

By: Representative Coleman (29th)

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1140

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE  
3 OF NEED FOR THE CONSTRUCTION OF AN INTERMEDIATE CARE FACILITY FOR  
4 THE MENTALLY RETARDED FOR CHILDREN AND ADOLESCENTS IN DISTRICT II  
5 OF THE MENTALLY RETARDED/DEVELOPMENTALLY DISABLED LONG-TERM CARE  
6 PLANNING DISTRICTS AS DESIGNATED IN THE STATE HEALTH PLAN; AND FOR  
7 RELATED PURPOSES.

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

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

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

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

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

23 (c) A change over a period of two (2) years' time, as  
24 established by the State Department of Health, in existing bed  
25 complement through the addition of more than ten (10) beds or more  
26 than ten percent (10%) of the total bed capacity of a designated  
27 licensed category or subcategory of any health care facility,  
28 whichever is less, from one physical facility or site to another;  
29 the conversion over a period of two (2) years' time, as



30 established by the State Department of Health, of existing bed  
31 complement of more than ten (10) beds or more than ten percent  
32 (10%) of the total bed capacity of a designated licensed category  
33 or subcategory of any such health care facility, whichever is  
34 less; or the alteration, modernizing or refurbishing of any unit  
35 or department wherein such beds may be located; provided, however,  
36 that from and after July 1, 1994, no health care facility shall be  
37 authorized to add any beds or convert any beds to another category  
38 of beds without a certificate of need under the authority of  
39 subsection (1)(c) of this section unless there is a projected need  
40 for such beds in the planning district in which the facility is  
41 located, as reported in the most current State Health Plan;

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

- 46 (i) Open heart surgery services;
- 47 (ii) Cardiac catheterization services;
- 48 (iii) Comprehensive inpatient rehabilitation  
49 services;
- 50 (iv) Licensed psychiatric services;
- 51 (v) Licensed chemical dependency services;
- 52 (vi) Radiation therapy services;
- 53 (vii) Diagnostic imaging services of an invasive  
54 nature, i.e. invasive digital angiography;
- 55 (viii) Nursing home care as defined in  
56 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 57 (ix) Home health services;
- 58 (x) Swing-bed services;
- 59 (xi) Ambulatory surgical services;
- 60 (xii) Magnetic resonance imaging services;
- 61 (xiii) Extracorporeal shock wave lithotripsy  
62 services;



63 (xiv) Long-term care hospital services;

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

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

66 one physical facility or site to another physical facility or

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

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

69 physical facility or site within one thousand three hundred twenty

70 (1,320) feet from the main entrance of the health care facility

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

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

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

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

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

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

77 Department of Health;

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

79 medical equipment for the provision of medical services; provided,

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

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

82 medical equipment to replace medical equipment for which a

83 facility is already providing medical services and for which the

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

85 such acquisition shall be exempt from this paragraph; an

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

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

88 (g) Changes of ownership of existing health care

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

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

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

92 capacity as prescribed in paragraph (c) or (d) of this subsection

93 as a result of the change of ownership; an acquisition for less

94 than fair market value must be reviewed, if the acquisition at

95 fair market value would be subject to review;



96           (h) The change of ownership of any health care facility  
97 defined in subparagraphs (iv), (vi) and (viii) of Section  
98 41-7-173(h), in which a notice of intent as described in paragraph  
99 (g) has not been filed and if the Executive Director, Division of  
100 Medicaid, Office of the Governor, has not certified in writing  
101 that there will be no increase in allowable costs to Medicaid from  
102 revaluation of the assets or from increased interest and  
103 depreciation as a result of the proposed change of ownership;

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

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

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

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

124           (a) The department may issue a certificate of need to  
125 any person proposing the new construction of any health care  
126 facility defined in subparagraphs (iv) and (vi) of Section  
127 41-7-173(h) as part of a life care retirement facility, in any  
128 county bordering on the Gulf of Mexico in which is located a



129 National Aeronautics and Space Administration facility, not to  
130 exceed forty (40) beds. From and after July 1, 1999, there shall  
131 be no prohibition or restrictions on participation in the Medicaid  
132 program (Section 43-13-101 et seq.) for the beds in the health  
133 care facility that were authorized under this paragraph (a).

