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

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

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

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

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

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

(c) "Personal care/assisted living" means assistance rendered by personnel of the home to aged or infirm residents in
performing one or more of the activities of daily living, which includes, but is not limited to, the bathing, walking, excretory functions, feeding, personal grooming and dressing of the residents.

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

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

(e) "Pediatric skilled nursing facility" means an institution or a distinct part of an institution that is primarily engaged in providing to inpatients skilled nursing care and
related services for persons under twenty-one (21) years of age
who require medical or nursing care or rehabilitation services for
the rehabilitation of injured, disabled or sick persons.

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

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

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

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

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

43-11-9. (1) Upon receipt of an application for license and
the license fee, the licensing agency shall issue a license if the
applicant and the institutional facilities meet the requirements
established under this chapter and the requirements of Section
41-7-173 et seq., where determined by the licensing agency to be
applicable. A license, unless suspended or revoked, shall be
renewable annually upon payment by (a) the licensee of an institution for the aged or infirm, except for personal care homes/assisted living facilities, of a renewal fee of Twenty Dollars ($20.00) for each bed in the institution, with a minimum fee per institution of Two Hundred Dollars ($200.00), or (b) the licensee of a personal care home/assisted living facility of a renewal fee of Fifteen Dollars ($15.00) for each bed in the institution, with a minimum fee per institution of One Hundred Dollars ($100.00), which shall be paid to the licensing agency, and upon filing by the licensee and approval by the licensing agency of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by regulation. Each license shall be issued only for the premises and person or persons or other legal entity or entities named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. Licenses shall be posted in a conspicuous place on the licensed premises.

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

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

SECTION 4. Section 43-11-13, Mississippi Code of 1972, is amended as follows:
43-11-13. (1) The licensing agency shall adopt, amend, promulgate and enforce such rules, regulations and standards, including classifications, with respect to all institutions for the aged or infirm to be licensed under this chapter as may be designed to further the accomplishment of the purpose of this chapter in promoting adequate care of individuals in those institutions in the interest of public health, safety and welfare. Those rules, regulations and standards shall be adopted and promulgated by the licensing agency and shall be recorded and indexed in a book to be maintained by the licensing agency in its main office in the State of Mississippi, entitled "Rules, Regulations and Minimum Standards for Institutions for the Aged or Infirm" and the book shall be open and available to all institutions for the aged or infirm and the public generally at all reasonable times. Upon the adoption of those rules, regulations and standards, the licensing agency shall mail copies thereof to all those institutions in the state that have filed with the agency their names and addresses for this purpose, but the failure to mail the same or the failure of the institutions to receive the same shall in no way affect the validity thereof. The rules, regulations and standards may be amended by the licensing agency, from time to time, as necessary to promote the health, safety and welfare of persons living in those institutions.

(2) The licensee shall keep posted in a conspicuous place on the licensed premises all current rules, regulations and minimum standards applicable to fire protection measures as adopted by the licensing agency. The licensee shall furnish to the licensing agency at least once each six (6) months a certificate of approval and inspection by state or local fire authorities. Failure to comply with state laws and/or municipal ordinances and current rules, regulations and minimum standards as adopted by the licensing agency, relative to fire prevention measures, shall be prima facie evidence for revocation of license.
(3) The State Board of Health shall promulgate rules and regulations restricting the storage, quantity and classes of drugs allowed in personal care homes/assisted living facilities. Residents requiring administration of Schedule II Narcotics as defined in the Uniform Controlled Substances Law may be admitted to a personal care home/assisted living facility. Schedule drugs may only be allowed in a personal care home/assisted living facility if they are administered or stored utilizing proper procedures under the direct supervision of a licensed physician or nurse.

