's suitability for employment,
250 the applicant shall be fingerprinted. If no disqualifying record
251 is identified at the state level, the fingerprints shall be
252 forwarded by the Department of Public Safety to the Federal Bureau
253 of Investigation for a national criminal history record check.

254 (b) A licensed institution for the aged or infirm or
255 care facility may make an offer of temporary employment to a
256 prospective employee pending the results of a criminal history
257 record check on the person. In such instances, the licensed
258 institution for the aged or infirm or care facility shall provide



259 to the licensing agency, or to the designated private entity, the
260 name and relevant information relating to the person within
261 seventy-two (72) hours after the date the person accepts temporary
262 employment.

263 (c) All fees incurred in compliance with this section
264 shall be borne by the institution or facility requesting the
265 criminal history record check. The licensing agency, or the
266 designated private entity, is authorized to charge the institution
267 for the aged or infirm or care facility a fee, which shall include
268 the amount required by the Mississippi Department of Public
269 Safety, the Federal Bureau of Investigation or any other agency
270 designated by the licensing agency for the national criminal
271 history record check, in addition to any necessary costs incurred
272 by the licensing agency or the designated private entity for the
273 handling and administration of the criminal history record checks.
274 Costs incurred by a nursing home provider implementing this act
275 shall be reimbursed as an allowable cost under Section 43-13-116.

276 (d) The licensing agency, care facility, and their
277 agents, officers, employees, attorneys and representatives shall
278 be presumed to be acting in good faith for any employment decision
279 or action taken under paragraphs (a) and (b) of this subsection.
280 The presumption of good faith may be overcome by a preponderance
281 of the evidence in any civil action.

282 (e) The licensing agency shall promulgate regulations
283 to implement this subsection (5).

284 **SECTION 5.** Section 41-7-191, Mississippi Code of 1972, is
285 amended as follows:

286 41-7-191. (1) No person shall engage in any of the
287 following activities without obtaining the required certificate of
288 need:

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



291 (b) The relocation of a health care facility or portion
292 thereof, or major medical equipment, unless such relocation of a
293 health care facility or portion thereof, or major medical
294 equipment, which does not involve a capital expenditure by or on
295 behalf of a health care facility, is within five thousand two
296 hundred eighty (5,280) feet from the main entrance of the health
297 care facility;

298 (c) A change over a period of two (2) years' time, as
299 established by the State Department of Health, in existing bed
300 complement through the addition of more than ten (10) beds or more
301 than ten percent (10%) of the total bed capacity of a designated
302 licensed category or subcategory of any health care facility,
303 whichever is less, from one physical facility or site to another;
304 the conversion over a period of two (2) years' time, as
305 established by the State Department of Health, of existing bed
306 complement of more than ten (10) beds or more than ten percent
307 (10%) of the total bed capacity of a designated licensed category
308 or subcategory of any such health care facility, whichever is
309 less; or the alteration, modernizing or refurbishing of any unit
310 or department wherein such beds may be located; provided, however,
311 that from and after July 1, 1994, no health care facility shall be
312 authorized to add any beds or convert any beds to another category
313 of beds without a certificate of need under the authority of
314 subsection (1)(c) of this section unless there is a projected need
315 for such beds in the planning district in which the facility is
316 located, as reported in the most current State Health Plan;

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

321 (i) Open heart surgery services;

322 (ii) Cardiac catheterization services;



323 (iii) Comprehensive inpatient rehabilitation
324 services;

325 (iv) Licensed psychiatric services;

326 (v) Licensed chemical dependency services;

327 (vi) Radiation therapy services;

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

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

332 (ix) Home health services;

333 (x) Swing-bed services;

334 (xi) Ambulatory surgical services;

335 (xii) Magnetic resonance imaging services;

336 (xiii) Extracorporeal shock wave lithotripsy
337 services;

338 (xiv) Long-term care hospital services;

339 (xv) Positron Emission Tomography (PET) Services;

340 (e) The relocation of one or more health services from
341 one physical facility or site to another physical facility or
342 site, unless such relocation, which does not involve a capital
343 expenditure by or on behalf of a health care facility, (i) is to a
344 physical facility or site within one thousand three hundred twenty
345 (1,320) feet from the main entrance of the health care facility
346 where the health care service is located, or (ii) is the result of
347 an order of a court of appropriate jurisdiction or a result of
348 pending litigation in such court, or by order of the State
349 Department of Health, or by order of any other agency or legal
350 entity of the state, the federal government, or any political
351 subdivision of either, whose order is also approved by the State
352 Department of Health;

353 (f) The acquisition or otherwise control of any major
354 medical equipment for the provision of medical services; provided,
355 however, (i) the acquisition of any major medical equipment used



356 only for research purposes, and (ii) the acquisition of major
357 medical equipment to replace medical equipment for which a
358 facility is already providing medical services and for which the
359 State Department of Health has been notified before the date of
360 such acquisition shall be exempt from this paragraph; an
361 acquisition for less than fair market value must be reviewed, if
362 the acquisition at fair market value would be subject to review;

363 (g) Changes of ownership of existing health care
364 facilities in which a notice of intent is not filed with the State
365 Department of Health at least thirty (30) days prior to the date
366 such change of ownership occurs, or a change in services or bed
367 capacity as prescribed in paragraph (c) or (d) of this subsection
368 as a result of the change of ownership; an acquisition for less
369 than fair market value must be reviewed, if the acquisition at
370 fair market value would be subject to review;

371 (h) The change of ownership of any health care facility
372 defined in subparagraphs (iv), (vi) and (viii) of Section
373 41-7-173(h), in which a notice of intent as described in paragraph
374 (g) has not been filed and if the Executive Director, Division of
375 Medicaid, Office of the Governor, has not certified in writing
376 that there will be no increase in allowable costs to Medicaid from
377 revaluation of the assets or from increased interest and
378 depreciation as a result of the proposed change of ownership;

379 (i) Any activity described in paragraphs (a) through
380 (h) if undertaken by any person if that same activity would
381 require certificate of need approval if undertaken by a health
382 care facility;

383 (j) Any capital expenditure or deferred capital
384 expenditure by or on behalf of a health care facility not covered
385 by paragraphs (a) through (h);

386 (k) The contracting of a health care facility as
387 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
388 to establish a home office, subunit, or branch office in the space



389 operated as a health care facility through a formal arrangement
390 with an existing health care facility as defined in subparagraph
391 (ix) of Section 41-7-173(h).

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

399 (a) The department may issue a certificate of need to
400 any person proposing the new construction of any health care
401 facility defined in subparagraphs (iv) and (vi) of Section
402 41-7-173(h) as part of a life care retirement facility, in any
403 county bordering on the Gulf of Mexico in which is located a
404 National Aeronautics and Space Administration facility, not to
405 exceed forty (40) beds. From and after July 1, 1999, there shall
406 be no prohibition or restrictions on participation in the Medicaid
407 program (Section 43-13-101 et seq.) for the beds in the health
408 care facility that were authorized under this paragraph (a).