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

141 (c) The department may issue a certificate of need for  
142 the addition to or expansion of any skilled nursing facility that  
143 is part of an existing continuing care retirement community  
144 located in Madison County, provided that the recipient of the  
145 certificate of need agrees in writing that the skilled nursing  
146 facility will not at any time participate in the Medicaid program  
147 (Section 43-13-101 et seq.) or admit or keep any patients in the  
148 skilled nursing facility who are participating in the Medicaid  
149 program. This written agreement by the recipient of the  
150 certificate of need shall be fully binding on any subsequent owner  
151 of the skilled nursing facility, if the ownership of the facility  
152 is transferred at any time after the issuance of the certificate  
153 of need. Agreement that the skilled nursing facility will not  
154 participate in the Medicaid program shall be a condition of the  
155 issuance of a certificate of need to any person under this  
156 paragraph (c), and if such skilled nursing facility at any time  
157 after the issuance of the certificate of need, regardless of the  
158 ownership of the facility, participates in the Medicaid program or  
159 admits or keeps any patients in the facility who are participating  
160 in the Medicaid program, the State Department of Health shall  
161 revoke the certificate of need, if it is still outstanding, and



162 shall deny or revoke the license of the skilled nursing facility,  
163 at the time that the department determines, after a hearing  
164 complying with due process, that the facility has failed to comply  
165 with any of the conditions upon which the certificate of need was  
166 issued, as provided in this paragraph and in the written agreement  
167 by the recipient of the certificate of need. The total number of  
168 beds that may be authorized under the authority of this paragraph  
169 (c) shall not exceed sixty (60) beds.

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

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

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



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

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

211           (i) The department may issue a certificate of need for  
212 the new construction of a skilled nursing facility in Leake  
213 County, provided that the recipient of the certificate of need  
214 agrees in writing that the skilled nursing facility will not at  
215 any time participate in the Medicaid program (Section 43-13-101 et  
216 seq.) or admit or keep any patients in the skilled nursing  
217 facility who are participating in the Medicaid program. This  
218 written agreement by the recipient of the certificate of need  
219 shall be fully binding on any subsequent owner of the skilled  
220 nursing facility, if the ownership of the facility is transferred  
221 at any time after the issuance of the certificate of need.  
222 Agreement that the skilled nursing facility will not participate  
223 in the Medicaid program shall be a condition of the issuance of a  
224 certificate of need to any person under this paragraph (i), and if  
225 such skilled nursing facility at any time after the issuance of  
226 the certificate of need, regardless of the ownership of the  
227 facility, participates in the Medicaid program or admits or keeps



228 any patients in the facility who are participating in the Medicaid  
229 program, the State Department of Health shall revoke the  
230 certificate of need, if it is still outstanding, and shall deny or  
231 revoke the license of the skilled nursing facility, at the time  
232 that the department determines, after a hearing complying with due  
233 process, that the facility has failed to comply with any of the  
234 conditions upon which the certificate of need was issued, as  
235 provided in this paragraph and in the written agreement by the  
236 recipient of the certificate of need. The provision of Section  
237 43-7-193(1) regarding substantial compliance of the projection of  
238 need as reported in the current State Health Plan is waived for  
239 the purposes of this paragraph. The total number of nursing  
240 facility beds that may be authorized by any certificate of need  
241 issued under this paragraph (i) shall not exceed sixty (60) beds.  
242 If the skilled nursing facility authorized by the certificate of  
243 need issued under this paragraph is not constructed and fully  
244 operational within eighteen (18) months after July 1, 1994, the  
245 State Department of Health, after a hearing complying with due  
246 process, shall revoke the certificate of need, if it is still  
247 outstanding, and shall not issue a license for the skilled nursing  
248 facility at any time after the expiration of the eighteen-month  
249 period.

250 (j) The department may issue certificates of need to  
251 allow any existing freestanding long-term care facility in  
252 Tishomingo County and Hancock County that on July 1, 1995, is  
253 licensed with fewer than sixty (60) beds. For the purposes of  
254 this paragraph (j), the provision of Section 41-7-193(1) requiring  
255 substantial compliance with the projection of need as reported in  
256 the current State Health Plan is waived. From and after July 1,  
257 1999, there shall be no prohibition or restrictions on  
258 participation in the Medicaid program (Section 43-13-101 et seq.)  
259 for the beds in the long-term care facilities that were authorized  
260 under this paragraph (j).





261 (k) The department may issue a certificate of need for  
262 the construction of a nursing facility at a continuing care  
263 retirement community in Lowndes County. The total number of beds  
264 that may be authorized under the authority of this paragraph (k)  
265 shall not exceed sixty (60) beds. From and after July 1, 2001,  
266 the prohibition on the facility participating in the Medicaid  
267 program (Section 43-13-101 et seq.) that was a condition of  
268 issuance of the certificate of need under this paragraph (k) shall  
269 be revised as follows: The nursing facility may participate in  
270 the Medicaid program from and after July 1, 2001, if the owner of  
271 the facility on July 1, 2001, agrees in writing that no more than  
272 thirty (30) of the beds at the facility will be certified for  
273 participation in the Medicaid program, and that no claim will be  
274 submitted for Medicaid reimbursement for more than thirty (30)  
275 patients in the facility in any month or for any patient in the  
276 facility who is in a bed that is not Medicaid-certified. This  
277 written agreement by the owner of the facility shall be a  
278 condition of licensure of the facility, and the agreement shall be  
279 fully binding on any subsequent owner of the facility if the  
280 ownership of the facility is transferred at any time after July 1,  
281 2001. After this written agreement is executed, the Division of  
282 Medicaid and the State Department of Health shall not certify more  
283 than thirty (30) of the beds in the facility for participation in  
284 the Medicaid program. If the facility violates the terms of the  
285 written agreement by admitting or keeping in the facility on a  
286 regular or continuing basis more than thirty (30) patients who are  
287 participating in the Medicaid program, the State Department of  
288 Health shall revoke the license of the facility, at the time that  
289 the department determines, after a hearing complying with due  
290 process, that the facility has violated the written agreement.