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

(b) The State Board of Health shall promulgate rules and regulations restricting the handling of a resident's personal
deposits by the director of a personal care home/assisted living facility. Any funds given or provided for the purpose of supplying extra comforts, conveniences or services to any resident in any personal care home/assisted living facility, and any funds otherwise received and held from, for or on behalf of any such resident, shall be deposited by the director or other proper officer of the * * * home/facility to the credit of that resident in an account that shall be known as the Resident's Personal Deposit Fund. No more than one (1) month's charge for the care, support, maintenance and medical attention of the resident shall be applied from the account at any one time. After the death, discharge or transfer of any resident for whose benefit any such fund has been provided, any unexpended balance remaining in his personal deposit fund shall be applied for the payment of care, cost of support, maintenance and medical attention that is accrued. If any unexpended balance remains in that resident's personal deposit fund after complete reimbursement has been made for payment of care, support, maintenance and medical attention, and the director or other proper officer of the personal care home/assisted living facility has been or shall be unable to locate the person or persons entitled to the unexpended balance, the director or other proper officer may, after the lapse of one (1) year from the date of that death, discharge or transfer, deposit the unexpended balance to the credit of the personal care home/assisted living facility's operating fund.

(c) The State Board of Health shall promulgate rules and regulations requiring personal care homes/assisted living facilities to maintain records relating to health condition, medicine dispensed and administered, and any reaction to that medicine. The director of the personal care home/assisted living facility shall be responsible for explaining the availability of those records to the family of the resident at any time upon reasonable request.
(d) The State Board of Health shall evaluate the effects of this section as it promotes adequate care of individuals in personal care homes/assisted living facilities in the interest of public health, safety and welfare. It shall report its findings to the Chairmen of the Public Health and Welfare Committees of the House and Senate by January 1, 2003. This subsection (4) shall stand repealed June 30, 2003.

(5) (a) Pursuant to regulations promulgated by the State Department of Health, the licensing agency shall require to be performed a criminal history record check on every new employee of a licensed institution for the aged or infirm or care facility who provides direct patient care or services and who is employed after July 1, 2001. Except as otherwise provided, no such new employee shall be permitted to provide direct patient care or services until the results of the criminal history record check have revealed no disqualifying record. Every such new employee shall provide a valid current social security number and/or driver's license number, which shall be furnished to the licensing agency or to the private entity designated by the licensing agency to conduct the criminal history record check. The institution for the aged or infirm or care facility applying for the criminal history record check will be promptly notified of any disqualifying record found by the criminal history record check.

In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check.

(b) A licensed institution for the aged or infirm or care facility may make an offer of temporary employment to a prospective employee pending the results of a criminal history record check on the person. In such instances, the licensed institution for the aged or infirm or care facility shall provide
to the licensing agency, or to the designated private entity, the
name and relevant information relating to the person within
seventy-two (72) hours after the date the person accepts temporary
employment.

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

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

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

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

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

(a) The construction, development or other
establishment of a new health care facility;
(b) The relocation of a health care facility or portion thereof, or major medical equipment, which does not involve a capital expenditure by or on behalf of a health care facility, is within five thousand two hundred eighty (5,280) feet from the main entrance of the health care facility;

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

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

   (i) Open heart surgery services;

   (ii) Cardiac catheterization services;
(iii) Comprehensive inpatient rehabilitation services;
(iv) Licensed psychiatric services;
(v) Licensed chemical dependency services;
(vi) Radiation therapy services;
(vii) Diagnostic imaging services of an invasive nature, i.e. invasive digital angiography;
(viii) Nursing home care as defined in subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
(ix) Home health services;
(x) Swing-bed services;
(xi) Ambulatory surgical services;
(xii) Magnetic resonance imaging services;
(xiii) Extracorporeal shock wave lithotripsy services;
(xiv) Long-term care hospital services;
(xv) Positron Emission Tomography (PET) Services;
(e) The relocation of one or more health services from one physical facility or site to another physical facility or site, unless such relocation, which does not involve a capital expenditure by or on behalf of a health care facility, (i) is to a physical facility or site within one thousand three hundred twenty (1,320) feet from the main entrance of the health care facility where the health care service is located, or (ii) is the result of an order of a court of appropriate jurisdiction or a result of pending litigation in such court, or by order of the State Department of Health, or by order of any other agency or legal entity of the state, the federal government, or any political subdivision of either, whose order is also approved by the State Department of Health;
(f) The acquisition or otherwise control of any major medical equipment for the provision of medical services; provided, however, (i) the acquisition of any major medical equipment used
only for research purposes, and (ii) the acquisition of major medical equipment to replace medical equipment for which a facility is already providing medical services and for which the State Department of Health has been notified before the date of such acquisition shall be exempt from this paragraph; an acquisition for less than fair market value must be reviewed, if the acquisition at fair market value would be subject to review;