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

416 (c) The department may issue a certificate of need for
417 the addition to or expansion of any skilled nursing facility that
418 is part of an existing continuing care retirement community
419 located in Madison County, provided that the recipient of the
420 certificate of need agrees in writing that the skilled nursing
421 facility will not at any time participate in the Medicaid program



422 (Section 43-13-101 et seq.) or admit or keep any patients in the
423 skilled nursing facility who are participating in the Medicaid
424 program. This written agreement by the recipient of the
425 certificate of need shall be fully binding on any subsequent owner
426 of the skilled nursing facility, if the ownership of the facility
427 is transferred at any time after the issuance of the certificate
428 of need. Agreement that the skilled nursing facility will not
429 participate in the Medicaid program shall be a condition of the
430 issuance of a certificate of need to any person under this
431 paragraph (c), and if such skilled nursing facility at any time
432 after the issuance of the certificate of need, regardless of the
433 ownership of the facility, participates in the Medicaid program or
434 admits or keeps any patients in the facility who are participating
435 in the Medicaid program, the State Department of Health shall
436 revoke the certificate of need, if it is still outstanding, and
437 shall deny or revoke the license of the skilled nursing facility,
438 at the time that the department determines, after a hearing
439 complying with due process, that the facility has failed to comply
440 with any of the conditions upon which the certificate of need was
441 issued, as provided in this paragraph and in the written agreement
442 by the recipient of the certificate of need. The total number of
443 beds that may be authorized under the authority of this paragraph
444 (c) shall not exceed sixty (60) beds.

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

453 (e) The State Department of Health may issue a
454 certificate of need for the construction of a nursing facility or



455 the conversion of beds to nursing facility beds at a personal care
456 facility for the elderly in Lowndes County that is owned and
457 operated by a Mississippi nonprofit corporation, not to exceed
458 sixty (60) beds. From and after July 1, 1999, there shall be no
459 prohibition or restrictions on participation in the Medicaid
460 program (Section 43-13-101 et seq.) for the beds in the nursing
461 facility that were authorized under this paragraph (e).

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

470 (g) The State Department of Health may issue a
471 certificate of need for the construction or expansion of nursing
472 facility beds or the conversion of other beds to nursing facility
473 beds in either Hinds, Madison or Rankin Counties, not to exceed
474 sixty (60) beds. From and after July 1, 1999, there shall be no
475 prohibition or restrictions on participation in the Medicaid
476 program (Section 43-13-101 et seq.) for the beds in the nursing
477 facility that were authorized under this paragraph (g).

478 (h) The State Department of Health may issue a
479 certificate of need for the construction or expansion of nursing
480 facility beds or the conversion of other beds to nursing facility
481 beds in either Hancock, Harrison or Jackson Counties, not to
482 exceed sixty (60) beds. From and after July 1, 1999, there shall
483 be no prohibition or restrictions on participation in the Medicaid
484 program (Section 43-13-101 et seq.) for the beds in the facility
485 that were authorized under this paragraph (h).

486 (i) The department may issue a certificate of need for
487 the new construction of a skilled nursing facility in Leake



488 County, provided that the recipient of the certificate of need
489 agrees in writing that the skilled nursing facility will not at
490 any time participate in the Medicaid program (Section 43-13-101 et
491 seq.) or admit or keep any patients in the skilled nursing
492 facility who are participating in the Medicaid program. This
493 written agreement by the recipient of the certificate of need
494 shall be fully binding on any subsequent owner of the skilled
495 nursing facility, if the ownership of the facility is transferred
496 at any time after the issuance of the certificate of need.
497 Agreement that the skilled nursing facility will not participate
498 in the Medicaid program shall be a condition of the issuance of a
499 certificate of need to any person under this paragraph (i), and if
500 such skilled nursing facility at any time after the issuance of
501 the certificate of need, regardless of the ownership of the
502 facility, participates in the Medicaid program or admits or keeps
503 any patients in the facility who are participating in the Medicaid
504 program, the State Department of Health shall revoke the
505 certificate of need, if it is still outstanding, and shall deny or
506 revoke the license of the skilled nursing facility, at the time
507 that the department determines, after a hearing complying with due
508 process, that the facility has failed to comply with any of the
509 conditions upon which the certificate of need was issued, as
510 provided in this paragraph and in the written agreement by the
511 recipient of the certificate of need. The provision of Section
512 43-7-193(1) regarding substantial compliance of the projection of
513 need as reported in the current State Health Plan is waived for
514 the purposes of this paragraph. The total number of nursing
515 facility beds that may be authorized by any certificate of need
516 issued under this paragraph (i) shall not exceed sixty (60) beds.
517 If the skilled nursing facility authorized by the certificate of
518 need issued under this paragraph is not constructed and fully
519 operational within eighteen (18) months after July 1, 1994, the
520 State Department of Health, after a hearing complying with due



521 process, shall revoke the certificate of need, if it is still
522 outstanding, and shall not issue a license for the skilled nursing
523 facility at any time after the expiration of the eighteen-month
524 period.

525 (j) The department may issue certificates of need to
526 allow any existing freestanding long-term care facility in
527 Tishomingo County and Hancock County that on July 1, 1995, is
528 licensed with fewer than sixty (60) beds. For the purposes of
529 this paragraph (j), the provision of Section 41-7-193(1) requiring
530 substantial compliance with the projection of need as reported in
531 the current State Health Plan is waived. From and after July 1,
532 1999, there shall be no prohibition or restrictions on
533 participation in the Medicaid program (Section 43-13-101 et seq.)
534 for the beds in the long-term care facilities that were authorized
535 under this paragraph (j).

536 (k) The department may issue a certificate of need for
537 the construction of a nursing facility at a continuing care
538 retirement community in Lowndes County. The total number of beds
539 that may be authorized under the authority of this paragraph (k)
540 shall not exceed sixty (60) beds. From and after July 1, 2001,
541 the prohibition on the facility participating in the Medicaid
542 program (Section 43-13-101 et seq.) that was a condition of
543 issuance of the certificate of need under this paragraph (k) shall
544 be revised as follows: The nursing facility may participate in
545 the Medicaid program from and after July 1, 2001, if the owner of
546 the facility on July 1, 2001, agrees in writing that no more than
547 thirty (30) of the beds at the facility will be certified for
548 participation in the Medicaid program, and that no claim will be
549 submitted for Medicaid reimbursement for more than thirty (30)
550 patients in the facility in any month or for any patient in the
551 facility who is in a bed that is not Medicaid-certified. This
552 written agreement by the owner of the facility shall be a
553 condition of licensure of the facility, and the agreement shall be



554 fully binding on any subsequent owner of the facility if the
555 ownership of the facility is transferred at any time after July 1,
556 2001. After this written agreement is executed, the Division of
557 Medicaid and the State Department of Health shall not certify more
558 than thirty (30) of the beds in the facility for participation in
559 the Medicaid program. If the facility violates the terms of the
560 written agreement by admitting or keeping in the facility on a
561 regular or continuing basis more than thirty (30) patients who are
562 participating in the Medicaid program, the State Department of
563 Health shall revoke the license of the facility, at the time that
564 the department determines, after a hearing complying with due
565 process, that the facility has violated the written agreement.

566 (1) Provided that funds are specifically appropriated
567 therefor by the Legislature, the department may issue a
568 certificate of need to a rehabilitation hospital in Hinds County
569 for the construction of a sixty-bed long-term care nursing
570 facility dedicated to the care and treatment of persons with
571 severe disabilities including persons with spinal cord and
572 closed-head injuries and ventilator-dependent patients. The
573 provision of Section 41-7-193(1) regarding substantial compliance
574 with projection of need as reported in the current State Health
575 Plan is hereby waived for the purpose of this paragraph.