291 (l) Provided that funds are specifically appropriated  
292 therefor by the Legislature, the department may issue a  
293 certificate of need to a rehabilitation hospital in Hinds County



294 for the construction of a sixty-bed long-term care nursing  
295 facility dedicated to the care and treatment of persons with  
296 severe disabilities including persons with spinal cord and  
297 closed-head injuries and ventilator-dependent patients. The  
298 provision of Section 41-7-193(1) regarding substantial compliance  
299 with projection of need as reported in the current State Health  
300 Plan is hereby waived for the purpose of this paragraph.

301 (m) The State Department of Health may issue a  
302 certificate of need to a county-owned hospital in the Second  
303 Judicial District of Panola County for the conversion of not more  
304 than seventy-two (72) hospital beds to nursing facility beds,  
305 provided that the recipient of the certificate of need agrees in  
306 writing that none of the beds at the nursing facility will be  
307 certified for participation in the Medicaid program (Section  
308 43-13-101 et seq.), and that no claim will be submitted for  
309 Medicaid reimbursement in the nursing facility in any day or for  
310 any patient in the nursing facility. This written agreement by  
311 the recipient of the certificate of need shall be a condition of  
312 the issuance of the certificate of need under this paragraph, and  
313 the agreement shall be fully binding on any subsequent owner of  
314 the nursing facility if the ownership of the nursing facility is  
315 transferred at any time after the issuance of the certificate of  
316 need. After this written agreement is executed, the Division of  
317 Medicaid and the State Department of Health shall not certify any  
318 of the beds in the nursing facility for participation in the  
319 Medicaid program. If the nursing facility violates the terms of  
320 the written agreement by admitting or keeping in the nursing  
321 facility on a regular or continuing basis any patients who are  
322 participating in the Medicaid program, the State Department of  
323 Health shall revoke the license of the nursing facility, at the  
324 time that the department determines, after a hearing complying  
325 with due process, that the nursing facility has violated the  
326 condition upon which the certificate of need was issued, as



327 provided in this paragraph and in the written agreement. If the  
328 certificate of need authorized under this paragraph is not issued  
329 within twelve (12) months after July 1, 2001, the department shall  
330 deny the application for the certificate of need and shall not  
331 issue the certificate of need at any time after the twelve-month  
332 period, unless the issuance is contested. If the certificate of  
333 need is issued and substantial construction of the nursing  
334 facility beds has not commenced within eighteen (18) months after  
335 July 1, 2001, the State Department of Health, after a hearing  
336 complying with due process, shall revoke the certificate of need  
337 if it is still outstanding, and the department shall not issue a  
338 license for the nursing facility at any time after the  
339 eighteen-month period. Provided, however, that if the issuance of  
340 the certificate of need is contested, the department shall require  
341 substantial construction of the nursing facility beds within six  
342 (6) months after final adjudication on the issuance of the  
343 certificate of need.

344 (n) The department may issue a certificate of need for  
345 the new construction, addition or conversion of skilled nursing  
346 facility beds in Madison County, provided that the recipient of  
347 the certificate of need agrees in writing that the skilled nursing  
348 facility will not at any time participate in the Medicaid program  
349 (Section 43-13-101 et seq.) or admit or keep any patients in the  
350 skilled nursing facility who are participating in the Medicaid  
351 program. This written agreement by the recipient of the  
352 certificate of need shall be fully binding on any subsequent owner  
353 of the skilled nursing facility, if the ownership of the facility  
354 is transferred at any time after the issuance of the certificate  
355 of need. Agreement that the skilled nursing facility will not  
356 participate in the Medicaid program shall be a condition of the  
357 issuance of a certificate of need to any person under this  
358 paragraph (n), and if such skilled nursing facility at any time  
359 after the issuance of the certificate of need, regardless of the