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

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

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

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

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

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

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

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

(c) The department may issue a certificate of need for
the addition to or expansion of any skilled nursing facility that
is part of an existing continuing care retirement community
located in Madison County, provided that the recipient of the
certificate of need agrees in writing that the skilled nursing
facility will not at any time participate in the Medicaid program
(Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (c), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be authorized under the authority of this paragraph (c) shall not exceed sixty (60) beds.

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

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

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

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

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

(i) The department may issue a certificate of need for
the new construction of a skilled nursing facility in Leake
County, provided that the recipient of the certificate of need
agrees in writing that the skilled nursing facility will not at
any time participate in the Medicaid program (Section 43-13-101 et
seq.) or admit or keep any patients in the skilled nursing
facility who are participating in the Medicaid program. This
written agreement by the recipient of the certificate of need
shall be fully binding on any subsequent owner of the skilled
nursing facility, if the ownership of the facility is transferred
at any time after the issuance of the certificate of need.

Agreement that the skilled nursing facility will not participate
in the Medicaid program shall be a condition of the issuance of a
certificate of need to any person under this paragraph (i), and if
such skilled nursing facility at any time after the issuance of
the certificate of need, regardless of the ownership of the
facility, participates in the Medicaid program or admits or keeps
any patients in the facility who are participating in the Medicaid
program, the State Department of Health shall revoke the
certificate of need, if it is still outstanding, and shall deny or
revoke the license of the skilled nursing facility, at the time
that the department determines, after a hearing complying with due
process, that the facility has failed to comply with any of the
conditions upon which the certificate of need was issued, as
provided in this paragraph and in the written agreement by the
recipient of the certificate of need. The provision of Section
43-7-193(1) regarding substantial compliance of the projection of
need as reported in the current State Health Plan is waived for
the purposes of this paragraph. The total number of nursing
facility beds that may be authorized by any certificate of need
issued under this paragraph (i) shall not exceed sixty (60) beds.
If the skilled nursing facility authorized by the certificate of
need issued under this paragraph is not constructed and fully
operational within eighteen (18) months after July 1, 1994, the
State Department of Health, after a hearing complying with due
process, shall revoke the certificate of need, if it is still
outstanding, and shall not issue a license for the skilled nursing
facility at any time after the expiration of the eighteen-month
period.

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

(k) The department may issue a certificate of need for
the construction of a nursing facility at a continuing care
retirement community in Lowndes County. The total number of beds
that may be authorized under the authority of this paragraph (k)
shall not exceed sixty (60) beds. From and after July 1, 2001,
the prohibition on the facility participating in the Medicaid
program (Section 43-13-101 et seq.) that was a condition of
issuance of the certificate of need under this paragraph (k) shall
be revised as follows: The nursing facility may participate in
the Medicaid program from and after July 1, 2001, if the owner of
the facility on July 1, 2001, agrees in writing that no more than
thirty (30) of the beds at the facility will be certified for
participation in the Medicaid program, and that no claim will be
submitted for Medicaid reimbursement for more than thirty (30)
patients in the facility in any month or for any patient in the
facility who is in a bed that is not Medicaid-certified. This
written agreement by the owner of the facility shall be a
condition of licensure of the facility, and the agreement shall be
fully binding on any subsequent owner of the facility if the
ownership of the facility is transferred at any time after July 1, 2001. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for participation in the Medicaid program. If the facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the written agreement.