576 (m) The State Department of Health may issue a
577 certificate of need to a county-owned hospital in the Second
578 Judicial District of Panola County for the conversion of not more
579 than seventy-two (72) hospital beds to nursing facility beds,
580 provided that the recipient of the certificate of need agrees in
581 writing that none of the beds at the nursing facility will be
582 certified for participation in the Medicaid program (Section
583 43-13-101 et seq.), and that no claim will be submitted for
584 Medicaid reimbursement in the nursing facility in any day or for
585 any patient in the nursing facility. This written agreement by
586 the recipient of the certificate of need shall be a condition of



587 the issuance of the certificate of need under this paragraph, and
588 the agreement shall be fully binding on any subsequent owner of
589 the nursing facility if the ownership of the nursing facility is
590 transferred at any time after the issuance of the certificate of
591 need. After this written agreement is executed, the Division of
592 Medicaid and the State Department of Health shall not certify any
593 of the beds in the nursing facility for participation in the
594 Medicaid program. If the nursing facility violates the terms of
595 the written agreement by admitting or keeping in the nursing
596 facility on a regular or continuing basis any patients who are
597 participating in the Medicaid program, the State Department of
598 Health shall revoke the license of the nursing facility, at the
599 time that the department determines, after a hearing complying
600 with due process, that the nursing facility has violated the
601 condition upon which the certificate of need was issued, as
602 provided in this paragraph and in the written agreement. If the
603 certificate of need authorized under this paragraph is not issued
604 within twelve (12) months after July 1, 2001, the department shall
605 deny the application for the certificate of need and shall not
606 issue the certificate of need at any time after the twelve-month
607 period, unless the issuance is contested. If the certificate of
608 need is issued and substantial construction of the nursing
609 facility beds has not commenced within eighteen (18) months after
610 July 1, 2001, the State Department of Health, after a hearing
611 complying with due process, shall revoke the certificate of need
612 if it is still outstanding, and the department shall not issue a
613 license for the nursing facility at any time after the
614 eighteen-month period. Provided, however, that if the issuance of
615 the certificate of need is contested, the department shall require
616 substantial construction of the nursing facility beds within six
617 (6) months after final adjudication on the issuance of the
618 certificate of need.



619 (n) The department may issue a certificate of need for
620 the new construction, addition or conversion of skilled nursing
621 facility beds in Madison County, provided that the recipient of
622 the certificate of need agrees in writing that the skilled nursing
623 facility will not at any time participate in the Medicaid program
624 (Section 43-13-101 et seq.) or admit or keep any patients in the
625 skilled nursing facility who are participating in the Medicaid
626 program. This written agreement by the recipient of the
627 certificate of need shall be fully binding on any subsequent owner
628 of the skilled nursing facility, if the ownership of the facility
629 is transferred at any time after the issuance of the certificate
630 of need. Agreement that the skilled nursing facility will not
631 participate in the Medicaid program shall be a condition of the
632 issuance of a certificate of need to any person under this
633 paragraph (n), and if such skilled nursing facility at any time
634 after the issuance of the certificate of need, regardless of the
635 ownership of the facility, participates in the Medicaid program or
636 admits or keeps any patients in the facility who are participating
637 in the Medicaid program, the State Department of Health shall
638 revoke the certificate of need, if it is still outstanding, and
639 shall deny or revoke the license of the skilled nursing facility,
640 at the time that the department determines, after a hearing
641 complying with due process, that the facility has failed to comply
642 with any of the conditions upon which the certificate of need was
643 issued, as provided in this paragraph and in the written agreement
644 by the recipient of the certificate of need. The total number of
645 nursing facility beds that may be authorized by any certificate of
646 need issued under this paragraph (n) shall not exceed sixty (60)
647 beds. If the certificate of need authorized under this paragraph
648 is not issued within twelve (12) months after July 1, 1998, the
649 department shall deny the application for the certificate of need
650 and shall not issue the certificate of need at any time after the
651 twelve-month period, unless the issuance is contested. If the



652 certificate of need is issued and substantial construction of the
653 nursing facility beds has not commenced within eighteen (18)
654 months after the effective date of July 1, 1998, the State
655 Department of Health, after a hearing complying with due process,
656 shall revoke the certificate of need if it is still outstanding,
657 and the department shall not issue a license for the nursing
658 facility at any time after the eighteen-month period. Provided,
659 however, that if the issuance of the certificate of need is
660 contested, the department shall require substantial construction
661 of the nursing facility beds within six (6) months after final
662 adjudication on the issuance of the certificate of need.

663 (o) The department may issue a certificate of need for
664 the new construction, addition or conversion of skilled nursing
665 facility beds in Leake County, provided that the recipient of the
666 certificate of need agrees in writing that the skilled nursing
667 facility will not at any time participate in the Medicaid program
668 (Section 43-13-101 et seq.) or admit or keep any patients in the
669 skilled nursing facility who are participating in the Medicaid
670 program. This written agreement by the recipient of the
671 certificate of need shall be fully binding on any subsequent owner
672 of the skilled nursing facility, if the ownership of the facility
673 is transferred at any time after the issuance of the certificate
674 of need. Agreement that the skilled nursing facility will not
675 participate in the Medicaid program shall be a condition of the
676 issuance of a certificate of need to any person under this
677 paragraph (o), and if such skilled nursing facility at any time
678 after the issuance of the certificate of need, regardless of the
679 ownership of the facility, participates in the Medicaid program or
680 admits or keeps any patients in the facility who are participating
681 in the Medicaid program, the State Department of Health shall
682 revoke the certificate of need, if it is still outstanding, and
683 shall deny or revoke the license of the skilled nursing facility,
684 at the time that the department determines, after a hearing



685 complying with due process, that the facility has failed to comply
686 with any of the conditions upon which the certificate of need was
687 issued, as provided in this paragraph and in the written agreement
688 by the recipient of the certificate of need. The total number of
689 nursing facility beds that may be authorized by any certificate of
690 need issued under this paragraph (o) shall not exceed sixty (60)
691 beds. If the certificate of need authorized under this paragraph
692 is not issued within twelve (12) months after July 1, 2001, the
693 department shall deny the application for the certificate of need
694 and shall not issue the certificate of need at any time after the
695 twelve-month period, unless the issuance is contested. If the
696 certificate of need is issued and substantial construction of the
697 nursing facility beds has not commenced within eighteen (18)
698 months after the effective date of July 1, 2001, the State
699 Department of Health, after a hearing complying with due process,
700 shall revoke the certificate of need if it is still outstanding,
701 and the department shall not issue a license for the nursing
702 facility at any time after the eighteen-month period. Provided,
703 however, that if the issuance of the certificate of need is
704 contested, the department shall require substantial construction
705 of the nursing facility beds within six (6) months after final
706 adjudication on the issuance of the certificate of need.