360 ownership of the facility, participates in the Medicaid program or  
361 admits or keeps any patients in the facility who are participating  
362 in the Medicaid program, the State Department of Health shall  
363 revoke the certificate of need, if it is still outstanding, and  
364 shall deny or revoke the license of the skilled nursing facility,  
365 at the time that the department determines, after a hearing  
366 complying with due process, that the facility has failed to comply  
367 with any of the conditions upon which the certificate of need was  
368 issued, as provided in this paragraph and in the written agreement  
369 by the recipient of the certificate of need. The total number of  
370 nursing facility beds that may be authorized by any certificate of  
371 need issued under this paragraph (n) shall not exceed sixty (60)  
372 beds. If the certificate of need authorized under this paragraph  
373 is not issued within twelve (12) months after July 1, 1998, the  
374 department shall deny the application for the certificate of need  
375 and shall not issue the certificate of need at any time after the  
376 twelve-month period, unless the issuance is contested. If the  
377 certificate of need is issued and substantial construction of the  
378 nursing facility beds has not commenced within eighteen (18)  
379 months after the effective date of July 1, 1998, the State  
380 Department of Health, after a hearing complying with due process,  
381 shall revoke the certificate of need if it is still outstanding,  
382 and the department shall not issue a license for the nursing  
383 facility at any time after the eighteen-month period. Provided,  
384 however, that if the issuance of the certificate of need is  
385 contested, the department shall require substantial construction  
386 of the nursing facility beds within six (6) months after final  
387 adjudication on the issuance of the certificate of need.

388 (o) The department may issue a certificate of need for  
389 the new construction, addition or conversion of skilled nursing  
390 facility beds in Leake County, provided that the recipient of the  
391 certificate of need agrees in writing that the skilled nursing  
392 facility will not at any time participate in the Medicaid program



393 (Section 43-13-101 et seq.) or admit or keep any patients in the  
394 skilled nursing facility who are participating in the Medicaid  
395 program. This written agreement by the recipient of the  
396 certificate of need shall be fully binding on any subsequent owner  
397 of the skilled nursing facility, if the ownership of the facility  
398 is transferred at any time after the issuance of the certificate  
399 of need. Agreement that the skilled nursing facility will not  
400 participate in the Medicaid program shall be a condition of the  
401 issuance of a certificate of need to any person under this  
402 paragraph (o), and if such skilled nursing facility at any time  
403 after the issuance of the certificate of need, regardless of the  
404 ownership of the facility, participates in the Medicaid program or  
405 admits or keeps any patients in the facility who are participating  
406 in the Medicaid program, the State Department of Health shall  
407 revoke the certificate of need, if it is still outstanding, and  
408 shall deny or revoke the license of the skilled nursing facility,  
409 at the time that the department determines, after a hearing  
410 complying with due process, that the facility has failed to comply  
411 with any of the conditions upon which the certificate of need was  
412 issued, as provided in this paragraph and in the written agreement  
413 by the recipient of the certificate of need. The total number of  
414 nursing facility beds that may be authorized by any certificate of  
415 need issued under this paragraph (o) shall not exceed sixty (60)  
416 beds. If the certificate of need authorized under this paragraph  
417 is not issued within twelve (12) months after July 1, 2001, the  
418 department shall deny the application for the certificate of need  
419 and shall not issue the certificate of need at any time after the  
420 twelve-month period, unless the issuance is contested. If the  
421 certificate of need is issued and substantial construction of the  
422 nursing facility beds has not commenced within eighteen (18)  
423 months after the effective date of July 1, 2001, the State  
424 Department of Health, after a hearing complying with due process,  
425 shall revoke the certificate of need if it is still outstanding,



426 and the department shall not issue a license for the nursing  
427 facility at any time after the eighteen-month period. Provided,  
428 however, that if the issuance of the certificate of need is  
429 contested, the department shall require substantial construction  
430 of the nursing facility beds within six (6) months after final  
431 adjudication on the issuance of the certificate of need.

432 (p) The department may issue a certificate of need for  
433 the construction of a municipally-owned nursing facility within  
434 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
435 beds, provided that the recipient of the certificate of need  
436 agrees in writing that the skilled nursing facility will not at  
437 any time participate in the Medicaid program (Section 43-13-101 et  
438 seq.) or admit or keep any patients in the skilled nursing  
439 facility who are participating in the Medicaid program. This  
440 written agreement by the recipient of the certificate of need  
441 shall be fully binding on any subsequent owner of the skilled  
442 nursing facility, if the ownership of the facility is transferred  
443 at any time after the issuance of the certificate of need.

444 Agreement that the skilled nursing facility will not participate  
445 in the Medicaid program shall be a condition of the issuance of a  
446 certificate of need to any person under this paragraph (p), and if  
447 such skilled nursing facility at any time after the issuance of  
448 the certificate of need, regardless of the ownership of the  
449 facility, participates in the Medicaid program or admits or keeps  
450 any patients in the facility who are participating in the Medicaid  
451 program, the State Department of Health shall revoke the  
452 certificate of need, if it is still outstanding, and shall deny or  
453 revoke the license of the skilled nursing facility, at the time  
454 that the department determines, after a hearing complying with due  
455 process, that the facility has failed to comply with any of the  
456 conditions upon which the certificate of need was issued, as  
457 provided in this paragraph and in the written agreement by the  
458 recipient of the certificate of need. The provision of Section