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

(m) The State Department of Health may issue a certificate of need to a county-owned hospital in the Second Judicial District of Panola County for the conversion of not more than seventy-two (72) hospital beds to nursing facility beds, provided that the recipient of the certificate of need agrees in writing that none of the beds at the nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement in the nursing facility in any day or for any patient in the nursing facility. This written agreement by the recipient of the certificate of need shall be a condition of
the issuance of the certificate of need under this paragraph, and
the agreement shall be fully binding on any subsequent owner of
the nursing facility if the ownership of the nursing facility is
transferred at any time after the issuance of the certificate of
need. After this written agreement is executed, the Division of
Medicaid and the State Department of Health shall not certify any
of the beds in the nursing facility for participation in the
Medicaid program. If the nursing facility violates the terms of
the written agreement by admitting or keeping in the nursing
facility on a regular or continuing basis any patients who are
participating in the Medicaid program, the State Department of
Health shall revoke the license of the nursing facility, at the
time that the department determines, after a hearing complying
with due process, that the nursing facility has violated the
condition upon which the certificate of need was issued, as
provided in this paragraph and in the written agreement. If the
certificate of need authorized under this paragraph is not issued
within twelve (12) months after July 1, 2001, the department shall
deny the application for the certificate of need and shall not
issue the certificate of need at any time after the twelve-month
period, unless the issuance is contested. If the certificate of
need is issued and substantial construction of the nursing
facility beds has not commenced within eighteen (18) months after
July 1, 2001, the State Department of Health, after a hearing
complying with due process, shall revoke the certificate of need
if it is still outstanding, and the department shall not issue a
license for the nursing facility at any time after the
eighteen-month period. Provided, however, that if the issuance of
the certificate of need is contested, the department shall require
substantial construction of the nursing facility beds within six
(6) months after final adjudication on the issuance of the
certificate of need.
The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (n), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (n) shall not exceed sixty (60) beds. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the
certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after the effective date of July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (o), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing.
complying with due process, that the facility has failed to comply
with any of the conditions upon which the certificate of need was
issued, as provided in this paragraph and in the written agreement
by the recipient of the certificate of need. The total number of
nursing facility beds that may be authorized by any certificate of
need issued under this paragraph (o) shall not exceed sixty (60)
beds. If the certificate of need authorized under this paragraph
is not issued within twelve (12) months after July 1, 2001, the
department shall deny the application for the certificate of need
and shall not issue the certificate of need at any time after the
twelve-month period, unless the issuance is contested. If the
certificate of need is issued and substantial construction of the
nursing facility beds has not commenced within eighteen (18)
months after the effective date of July 1, 2001, the State
Department of Health, after a hearing complying with due process,
shall revoke the certificate of need if it is still outstanding,
and the department shall not issue a license for the nursing
facility at any time after the eighteen-month period. Provided,
however, that if the issuance of the certificate of need is
contested, the department shall require substantial construction
of the nursing facility beds within six (6) months after final
adjudication on the issuance of the certificate of need.

(p) The department may issue a certificate of need for
the construction of a municipally-owned nursing facility within
the Town of Belmont in Tishomingo County, not to exceed sixty (60)
beds, provided that the recipient of the certificate of need
agrees in writing that the skilled nursing facility will not at
any time participate in the Medicaid program (Section 43-13-101 et
seq.) or admit or keep any patients in the skilled nursing
facility who are participating in the Medicaid program. This
written agreement by the recipient of the certificate of need
shall be fully binding on any subsequent owner of the skilled
nursing facility, if the ownership of the facility is transferred
at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (p), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months
after final adjudication on the issuance of the certificate of need.

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

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

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

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

(v) If a certificate of need is authorized to be issued under this paragraph (q) for nursing facility beds in a county on the basis of the need in the Long-Term Care Planning District during any fiscal year of the four-year period, a certificate of need shall not also be available under this paragraph (q) for additional nursing facility beds in that county on the basis of the need in the state at large, and that county shall be excluded in determining which counties have the highest need for nursing facility beds in the state at large for that fiscal year. After a certificate of need has been issued under this paragraph (q) for nursing facility beds in a county during any fiscal year of the four-year period, a certificate of need shall not be available again under this paragraph (q) for additional nursing facility beds in that county during the four-year period, and that county shall be excluded in determining which counties have the highest need for nursing facility beds in succeeding fiscal years.