707 (p) The department may issue a certificate of need for
708 the construction of a municipally-owned nursing facility within
709 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
710 beds, provided that the recipient of the certificate of need
711 agrees in writing that the skilled nursing facility will not at
712 any time participate in the Medicaid program (Section 43-13-101 et
713 seq.) or admit or keep any patients in the skilled nursing
714 facility who are participating in the Medicaid program. This
715 written agreement by the recipient of the certificate of need
716 shall be fully binding on any subsequent owner of the skilled
717 nursing facility, if the ownership of the facility is transferred



718 at any time after the issuance of the certificate of need.
719 Agreement that the skilled nursing facility will not participate
720 in the Medicaid program shall be a condition of the issuance of a
721 certificate of need to any person under this paragraph (p), and if
722 such skilled nursing facility at any time after the issuance of
723 the certificate of need, regardless of the ownership of the
724 facility, participates in the Medicaid program or admits or keeps
725 any patients in the facility who are participating in the Medicaid
726 program, the State Department of Health shall revoke the
727 certificate of need, if it is still outstanding, and shall deny or
728 revoke the license of the skilled nursing facility, at the time
729 that the department determines, after a hearing complying with due
730 process, that the facility has failed to comply with any of the
731 conditions upon which the certificate of need was issued, as
732 provided in this paragraph and in the written agreement by the
733 recipient of the certificate of need. The provision of Section
734 43-7-193(1) regarding substantial compliance of the projection of
735 need as reported in the current State Health Plan is waived for
736 the purposes of this paragraph. If the certificate of need
737 authorized under this paragraph is not issued within twelve (12)
738 months after July 1, 1998, the department shall deny the
739 application for the certificate of need and shall not issue the
740 certificate of need at any time after the twelve-month period,
741 unless the issuance is contested. If the certificate of need is
742 issued and substantial construction of the nursing facility beds
743 has not commenced within eighteen (18) months after July 1, 1998,
744 the State Department of Health, after a hearing complying with due
745 process, shall revoke the certificate of need if it is still
746 outstanding, and the department shall not issue a license for the
747 nursing facility at any time after the eighteen-month period.
748 Provided, however, that if the issuance of the certificate of need
749 is contested, the department shall require substantial
750 construction of the nursing facility beds within six (6) months



751 after final adjudication on the issuance of the certificate of
752 need.

753 (q) (i) Beginning on July 1, 1999, the State
754 Department of Health shall issue certificates of need during each
755 of the next four (4) fiscal years for the construction or
756 expansion of nursing facility beds or the conversion of other beds
757 to nursing facility beds in each county in the state having a need
758 for fifty (50) or more additional nursing facility beds, as shown
759 in the fiscal year 1999 State Health Plan, in the manner provided
760 in this paragraph (q). The total number of nursing facility beds
761 that may be authorized by any certificate of need authorized under
762 this paragraph (q) shall not exceed sixty (60) beds.

763 (ii) Subject to the provisions of subparagraph
764 (v), during each of the next four (4) fiscal years, the department
765 shall issue six (6) certificates of need for new nursing facility
766 beds, as follows: During fiscal years 2000, 2001 and 2002, one
767 (1) certificate of need shall be issued for new nursing facility
768 beds in the county in each of the four (4) Long-Term Care Planning
769 Districts designated in the fiscal year 1999 State Health Plan
770 that has the highest need in the district for those beds; and two
771 (2) certificates of need shall be issued for new nursing facility
772 beds in the two (2) counties from the state at large that have the
773 highest need in the state for those beds, when considering the
774 need on a statewide basis and without regard to the Long-Term Care
775 Planning Districts in which the counties are located. During
776 fiscal year 2003, one (1) certificate of need shall be issued for
777 new nursing facility beds in any county having a need for fifty
778 (50) or more additional nursing facility beds, as shown in the
779 fiscal year 1999 State Health Plan, that has not received a
780 certificate of need under this paragraph (q) during the three (3)
781 previous fiscal years. During fiscal year 2000, in addition to
782 the six (6) certificates of need authorized in this subparagraph,
783 the department also shall issue a certificate of need for new



784 nursing facility beds in Amite County and a certificate of need
785 for new nursing facility beds in Carroll County.

786 (iii) Subject to the provisions of subparagraph
787 (v), the certificate of need issued under subparagraph (ii) for
788 nursing facility beds in each Long-Term Care Planning District
789 during each fiscal year shall first be available for nursing
790 facility beds in the county in the district having the highest
791 need for those beds, as shown in the fiscal year 1999 State Health
792 Plan. If there are no applications for a certificate of need for
793 nursing facility beds in the county having the highest need for
794 those beds by the date specified by the department, then the
795 certificate of need shall be available for nursing facility beds
796 in other counties in the district in descending order of the need
797 for those beds, from the county with the second highest need to
798 the county with the lowest need, until an application is received
799 for nursing facility beds in an eligible county in the district.

800 (iv) Subject to the provisions of subparagraph
801 (v), the certificate of need issued under subparagraph (ii) for
802 nursing facility beds in the two (2) counties from the state at
803 large during each fiscal year shall first be available for nursing
804 facility beds in the two (2) counties that have the highest need
805 in the state for those beds, as shown in the fiscal year 1999
806 State Health Plan, when considering the need on a statewide basis
807 and without regard to the Long-Term Care Planning Districts in
808 which the counties are located. If there are no applications for
809 a certificate of need for nursing facility beds in either of the
810 two (2) counties having the highest need for those beds on a
811 statewide basis by the date specified by the department, then the
812 certificate of need shall be available for nursing facility beds
813 in other counties from the state at large in descending order of
814 the need for those beds on a statewide basis, from the county with
815 the second highest need to the county with the lowest need, until



816 an application is received for nursing facility beds in an
817 eligible county from the state at large.

818 (v) If a certificate of need is authorized to be
819 issued under this paragraph (q) for nursing facility beds in a
820 county on the basis of the need in the Long-Term Care Planning
821 District during any fiscal year of the four-year period, a
822 certificate of need shall not also be available under this
823 paragraph (q) for additional nursing facility beds in that county
824 on the basis of the need in the state at large, and that county
825 shall be excluded in determining which counties have the highest
826 need for nursing facility beds in the state at large for that
827 fiscal year. After a certificate of need has been issued under
828 this paragraph (q) for nursing facility beds in a county during
829 any fiscal year of the four-year period, a certificate of need
830 shall not be available again under this paragraph (q) for
831 additional nursing facility beds in that county during the
832 four-year period, and that county shall be excluded in determining
833 which counties have the highest need for nursing facility beds in
834 succeeding fiscal years.

835 (vi) If more than one (1) application is made for
836 a certificate of need for nursing home facility beds available
837 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
838 County, and one (1) of the applicants is a county-owned hospital
839 located in the county where the nursing facility beds are
840 available, the department shall give priority to the county-owned
841 hospital in granting the certificate of need if the following
842 conditions are met:

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

846 2. The county-owned hospital's qualifications
847 for the certificate of need, as shown in its application and as
848 determined by the department, are at least equal to the



849 qualifications of the other applicants for the certificate of
850 need.

851 (r) (i) Beginning on July 1, 1999, the State
852 Department of Health shall issue certificates of need during each
853 of the next two (2) fiscal years for the construction or expansion
854 of nursing facility beds or the conversion of other beds to
855 nursing facility beds in each of the four (4) Long-Term Care
856 Planning Districts designated in the fiscal year 1999 State Health
857 Plan, to provide care exclusively to patients with Alzheimer's
858 disease.

859 (ii) Not more than twenty (20) beds may be
860 authorized by any certificate of need issued under this paragraph
861 (r), and not more than a total of sixty (60) beds may be
862 authorized in any Long-Term Care Planning District by all
863 certificates of need issued under this paragraph (r). However,
864 the total number of beds that may be authorized by all
865 certificates of need issued under this paragraph (r) during any
866 fiscal year shall not exceed one hundred twenty (120) beds, and
867 the total number of beds that may be authorized in any Long-Term
868 Care Planning District during any fiscal year shall not exceed
869 forty (40) beds. Of the certificates of need that are issued for
870 each Long-Term Care Planning District during the next two (2)
871 fiscal years, at least one (1) shall be issued for beds in the
872 northern part of the district, at least one (1) shall be issued
873 for beds in the central part of the district, and at least one (1)
874 shall be issued for beds in the southern part of the district.

875 (iii) The State Department of Health, in
876 consultation with the Department of Mental Health and the Division
877 of Medicaid, shall develop and prescribe the staffing levels,
878 space requirements and other standards and requirements that must
879 be met with regard to the nursing facility beds authorized under
880 this paragraph (r) to provide care exclusively to patients with
881 Alzheimer's disease.