459 43-7-193(1) regarding substantial compliance of the projection of  
460 need as reported in the current State Health Plan is waived for  
461 the purposes of this paragraph. If the certificate of need  
462 authorized under this paragraph is not issued within twelve (12)  
463 months after July 1, 1998, the department shall deny the  
464 application for the certificate of need and shall not issue the  
465 certificate of need at any time after the twelve-month period,  
466 unless the issuance is contested. If the certificate of need is  
467 issued and substantial construction of the nursing facility beds  
468 has not commenced within eighteen (18) months after July 1, 1998,  
469 the State Department of Health, after a hearing complying with due  
470 process, shall revoke the certificate of need if it is still  
471 outstanding, and the department shall not issue a license for the  
472 nursing facility at any time after the eighteen-month period.  
473 Provided, however, that if the issuance of the certificate of need  
474 is contested, the department shall require substantial  
475 construction of the nursing facility beds within six (6) months  
476 after final adjudication on the issuance of the certificate of  
477 need.

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

488 (ii) Subject to the provisions of subparagraph  
489 (v), during each of the next four (4) fiscal years, the department  
490 shall issue six (6) certificates of need for new nursing facility  
491 beds, as follows: During fiscal years 2000, 2001 and 2002, one



492 (1) certificate of need shall be issued for new nursing facility  
493 beds in the county in each of the four (4) Long-Term Care Planning  
494 Districts designated in the fiscal year 1999 State Health Plan  
495 that has the highest need in the district for those beds; and two  
496 (2) certificates of need shall be issued for new nursing facility  
497 beds in the two (2) counties from the state at large that have the  
498 highest need in the state for those beds, when considering the  
499 need on a statewide basis and without regard to the Long-Term Care  
500 Planning Districts in which the counties are located. During  
501 fiscal year 2003, one (1) certificate of need shall be issued for  
502 new nursing facility beds in any county having a need for fifty  
503 (50) or more additional nursing facility beds, as shown in the  
504 fiscal year 1999 State Health Plan, that has not received a  
505 certificate of need under this paragraph (q) during the three (3)  
506 previous fiscal years. During fiscal year 2000, in addition to  
507 the six (6) certificates of need authorized in this subparagraph,  
508 the department also shall issue a certificate of need for new  
509 nursing facility beds in Amite County and a certificate of need  
510 for new nursing facility beds in Carroll County.

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





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

543                   (v) If a certificate of need is authorized to be  
544 issued under this paragraph (q) for nursing facility beds in a  
545 county on the basis of the need in the Long-Term Care Planning  
546 District during any fiscal year of the four-year period, a  
547 certificate of need shall not also be available under this  
548 paragraph (q) for additional nursing facility beds in that county  
549 on the basis of the need in the state at large, and that county  
550 shall be excluded in determining which counties have the highest  
551 need for nursing facility beds in the state at large for that  
552 fiscal year. After a certificate of need has been issued under  
553 this paragraph (q) for nursing facility beds in a county during  
554 any fiscal year of the four-year period, a certificate of need  
555 shall not be available again under this paragraph (q) for  
556 additional nursing facility beds in that county during the  
557 four-year period, and that county shall be excluded in determining



558 which counties have the highest need for nursing facility beds in  
559 succeeding fiscal years.

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

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

571 2. The county-owned hospital's qualifications  
572 for the certificate of need, as shown in its application and as  
573 determined by the department, are at least equal to the  
574 qualifications of the other applicants for the certificate of  
575 need.

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

584 (ii) Not more than twenty (20) beds may be  
585 authorized by any certificate of need issued under this paragraph  
586 (r), and not more than a total of sixty (60) beds may be  
587 authorized in any Long-Term Care Planning District by all  
588 certificates of need issued under this paragraph (r). However,  
589 the total number of beds that may be authorized by all  
590 certificates of need issued under this paragraph (r) during any



591 fiscal year shall not exceed one hundred twenty (120) beds, and  
592 the total number of beds that may be authorized in any Long-Term  
593 Care Planning District during any fiscal year shall not exceed  
594 forty (40) beds. Of the certificates of need that are issued for  
595 each Long-Term Care Planning District during the next two (2)  
596 fiscal years, at least one (1) shall be issued for beds in the  
597 northern part of the district, at least one (1) shall be issued  
598 for beds in the central part of the district, and at least one (1)  
599 shall be issued for beds in the southern part of the district.

600 (iii) The State Department of Health, in  
601 consultation with the Department of Mental Health and the Division  
602 of Medicaid, shall develop and prescribe the staffing levels,  
603 space requirements and other standards and requirements that must  
604 be met with regard to the nursing facility beds authorized under  
605 this paragraph (r) to provide care exclusively to patients with  
606 Alzheimer's disease.

607 (3) The State Department of Health may grant approval for  
608 and issue certificates of need to any person proposing the new  
609 construction of, addition to, conversion of beds of or expansion  
610 of any health care facility defined in subparagraph (x)  
611 (psychiatric residential treatment facility) of Section  
612 41-7-173(h). The total number of beds which may be authorized by  
613 such certificates of need shall not exceed three hundred  
614 thirty-four (334) beds for the entire state.