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

1. The county-owned hospital fully meets all applicable criteria and standards required to obtain a certificate of need for the nursing facility beds; and
2. The county-owned hospital’s qualifications for the certificate of need, as shown in its application and as determined by the department, are at least equal to the
qualifications of the other applicants for the certificate of need.

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

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

(iii) The State Department of Health, in consultation with the Department of Mental Health and the Division of Medicaid, shall develop and prescribe the staffing levels, space requirements and other standards and requirements that must be met with regard to the nursing facility beds authorized under this paragraph (r) to provide care exclusively to patients with Alzheimer's disease.
(3) The State Department of Health may grant approval for and issue certificates of need to any person proposing the new construction of, addition to, conversion of beds of or expansion of any health care facility defined in subparagraph (x) (psychiatric residential treatment facility) of Section 41-7-173(h). The total number of beds which may be authorized by such certificates of need shall not exceed three hundred thirty-four (334) beds for the entire state.

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

(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is
not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program for the use of any patients other than those who are participating only in the Medicaid program of another state. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Mississippi Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

If by January 1, 2002, there has been no significant commencement of construction of the beds authorized under this paragraph (b), or no significant action taken to convert existing beds to the beds authorized under this paragraph, then the certificate of need that was previously issued under this paragraph shall expire. If the previously issued certificate of need expires, the department may accept applications for issuance of another certificate of need for the beds authorized under this paragraph, and may issue a certificate of need to authorize the construction, expansion or conversion of the beds authorized under this paragraph.
(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued.
issued, as provided in this paragraph and in the written agreement.

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

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

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

(4) (a) From and after July 1, 1993, the department shall not issue a certificate of need to any person for the new construction of any hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the conversion of any other health care facility to a hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the addition of any child/adolescent psychiatric or child/adolescent chemical dependency beds in any hospital, psychiatric hospital or chemical dependency hospital, or for the conversion of any beds of another category in any hospital, psychiatric hospital or chemical dependency hospital to child/adolescent psychiatric or child/adolescent chemical dependency beds, except as hereinafter authorized:

   (i) The department may issue certificates of need to any person for any purpose described in this subsection, provided that the hospital, psychiatric hospital or chemical dependency hospital does not participate in the Medicaid program (Section 43-13-101 et seq.) at the time of the application for the
certificate of need and the owner of the hospital, psychiatric hospital or chemical dependency hospital agrees in writing that the hospital, psychiatric hospital or chemical dependency hospital will not at any time participate in the Medicaid program or admit or keep any patients who are participating in the Medicaid program in the hospital, psychiatric hospital or chemical dependency hospital. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital, psychiatric hospital or chemical dependency hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the hospital, psychiatric hospital or chemical dependency hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (a)(i), and if such hospital, psychiatric hospital or chemical dependency hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the hospital, psychiatric hospital or chemical dependency hospital who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital, psychiatric hospital or chemical dependency hospital, at the time that the department determines, after a hearing complying with due process, that the hospital, psychiatric hospital or chemical dependency hospital has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph and in the written agreement by the recipient of the certificate of need.

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

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

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

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

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (a)(v), and if such hospital at any time after the
issue of the certificate of need, regardless of the ownership
of the hospital, has any of such adult psychiatric beds certified
for participation in the Medicaid program or admits or keeps any
Medicaid patients in such adult psychiatric beds, the State
Department of Health shall revoke the certificate of need, if it
is still outstanding, and shall deny or revoke the license of the
hospital at the time that the department determines, after a
hearing complying with due process, that the hospital has failed
to comply with any of the conditions upon which the certificate of
need was issued, as provided in this subparagraph and in the
written agreement by the recipient of the certificate of need.