882 (3) The State Department of Health may grant approval for
883 and issue certificates of need to any person proposing the new
884 construction of, addition to, conversion of beds of or expansion
885 of any health care facility defined in subparagraph (x)
886 (psychiatric residential treatment facility) of Section
887 41-7-173(h). The total number of beds which may be authorized by
888 such certificates of need shall not exceed three hundred
889 thirty-four (334) beds for the entire state.

890 (a) Of the total number of beds authorized under this
891 subsection, the department shall issue a certificate of need to a
892 privately owned psychiatric residential treatment facility in
893 Simpson County for the conversion of sixteen (16) intermediate
894 care facility for the mentally retarded (ICF-MR) beds to
895 psychiatric residential treatment facility beds, provided that
896 facility agrees in writing that the facility shall give priority
897 for the use of those sixteen (16) beds to Mississippi residents
898 who are presently being treated in out-of-state facilities.

899 (b) Of the total number of beds authorized under this
900 subsection, the department may issue a certificate or certificates
901 of need for the construction or expansion of psychiatric
902 residential treatment facility beds or the conversion of other
903 beds to psychiatric residential treatment facility beds in Warren
904 County, not to exceed sixty (60) psychiatric residential treatment
905 facility beds, provided that the facility agrees in writing that
906 no more than thirty (30) of the beds at the psychiatric
907 residential treatment facility will be certified for participation
908 in the Medicaid program (Section 43-13-101 et seq.) for the use of
909 any patients other than those who are participating only in the
910 Medicaid program of another state, and that no claim will be
911 submitted to the Division of Medicaid for Medicaid reimbursement
912 for more than thirty (30) patients in the psychiatric residential
913 treatment facility in any day or for any patient in the
914 psychiatric residential treatment facility who is in a bed that is



915 not Medicaid-certified. This written agreement by the recipient
916 of the certificate of need shall be a condition of the issuance of
917 the certificate of need under this paragraph, and the agreement
918 shall be fully binding on any subsequent owner of the psychiatric
919 residential treatment facility if the ownership of the facility is
920 transferred at any time after the issuance of the certificate of
921 need. After this written agreement is executed, the Division of
922 Medicaid and the State Department of Health shall not certify more
923 than thirty (30) of the beds in the psychiatric residential
924 treatment facility for participation in the Medicaid program for
925 the use of any patients other than those who are participating
926 only in the Medicaid program of another state. If the psychiatric
927 residential treatment facility violates the terms of the written
928 agreement by admitting or keeping in the facility on a regular or
929 continuing basis more than thirty (30) patients who are
930 participating in the Mississippi Medicaid program, the State
931 Department of Health shall revoke the license of the facility, at
932 the time that the department determines, after a hearing complying
933 with due process, that the facility has violated the condition
934 upon which the certificate of need was issued, as provided in this
935 paragraph and in the written agreement.

936 If by January 1, 2002, there has been no significant
937 commencement of construction of the beds authorized under this
938 paragraph (b), or no significant action taken to convert existing
939 beds to the beds authorized under this paragraph, then the
940 certificate of need that was previously issued under this
941 paragraph shall expire. If the previously issued certificate of
942 need expires, the department may accept applications for issuance
943 of another certificate of need for the beds authorized under this
944 paragraph, and may issue a certificate of need to authorize the
945 construction, expansion or conversion of the beds authorized under
946 this paragraph.



947 (c) Of the total number of beds authorized under this
948 subsection, the department shall issue a certificate of need to a
949 hospital currently operating Medicaid-certified acute psychiatric
950 beds for adolescents in DeSoto County, for the establishment of a
951 forty-bed psychiatric residential treatment facility in DeSoto
952 County, provided that the hospital agrees in writing (i) that the
953 hospital shall give priority for the use of those forty (40) beds
954 to Mississippi residents who are presently being treated in
955 out-of-state facilities, and (ii) that no more than fifteen (15)
956 of the beds at the psychiatric residential treatment facility will
957 be certified for participation in the Medicaid program (Section
958 43-13-101 et seq.), and that no claim will be submitted for
959 Medicaid reimbursement for more than fifteen (15) patients in the
960 psychiatric residential treatment facility in any day or for any
961 patient in the psychiatric residential treatment facility who is
962 in a bed that is not Medicaid-certified. This written agreement
963 by the recipient of the certificate of need shall be a condition
964 of the issuance of the certificate of need under this paragraph,
965 and the agreement shall be fully binding on any subsequent owner
966 of the psychiatric residential treatment facility if the ownership
967 of the facility is transferred at any time after the issuance of
968 the certificate of need. After this written agreement is
969 executed, the Division of Medicaid and the State Department of
970 Health shall not certify more than fifteen (15) of the beds in the
971 psychiatric residential treatment facility for participation in
972 the Medicaid program. If the psychiatric residential treatment
973 facility violates the terms of the written agreement by admitting
974 or keeping in the facility on a regular or continuing basis more
975 than fifteen (15) patients who are participating in the Medicaid
976 program, the State Department of Health shall revoke the license
977 of the facility, at the time that the department determines, after
978 a hearing complying with due process, that the facility has
979 violated the condition upon which the certificate of need was



980 issued, as provided in this paragraph and in the written
981 agreement.

982 (d) Of the total number of beds authorized under this
983 subsection, the department may issue a certificate or certificates
984 of need for the construction or expansion of psychiatric
985 residential treatment facility beds or the conversion of other
986 beds to psychiatric treatment facility beds, not to exceed thirty
987 (30) psychiatric residential treatment facility beds, in either
988 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
989 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

990 (e) Of the total number of beds authorized under this
991 subsection (3) the department shall issue a certificate of need to
992 a privately owned, nonprofit psychiatric residential treatment
993 facility in Hinds County for an eight-bed expansion of the
994 facility, provided that the facility agrees in writing that the
995 facility shall give priority for the use of those eight (8) beds
996 to Mississippi residents who are presently being treated in
997 out-of-state facilities.

998 (f) The department shall issue a certificate of need to
999 a one-hundred-thirty-four-bed specialty hospital located on
1000 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1001 at 5900 Highway 39 North in Meridian (Lauderdale County),
1002 Mississippi, for the addition, construction or expansion of
1003 child/adolescent psychiatric residential treatment facility beds
1004 in Lauderdale County. As a condition of issuance of the
1005 certificate of need under this paragraph, the facility shall give
1006 priority in admissions to the child/adolescent psychiatric
1007 residential treatment facility beds authorized under this
1008 paragraph to patients who otherwise would require out-of-state
1009 placement. The Division of Medicaid, in conjunction with the
1010 Department of Human Services, shall furnish the facility a list of
1011 all out-of-state patients on a quarterly basis. Furthermore,
1012 notice shall also be provided to the parent, custodial parent or



1013 guardian of each out-of-state patient notifying them of the
1014 priority status granted by this paragraph. For purposes of this
1015 paragraph, the provisions of Section 41-7-193(1) requiring
1016 substantial compliance with the projection of need as reported in
1017 the current State Health Plan are waived. The total number of
1018 child/adolescent psychiatric residential treatment facility beds
1019 that may be authorized under the authority of this paragraph shall
1020 be sixty (60) beds. There shall be no prohibition or restrictions
1021 on participation in the Medicaid program (Section 43-13-101 et
1022 seq.) for the person receiving the certificate of need authorized
1023 under this paragraph or for the beds converted pursuant to the
1024 authority of that certificate of need.