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



624 (b) Of the total number of beds authorized under this  
625 subsection, the department may issue a certificate or certificates  
626 of need for the construction or expansion of psychiatric  
627 residential treatment facility beds or the conversion of other  
628 beds to psychiatric residential treatment facility beds in Warren  
629 County, not to exceed sixty (60) psychiatric residential treatment  
630 facility beds, provided that the facility agrees in writing that  
631 no more than thirty (30) of the beds at the psychiatric  
632 residential treatment facility will be certified for participation  
633 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
634 any patients other than those who are participating only in the  
635 Medicaid program of another state, and that no claim will be  
636 submitted to the Division of Medicaid for Medicaid reimbursement  
637 for more than thirty (30) patients in the psychiatric residential  
638 treatment facility in any day or for any patient in the  
639 psychiatric residential treatment facility who is in a bed that is  
640 not Medicaid-certified. This written agreement by the recipient  
641 of the certificate of need shall be a condition of the issuance of  
642 the certificate of need under this paragraph, and the agreement  
643 shall be fully binding on any subsequent owner of the psychiatric  
644 residential treatment facility if the ownership of the facility is  
645 transferred at any time after the issuance of the certificate of  
646 need. After this written agreement is executed, the Division of  
647 Medicaid and the State Department of Health shall not certify more  
648 than thirty (30) of the beds in the psychiatric residential  
649 treatment facility for participation in the Medicaid program for  
650 the use of any patients other than those who are participating  
651 only in the Medicaid program of another state. If the psychiatric  
652 residential treatment facility violates the terms of the written  
653 agreement by admitting or keeping in the facility on a regular or  
654 continuing basis more than thirty (30) patients who are  
655 participating in the Mississippi Medicaid program, the State  
656 Department of Health shall revoke the license of the facility, at



657 the time that the department determines, after a hearing complying  
658 with due process, that the facility has violated the condition  
659 upon which the certificate of need was issued, as provided in this  
660 paragraph and in the written agreement.

661 If by January 1, 2002, there has been no significant  
662 commencement of construction of the beds authorized under this  
663 paragraph (b), or no significant action taken to convert existing  
664 beds to the beds authorized under this paragraph, then the  
665 certificate of need that was previously issued under this  
666 paragraph shall expire. If the previously issued certificate of  
667 need expires, the department may accept applications for issuance  
668 of another certificate of need for the beds authorized under this  
669 paragraph, and may issue a certificate of need to authorize the  
670 construction, expansion or conversion of the beds authorized under  
671 this paragraph.

672 (c) Of the total number of beds authorized under this  
673 subsection, the department shall issue a certificate of need to a  
674 hospital currently operating Medicaid-certified acute psychiatric  
675 beds for adolescents in DeSoto County, for the establishment of a  
676 forty-bed psychiatric residential treatment facility in DeSoto  
677 County, provided that the hospital agrees in writing (i) that the  
678 hospital shall give priority for the use of those forty (40) beds  
679 to Mississippi residents who are presently being treated in  
680 out-of-state facilities, and (ii) that no more than fifteen (15)  
681 of the beds at the psychiatric residential treatment facility will  
682 be certified for participation in the Medicaid program (Section  
683 43-13-101 et seq.), and that no claim will be submitted for  
684 Medicaid reimbursement for more than fifteen (15) patients in the  
685 psychiatric residential treatment facility in any day or for any  
686 patient in the psychiatric residential treatment facility who is  
687 in a bed that is not Medicaid-certified. This written agreement  
688 by the recipient of the certificate of need shall be a condition  
689 of the issuance of the certificate of need under this paragraph,



690 and the agreement shall be fully binding on any subsequent owner  
691 of the psychiatric residential treatment facility if the ownership  
692 of the facility is transferred at any time after the issuance of  
693 the certificate of need. After this written agreement is  
694 executed, the Division of Medicaid and the State Department of  
695 Health shall not certify more than fifteen (15) of the beds in the  
696 psychiatric residential treatment facility for participation in  
697 the Medicaid program. If the psychiatric residential treatment  
698 facility violates the terms of the written agreement by admitting  
699 or keeping in the facility on a regular or continuing basis more  
700 than fifteen (15) patients who are participating in the Medicaid  
701 program, the State Department of Health shall revoke the license  
702 of the facility, at the time that the department determines, after  
703 a hearing complying with due process, that the facility has  
704 violated the condition upon which the certificate of need was  
705 issued, as provided in this paragraph and in the written  
706 agreement.