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

(b) From and after July 1, 1990, no hospital,
psychiatric hospital or chemical dependency hospital shall be
authorized to add any child/adolescent psychiatric or
child/adolescent chemical dependency beds or convert any beds of
another category to child/adolescent psychiatric or
child/adolescent chemical dependency beds without a certificate of
need under the authority of subsection (1)(c) of this section.
(5) The department may issue a certificate of need to a county hospital in Winston County for the conversion of fifteen acute care beds to geriatric psychiatric care beds.

(6) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (6), and if such long-term care hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the long-term care hospital, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subsection and in the written agreement by the recipient of the certificate of need. For purposes of this subsection, the provision of Section 41-7-193(1) requiring
substantial compliance with the projection of need as reported in
the current State Health Plan is hereby waived.

(7) The State Department of Health may issue a certificate
of need to any hospital in the state to utilize a portion of its
beds for the "swing-bed" concept. Any such hospital must be in
conformance with the federal regulations regarding such swing-bed
concept at the time it submits its application for a certificate
of need to the State Department of Health, except that such
hospital may have more licensed beds or a higher average daily
census (ADC) than the maximum number specified in federal
regulations for participation in the swing-bed program. Any
hospital meeting all federal requirements for participation in the
swing-bed program which receives such certificate of need shall
render services provided under the swing-bed concept to any
patient eligible for Medicare (Title XVIII of the Social Security
Act) who is certified by a physician to be in need of such
services, and no such hospital shall permit any patient who is
eligible for both Medicaid and Medicare or eligible only for
Medicaid to stay in the swing beds of the hospital for more than
thirty (30) days per admission unless the hospital receives prior
approval for such patient from the Division of Medicaid, Office of
the Governor. Any hospital having more licensed beds or a higher
average daily census (ADC) than the maximum number specified in
federal regulations for participation in the swing-bed program
which receives such certificate of need shall develop a procedure
to insure that before a patient is allowed to stay in the swing
beds of the hospital, there are no vacant nursing home beds
available for that patient located within a fifty-mile radius of
the hospital. When any such hospital has a patient staying in the
swing beds of the hospital and the hospital receives notice from a
nursing home located within such radius that there is a vacant bed
available for that patient, the hospital shall transfer the
patient to the nursing home within a reasonable time after receipt
of the notice. Any hospital which is subject to the requirements of the two (2) preceding sentences of this subsection may be suspended from participation in the swing-bed program for a reasonable period of time by the State Department of Health if the department, after a hearing complying with due process, determines that the hospital has failed to comply with any of those requirements.

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

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

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

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

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

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

(a) Before any construction or conversion may be
undertaken without a certificate of need, the owner of the nursing
facility, in the case of an existing facility, or the applicant to
construct a nursing facility, in the case of new construction,
first must file a written notice of intent and sign a written
agreement with the State Department of Health that the entire
nursing facility will not at any time participate in or have any
beds certified for participation in the Medicaid program (Section
43-13-101 et seq.), will not admit or keep any patients in the
nursing facility who are participating in the Medicaid program,
and will not submit any claim for Medicaid reimbursement for any patient in the facility. This written agreement by the owner or applicant shall be a condition of exercising the authority under this subsection without a certificate of need, and the agreement shall be fully binding on any subsequent owner of the nursing facility if the ownership of the facility is transferred at any time after the agreement is signed. After the written agreement is signed, the Division of Medicaid and the State Department of Health shall not certify any beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by participating in the Medicaid program, having any beds certified for participation in the Medicaid program, admitting or keeping any patient in the facility who is participating in the Medicaid program, or submitting any claim for Medicaid reimbursement for any patient in the facility, the State Department of Health shall revoke the license of the nursing facility at the time that the department determines, after a hearing complying with due process, that the facility has violated the terms of the written agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) "Resident" means any resident, prospective resident, prior resident or deceased resident of any long-term care facility;
(f) "Sponsor" means an adult relative, friend or guardian who has a responsibility in the resident's welfare;

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

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

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

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

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

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

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

(c) "Board" means the Mississippi State Board of Nursing Home Administrators.
(d) "Person" means an individual or natural person, and does not include a firm, corporation, association, partnership, institution, public body, joint stock association or other group of individuals.

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