1025 (4) (a) From and after July 1, 1993, the department shall
1026 not issue a certificate of need to any person for the new
1027 construction of any hospital, psychiatric hospital or chemical
1028 dependency hospital that will contain any child/adolescent
1029 psychiatric or child/adolescent chemical dependency beds, or for
1030 the conversion of any other health care facility to a hospital,
1031 psychiatric hospital or chemical dependency hospital that will
1032 contain any child/adolescent psychiatric or child/adolescent
1033 chemical dependency beds, or for the addition of any
1034 child/adolescent psychiatric or child/adolescent chemical
1035 dependency beds in any hospital, psychiatric hospital or chemical
1036 dependency hospital, or for the conversion of any beds of another
1037 category in any hospital, psychiatric hospital or chemical
1038 dependency hospital to child/adolescent psychiatric or
1039 child/adolescent chemical dependency beds, except as hereinafter
1040 authorized:

1041 (i) The department may issue certificates of need
1042 to any person for any purpose described in this subsection,
1043 provided that the hospital, psychiatric hospital or chemical
1044 dependency hospital does not participate in the Medicaid program
1045 (Section 43-13-101 et seq.) at the time of the application for the



1046 certificate of need and the owner of the hospital, psychiatric
1047 hospital or chemical dependency hospital agrees in writing that
1048 the hospital, psychiatric hospital or chemical dependency hospital
1049 will not at any time participate in the Medicaid program or admit
1050 or keep any patients who are participating in the Medicaid program
1051 in the hospital, psychiatric hospital or chemical dependency
1052 hospital. This written agreement by the recipient of the
1053 certificate of need shall be fully binding on any subsequent owner
1054 of the hospital, psychiatric hospital or chemical dependency
1055 hospital, if the ownership of the facility is transferred at any
1056 time after the issuance of the certificate of need. Agreement
1057 that the hospital, psychiatric hospital or chemical dependency
1058 hospital will not participate in the Medicaid program shall be a
1059 condition of the issuance of a certificate of need to any person
1060 under this subparagraph (a)(i), and if such hospital, psychiatric
1061 hospital or chemical dependency hospital at any time after the
1062 issuance of the certificate of need, regardless of the ownership
1063 of the facility, participates in the Medicaid program or admits or
1064 keeps any patients in the hospital, psychiatric hospital or
1065 chemical dependency hospital who are participating in the Medicaid
1066 program, the State Department of Health shall revoke the
1067 certificate of need, if it is still outstanding, and shall deny or
1068 revoke the license of the hospital, psychiatric hospital or
1069 chemical dependency hospital, at the time that the department
1070 determines, after a hearing complying with due process, that the
1071 hospital, psychiatric hospital or chemical dependency hospital has
1072 failed to comply with any of the conditions upon which the
1073 certificate of need was issued, as provided in this subparagraph
1074 and in the written agreement by the recipient of the certificate
1075 of need.

1076 (ii) The department may issue a certificate of
1077 need for the conversion of existing beds in a county hospital in
1078 Choctaw County from acute care beds to child/adolescent chemical



1079 dependency beds. For purposes of this subparagraph, the
1080 provisions of Section 41-7-193(1) requiring substantial compliance
1081 with the projection of need as reported in the current State
1082 Health Plan is waived. The total number of beds that may be
1083 authorized under authority of this subparagraph shall not exceed
1084 twenty (20) beds. There shall be no prohibition or restrictions
1085 on participation in the Medicaid program (Section 43-13-101 et
1086 seq.) for the hospital receiving the certificate of need
1087 authorized under this subparagraph (a)(ii) or for the beds
1088 converted pursuant to the authority of that certificate of need.

1089 (iii) The department may issue a certificate or
1090 certificates of need for the construction or expansion of
1091 child/adolescent psychiatric beds or the conversion of other beds
1092 to child/adolescent psychiatric beds in Warren County. For
1093 purposes of this subparagraph, the provisions of Section
1094 41-7-193(1) requiring substantial compliance with the projection
1095 of need as reported in the current State Health Plan are waived.
1096 The total number of beds that may be authorized under the
1097 authority of this subparagraph shall not exceed twenty (20) beds.
1098 There shall be no prohibition or restrictions on participation in
1099 the Medicaid program (Section 43-13-101 et seq.) for the person
1100 receiving the certificate of need authorized under this
1101 subparagraph (a)(iii) or for the beds converted pursuant to the
1102 authority of that certificate of need.

1103 If by January 1, 2002, there has been no significant
1104 commencement of construction of the beds authorized under this
1105 subparagraph (a)(iii), or no significant action taken to convert
1106 existing beds to the beds authorized under this subparagraph, then
1107 the certificate of need that was previously issued under this
1108 subparagraph shall expire. If the previously issued certificate
1109 of need expires, the department may accept applications for
1110 issuance of another certificate of need for the beds authorized
1111 under this subparagraph, and may issue a certificate of need to



1112 authorize the construction, expansion or conversion of the beds
1113 authorized under this subparagraph.

1114 (iv) The department shall issue a certificate of
1115 need to the Region 7 Mental Health/Retardation Commission for the
1116 construction or expansion of child/adolescent psychiatric beds or
1117 the conversion of other beds to child/adolescent psychiatric beds
1118 in any of the counties served by the commission. For purposes of
1119 this subparagraph, the provisions of Section 41-7-193(1) requiring
1120 substantial compliance with the projection of need as reported in
1121 the current State Health Plan is waived. The total number of beds
1122 that may be authorized under the authority of this subparagraph
1123 shall not exceed twenty (20) beds. There shall be no prohibition
1124 or restrictions on participation in the Medicaid program (Section
1125 43-13-101 et seq.) for the person receiving the certificate of
1126 need authorized under this subparagraph (a)(iv) or for the beds
1127 converted pursuant to the authority of that certificate of need.

1128 (v) The department may issue a certificate of need
1129 to any county hospital located in Leflore County for the
1130 construction or expansion of adult psychiatric beds or the
1131 conversion of other beds to adult psychiatric beds, not to exceed
1132 twenty (20) beds, provided that the recipient of the certificate
1133 of need agrees in writing that the adult psychiatric beds will not
1134 at any time be certified for participation in the Medicaid program
1135 and that the hospital will not admit or keep any patients who are
1136 participating in the Medicaid program in any of such adult
1137 psychiatric beds. This written agreement by the recipient of the
1138 certificate of need shall be fully binding on any subsequent owner
1139 of the hospital if the ownership of the hospital is transferred at
1140 any time after the issuance of the certificate of need. Agreement
1141 that the adult psychiatric beds will not be certified for
1142 participation in the Medicaid program shall be a condition of the
1143 issuance of a certificate of need to any person under this
1144 subparagraph (a)(v), and if such hospital at any time after the



1145 issuance of the certificate of need, regardless of the ownership
1146 of the hospital, has any of such adult psychiatric beds certified
1147 for participation in the Medicaid program or admits or keeps any
1148 Medicaid patients in such adult psychiatric beds, the State
1149 Department of Health shall revoke the certificate of need, if it
1150 is still outstanding, and shall deny or revoke the license of the
1151 hospital at the time that the department determines, after a
1152 hearing complying with due process, that the hospital has failed
1153 to comply with any of the conditions upon which the certificate of
1154 need was issued, as provided in this subparagraph and in the
1155 written agreement by the recipient of the certificate of need.