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

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



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

750           (4) (a) From and after July 1, 1993, the department shall  
751 not issue a certificate of need to any person for the new  
752 construction of any hospital, psychiatric hospital or chemical  
753 dependency hospital that will contain any child/adolescent  
754 psychiatric or child/adolescent chemical dependency beds, or for  
755 the conversion of any other health care facility to a hospital,



756 psychiatric hospital or chemical dependency hospital that will  
757 contain any child/adolescent psychiatric or child/adolescent  
758 chemical dependency beds, or for the addition of any  
759 child/adolescent psychiatric or child/adolescent chemical  
760 dependency beds in any hospital, psychiatric hospital or chemical  
761 dependency hospital, or for the conversion of any beds of another  
762 category in any hospital, psychiatric hospital or chemical  
763 dependency hospital to child/adolescent psychiatric or  
764 child/adolescent chemical dependency beds, except as hereinafter  
765 authorized:

766                   (i) The department may issue certificates of need  
767 to any person for any purpose described in this subsection,  
768 provided that the hospital, psychiatric hospital or chemical  
769 dependency hospital does not participate in the Medicaid program  
770 (Section 43-13-101 et seq.) at the time of the application for the  
771 certificate of need and the owner of the hospital, psychiatric  
772 hospital or chemical dependency hospital agrees in writing that  
773 the hospital, psychiatric hospital or chemical dependency hospital  
774 will not at any time participate in the Medicaid program or admit  
775 or keep any patients who are participating in the Medicaid program  
776 in the hospital, psychiatric hospital or chemical dependency  
777 hospital. This written agreement by the recipient of the  
778 certificate of need shall be fully binding on any subsequent owner  
779 of the hospital, psychiatric hospital or chemical dependency  
780 hospital, if the ownership of the facility is transferred at any  
781 time after the issuance of the certificate of need. Agreement  
782 that the hospital, psychiatric hospital or chemical dependency  
783 hospital will not participate in the Medicaid program shall be a  
784 condition of the issuance of a certificate of need to any person  
785 under this subparagraph (a)(i), and if such hospital, psychiatric  
786 hospital or chemical dependency hospital at any time after the  
787 issuance of the certificate of need, regardless of the ownership  
788 of the facility, participates in the Medicaid program or admits or





789 keeps any patients in the hospital, psychiatric hospital or  
790 chemical dependency hospital who are participating in the Medicaid  
791 program, the State Department of Health shall revoke the  
792 certificate of need, if it is still outstanding, and shall deny or  
793 revoke the license of the hospital, psychiatric hospital or  
794 chemical dependency hospital, at the time that the department  
795 determines, after a hearing complying with due process, that the  
796 hospital, psychiatric hospital or chemical dependency hospital has  
797 failed to comply with any of the conditions upon which the  
798 certificate of need was issued, as provided in this subparagraph  
799 and in the written agreement by the recipient of the certificate  
800 of need.

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

814 (iii) The department may issue a certificate or  
815 certificates of need for the construction or expansion of  
816 child/adolescent psychiatric beds or the conversion of other beds  
817 to child/adolescent psychiatric beds in Warren County. For  
818 purposes of this subparagraph, the provisions of Section  
819 41-7-193(1) requiring substantial compliance with the projection  
820 of need as reported in the current State Health Plan are waived.  
821 The total number of beds that may be authorized under the



822 authority of this subparagraph shall not exceed twenty (20) beds.  
823 There shall be no prohibition or restrictions on participation in  
824 the Medicaid program (Section 43-13-101 et seq.) for the person  
825 receiving the certificate of need authorized under this  
826 subparagraph (a)(iii) or for the beds converted pursuant to the  
827 authority of that certificate of need.

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

839                 (iv) The department shall issue a certificate of  
840 need to the Region 7 Mental Health/Retardation Commission for the  
841 construction or expansion of child/adolescent psychiatric beds or  
842 the conversion of other beds to child/adolescent psychiatric beds  
843 in any of the counties served by the commission. For purposes of  
844 this subparagraph, the provisions of Section 41-7-193(1) requiring  
845 substantial compliance with the projection of need as reported in  
846 the current State Health Plan is waived. The total number of beds  
847 that may be authorized under the authority of this subparagraph  
848 shall not exceed twenty (20) beds. There shall be no prohibition  
849 or restrictions on participation in the Medicaid program (Section  
850 43-13-101 et seq.) for the person receiving the certificate of  
851 need authorized under this subparagraph (a)(iv) or for the beds  
852 converted pursuant to the authority of that certificate of need.