1156 (vi) The department may issue a certificate or
1157 certificates of need for the expansion of child psychiatric beds
1158 or the conversion of other beds to child psychiatric beds at the
1159 University of Mississippi Medical Center. For purposes of this
1160 subparagraph (a)(vi), the provision of Section 41-7-193(1)
1161 requiring substantial compliance with the projection of need as
1162 reported in the current State Health Plan is waived. The total
1163 number of beds that may be authorized under the authority of this
1164 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
1165 shall be no prohibition or restrictions on participation in the
1166 Medicaid program (Section 43-13-101 et seq.) for the hospital
1167 receiving the certificate of need authorized under this
1168 subparagraph (a)(vi) or for the beds converted pursuant to the
1169 authority of that certificate of need.

1170 (b) From and after July 1, 1990, no hospital,
1171 psychiatric hospital or chemical dependency hospital shall be
1172 authorized to add any child/adolescent psychiatric or
1173 child/adolescent chemical dependency beds or convert any beds of
1174 another category to child/adolescent psychiatric or
1175 child/adolescent chemical dependency beds without a certificate of
1176 need under the authority of subsection (1)(c) of this section.



1177 (5) The department may issue a certificate of need to a
1178 county hospital in Winston County for the conversion of fifteen
1179 (15) acute care beds to geriatric psychiatric care beds.

1180 (6) The State Department of Health shall issue a certificate
1181 of need to a Mississippi corporation qualified to manage a
1182 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1183 Harrison County, not to exceed eighty (80) beds, including any
1184 necessary renovation or construction required for licensure and
1185 certification, provided that the recipient of the certificate of
1186 need agrees in writing that the long-term care hospital will not
1187 at any time participate in the Medicaid program (Section 43-13-101
1188 et seq.) or admit or keep any patients in the long-term care
1189 hospital who are participating in the Medicaid program. This
1190 written agreement by the recipient of the certificate of need
1191 shall be fully binding on any subsequent owner of the long-term
1192 care hospital, if the ownership of the facility is transferred at
1193 any time after the issuance of the certificate of need. Agreement
1194 that the long-term care hospital will not participate in the
1195 Medicaid program shall be a condition of the issuance of a
1196 certificate of need to any person under this subsection (6), and
1197 if such long-term care hospital at any time after the issuance of
1198 the certificate of need, regardless of the ownership of the
1199 facility, participates in the Medicaid program or admits or keeps
1200 any patients in the facility who are participating in the Medicaid
1201 program, the State Department of Health shall revoke the
1202 certificate of need, if it is still outstanding, and shall deny or
1203 revoke the license of the long-term care hospital, at the time
1204 that the department determines, after a hearing complying with due
1205 process, that the facility has failed to comply with any of the
1206 conditions upon which the certificate of need was issued, as
1207 provided in this subsection and in the written agreement by the
1208 recipient of the certificate of need. For purposes of this
1209 subsection, the provision of Section 41-7-193(1) requiring



1210 substantial compliance with the projection of need as reported in
1211 the current State Health Plan is hereby waived.

1212 (7) The State Department of Health may issue a certificate
1213 of need to any hospital in the state to utilize a portion of its
1214 beds for the "swing-bed" concept. Any such hospital must be in
1215 conformance with the federal regulations regarding such swing-bed
1216 concept at the time it submits its application for a certificate
1217 of need to the State Department of Health, except that such
1218 hospital may have more licensed beds or a higher average daily
1219 census (ADC) than the maximum number specified in federal
1220 regulations for participation in the swing-bed program. Any
1221 hospital meeting all federal requirements for participation in the
1222 swing-bed program which receives such certificate of need shall
1223 render services provided under the swing-bed concept to any
1224 patient eligible for Medicare (Title XVIII of the Social Security
1225 Act) who is certified by a physician to be in need of such
1226 services, and no such hospital shall permit any patient who is
1227 eligible for both Medicaid and Medicare or eligible only for
1228 Medicaid to stay in the swing beds of the hospital for more than
1229 thirty (30) days per admission unless the hospital receives prior
1230 approval for such patient from the Division of Medicaid, Office of
1231 the Governor. Any hospital having more licensed beds or a higher
1232 average daily census (ADC) than the maximum number specified in
1233 federal regulations for participation in the swing-bed program
1234 which receives such certificate of need shall develop a procedure
1235 to insure that before a patient is allowed to stay in the swing
1236 beds of the hospital, there are no vacant nursing home beds
1237 available for that patient located within a fifty-mile radius of
1238 the hospital. When any such hospital has a patient staying in the
1239 swing beds of the hospital and the hospital receives notice from a
1240 nursing home located within such radius that there is a vacant bed
1241 available for that patient, the hospital shall transfer the
1242 patient to the nursing home within a reasonable time after receipt



1243 of the notice. Any hospital which is subject to the requirements
1244 of the two (2) preceding sentences of this subsection may be
1245 suspended from participation in the swing-bed program for a
1246 reasonable period of time by the State Department of Health if the
1247 department, after a hearing complying with due process, determines
1248 that the hospital has failed to comply with any of those
1249 requirements.

1250 (8) The Department of Health shall not grant approval for or
1251 issue a certificate of need to any person proposing the new
1252 construction of, addition to or expansion of a health care
1253 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1254 (9) The Department of Health shall not grant approval for or
1255 issue a certificate of need to any person proposing the
1256 establishment of, or expansion of the currently approved territory
1257 of, or the contracting to establish a home office, subunit or
1258 branch office within the space operated as a health care facility
1259 as defined in Section 41-7-173(h)(i) through (viii) by a health
1260 care facility as defined in subparagraph (ix) of Section
1261 41-7-173(h).

1262 (10) Health care facilities owned and/or operated by the
1263 state or its agencies are exempt from the restraints in this
1264 section against issuance of a certificate of need if such addition
1265 or expansion consists of repairing or renovation necessary to
1266 comply with the state licensure law. This exception shall not
1267 apply to the new construction of any building by such state
1268 facility. This exception shall not apply to any health care
1269 facilities owned and/or operated by counties, municipalities,
1270 districts, unincorporated areas, other defined persons, or any
1271 combination thereof.

1272 (11) The new construction, renovation or expansion of or
1273 addition to any health care facility defined in subparagraph (ii)
1274 (psychiatric hospital), subparagraph (iv) (skilled nursing
1275 facility), subparagraph (vi) (intermediate care facility),



1276 subparagraph (viii) (intermediate care facility for the mentally
1277 retarded) and subparagraph (x) (psychiatric residential treatment
1278 facility) of Section 41-7-173(h) which is owned by the State of
1279 Mississippi and under the direction and control of the State
1280 Department of Mental Health, and the addition of new beds or the
1281 conversion of beds from one category to another in any such
1282 defined health care facility which is owned by the State of
1283 Mississippi and under the direction and control of the State
1284 Department of Mental Health, shall not require the issuance of a
1285 certificate of need under Section 41-7-171 et seq.,
1286 notwithstanding any provision in Section 41-7-171 et seq. to the
1287 contrary.

1288 (12) The new construction, renovation or expansion of or
1289 addition to any veterans homes or domiciliaries for eligible
1290 veterans of the State of Mississippi as authorized under Section
1291 35-1-19 shall not require the issuance of a certificate of need,
1292 notwithstanding any provision in Section 41-7-171 et seq. to the
1293 contrary.

1294 (13) The new construction of a nursing facility or nursing
1295 facility beds or the conversion of other beds to nursing facility
1296 beds shall not require the issuance of a certificate of need,
1297 notwithstanding any provision in Section 41-7-171 et seq. to the
1298 contrary, if the conditions of this subsection are met.

1299 (a) Before any construction or conversion may be
1300 undertaken without a certificate of need, the owner of the nursing
1301 facility, in the case of an existing facility, or the applicant to
1302 construct a nursing facility, in the case of new construction,
1303 first must file a written notice of intent and sign a written
1304 agreement with the State Department of Health that the entire
1305 nursing facility will not at any time participate in or have any
1306 beds certified for participation in the Medicaid program (Section
1307 43-13-101 et seq.), will not admit or keep any patients in the
1308 nursing facility who are participating in the Medicaid program,



1309 and will not submit any claim for Medicaid reimbursement for any
1310 patient in the facility. This written agreement by the owner or
1311 applicant shall be a condition of exercising the authority under
1312 this subsection without a certificate of need, and the agreement
1313 shall be fully binding on any subsequent owner of the nursing
1314 facility if the ownership of the facility is transferred at any
1315 time after the agreement is signed. After the written agreement
1316 is signed, the Division of Medicaid and the State Department of
1317 Health shall not certify any beds in the nursing facility for
1318 participation in the Medicaid program. If the nursing facility
1319 violates the terms of the written agreement by participating in
1320 the Medicaid program, having any beds certified for participation
1321 in the Medicaid program, admitting or keeping any patient in the
1322 facility who is participating in the Medicaid program, or
1323 submitting any claim for Medicaid reimbursement for any patient in
1324 the facility, the State Department of Health shall revoke the
1325 license of the nursing facility at the time that the department
1326 determines, after a hearing complying with due process, that the
1327 facility has violated the terms of the written agreement.

1328 (b) For the purposes of this subsection, participation
1329 in the Medicaid program by a nursing facility includes Medicaid
1330 reimbursement of coinsurance and deductibles for recipients who
1331 are qualified Medicare beneficiaries and/or those who are dually
1332 eligible. Any nursing facility exercising the authority under
1333 this subsection may not bill or submit a claim to the Division of
1334 Medicaid for services to qualified Medicare beneficiaries and/or
1335 those who are dually eligible.

1336 (c) The new construction of a nursing facility or
1337 nursing facility beds or the conversion of other beds to nursing
1338 facility beds described in this section must be either a part of a
1339 completely new continuing care retirement community, as described
1340 in the latest edition of the Mississippi State Health Plan, or an
1341 addition to existing personal care/assisted living and independent



1342 living components, and so that the completed project will be a
1343 continuing care retirement community, containing (i) independent
1344 living accommodations, (ii) personal care home/assisted living
1345 facility beds, and (iii) the nursing home facility beds. The
1346 three (3) components must be located on a single site and be
1347 operated as one (1) inseparable facility. The nursing facility
1348 component must contain a minimum of thirty (30) beds. Any nursing
1349 facility beds authorized by this section will not be counted
1350 against the bed need set forth in the State Health Plan, as
1351 identified in Section 41-7-171 et seq.

1352 This subsection (13) shall stand repealed from and after July
1353 1, 2005.

1354 (14) The State Department of Health shall issue a
1355 certificate of need to any hospital which is currently licensed
1356 for two hundred fifty (250) or more acute care beds and is located
1357 in any general hospital service area not having a comprehensive
1358 cancer center, for the establishment and equipping of such a
1359 center which provides facilities and services for outpatient
1360 radiation oncology therapy, outpatient medical oncology therapy,
1361 and appropriate support services including the provision of
1362 radiation therapy services. The provision of Section 41-7-193(1)
1363 regarding substantial compliance with the projection of need as
1364 reported in the current State Health Plan is waived for the
1365 purpose of this subsection.

1366 (15) The State Department of Health may authorize the
1367 transfer of hospital beds, not to exceed sixty (60) beds, from the
1368 North Panola Community Hospital to the South Panola Community
1369 Hospital. The authorization for the transfer of those beds shall
1370 be exempt from the certificate of need review process.

1371 (16) Nothing in this section or in any other provision of
1372 Section 41-7-171 et seq. shall prevent any nursing facility from
1373 designating an appropriate number of existing beds in the facility



1374 as beds for providing care exclusively to patients with
1375 Alzheimer's disease.

1376 **SECTION 6.** Section 41-49-3, Mississippi Code of 1972, is
1377 amended as follows:

1378 41-49-3. The term "hotel" shall mean and include any hotel,
1379 inn, motel, tourist court, apartment house, rooming house, or
1380 other place where sleeping accommodations are furnished or offered
1381 for pay if four (4) or more rooms are available therein for
1382 transient guests, excluding nursing homes, institutions for the
1383 aged or infirm * * * and personal care homes/assisted living
1384 facilities, as defined in Section 43-11-1.

1385 **SECTION 7.** Section 43-7-55, Mississippi Code of 1972, is
1386 amended as follows:

1387 43-7-55. For the purposes of Sections 43-7-51 through
1388 43-7-79, the following words shall have the definitions ascribed
1389 herein:

1390 (a) "Administrator" means any person charged with the
1391 general administration or supervision of a long-term care facility
1392 without regard to whether such person has an ownership interest in
1393 such facility or to whether such person's functions and duties are
1394 shared with one or more other persons;

1395 (b) "Community ombudsman" means a person selected by an
1396 area agency on aging who is then trained and certified as such by
1397 the council pursuant to Section 43-7-59;

1398 (c) "Council" means the Mississippi Council on Aging;

1399 (d) "Long-term care facility" means any skilled nursing
1400 facility, extended care home, intermediate care facility, personal
1401 care home/assisted living facility or boarding home that is
1402 subject to regulation or licensure by the State Department of
1403 Health;

1404 (e) "Resident" means any resident, prospective
1405 resident, prior resident or deceased resident of any long-term
1406 care facility;



1407 (f) "Sponsor" means an adult relative, friend or
1408 guardian who has a responsibility in the resident's welfare;

1409 (g) "State Ombudsman" means the State Long-Term Care
1410 Facilities Ombudsman;

1411 (h) "Ombudsman" means the State Ombudsman or any
1412 community ombudsman;

1413 (i) "Area agency on aging" means those grantees of the
1414 council which are charged with the local administration of the
1415 Older Americans Act.

1416 **SECTION 8.** Section 73-17-5, Mississippi Code of 1972, is
1417 amended as follows:

1418 73-17-5. As used in this chapter:

1419 (a) The term "nursing home administrator" or
1420 "administrator" means any individual who is charged with the
1421 general administration of a nursing home, whether or not the
1422 individual has an ownership interest in the home and whether or
1423 not the functions and duties are shared with one or more
1424 individuals. "General administration of a nursing home" shall
1425 mean the duties of administrative performance and the making of
1426 day-to-day decisions involved in the planning, organizing,
1427 directing and/or controlling of a nursing home.

1428 (b) The term "nursing home" means a place, either
1429 governmental or private, profit or nonprofit, that provides group
1430 living arrangements for four (4) or more persons who are unrelated
1431 to the operator and who are being provided food, shelter and
1432 personal care/assisted living, and that employs at least one (1)
1433 registered nurse or licensed practical nurse. The term "nursing
1434 home" does not include hospitals, clinics, personal care
1435 homes/assisted living facilities and other institutions devoted
1436 primarily to providing medical services.

1437 (c) "Board" means the Mississippi State Board of
1438 Nursing Home Administrators.



1439 (d) "Person" means an individual or natural person, and
1440 does not include a firm, corporation, association, partnership,
1441 institution, public body, joint stock association or other group
1442 of individuals.

1443 **SECTION 9.** This act shall take effect and be in force from
1444 and after July 1, 2002.