853                 (v) The department may issue a certificate of need  
854 to any county hospital located in Leflore County for the



855 construction or expansion of adult psychiatric beds or the  
856 conversion of other beds to adult psychiatric beds, not to exceed  
857 twenty (20) beds, provided that the recipient of the certificate  
858 of need agrees in writing that the adult psychiatric beds will not  
859 at any time be certified for participation in the Medicaid program  
860 and that the hospital will not admit or keep any patients who are  
861 participating in the Medicaid program in any of such adult  
862 psychiatric beds. This written agreement by the recipient of the  
863 certificate of need shall be fully binding on any subsequent owner  
864 of the hospital if the ownership of the hospital is transferred at  
865 any time after the issuance of the certificate of need. Agreement  
866 that the adult psychiatric beds will not be certified for  
867 participation in the Medicaid program shall be a condition of the  
868 issuance of a certificate of need to any person under this  
869 subparagraph (a)(v), and if such hospital at any time after the  
870 issuance of the certificate of need, regardless of the ownership  
871 of the hospital, has any of such adult psychiatric beds certified  
872 for participation in the Medicaid program or admits or keeps any  
873 Medicaid patients in such adult psychiatric beds, the State  
874 Department of Health shall revoke the certificate of need, if it  
875 is still outstanding, and shall deny or revoke the license of the  
876 hospital at the time that the department determines, after a  
877 hearing complying with due process, that the hospital has failed  
878 to comply with any of the conditions upon which the certificate of  
879 need was issued, as provided in this subparagraph and in the  
880 written agreement by the recipient of the certificate of need.

881 (vi) The department may issue a certificate or  
882 certificates of need for the expansion of child psychiatric beds  
883 or the conversion of other beds to child psychiatric beds at the  
884 University of Mississippi Medical Center. For purposes of this  
885 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
886 requiring substantial compliance with the projection of need as  
887 reported in the current State Health Plan is waived. The total



888 number of beds that may be authorized under the authority of this  
889 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
890 shall be no prohibition or restrictions on participation in the  
891 Medicaid program (Section 43-13-101 et seq.) for the hospital  
892 receiving the certificate of need authorized under this  
893 subparagraph (a)(vi) or for the beds converted pursuant to the  
894 authority of that certificate of need.

895 (b) From and after July 1, 1990, no hospital,  
896 psychiatric hospital or chemical dependency hospital shall be  
897 authorized to add any child/adolescent psychiatric or  
898 child/adolescent chemical dependency beds or convert any beds of  
899 another category to child/adolescent psychiatric or  
900 child/adolescent chemical dependency beds without a certificate of  
901 need under the authority of subsection (1)(c) of this section.

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

905 (6) The State Department of Health shall issue a certificate  
906 of need to a Mississippi corporation qualified to manage a  
907 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
908 Harrison County, not to exceed eighty (80) beds, including any  
909 necessary renovation or construction required for licensure and  
910 certification, provided that the recipient of the certificate of  
911 need agrees in writing that the long-term care hospital will not  
912 at any time participate in the Medicaid program (Section 43-13-101  
913 et seq.) or admit or keep any patients in the long-term care  
914 hospital who are participating in the Medicaid program. This  
915 written agreement by the recipient of the certificate of need  
916 shall be fully binding on any subsequent owner of the long-term  
917 care hospital, if the ownership of the facility is transferred at  
918 any time after the issuance of the certificate of need. Agreement  
919 that the long-term care hospital will not participate in the  
920 Medicaid program shall be a condition of the issuance of a



921 certificate of need to any person under this subsection (6), and  
922 if such long-term care hospital at any time after the issuance of  
923 the certificate of need, regardless of the ownership of the  
924 facility, participates in the Medicaid program or admits or keeps  
925 any patients in the facility who are participating in the Medicaid  
926 program, the State Department of Health shall revoke the  
927 certificate of need, if it is still outstanding, and shall deny or  
928 revoke the license of the long-term care hospital, at the time  
929 that the department determines, after a hearing complying with due  
930 process, that the facility has failed to comply with any of the  
931 conditions upon which the certificate of need was issued, as  
932 provided in this subsection and in the written agreement by the  
933 recipient of the certificate of need. For purposes of this  
934 subsection, the provision of Section 41-7-193(1) requiring  
935 substantial compliance with the projection of need as reported in  
936 the current State Health Plan is hereby waived.

937 (7) The State Department of Health may issue a certificate  
938 of need to any hospital in the state to utilize a portion of its  
939 beds for the "swing-bed" concept. Any such hospital must be in  
940 conformance with the federal regulations regarding such swing-bed  
941 concept at the time it submits its application for a certificate  
942 of need to the State Department of Health, except that such  
943 hospital may have more licensed beds or a higher average daily  
944 census (ADC) than the maximum number specified in federal  
945 regulations for participation in the swing-bed program. Any  
946 hospital meeting all federal requirements for participation in the  
947 swing-bed program which receives such certificate of need shall  
948 render services provided under the swing-bed concept to any  
949 patient eligible for Medicare (Title XVIII of the Social Security  
950 Act) who is certified by a physician to be in need of such  
951 services, and no such hospital shall permit any patient who is  
952 eligible for both Medicaid and Medicare or eligible only for  
953 Medicaid to stay in the swing beds of the hospital for more than



954 thirty (30) days per admission unless the hospital receives prior  
955 approval for such patient from the Division of Medicaid, Office of  
956 the Governor. Any hospital having more licensed beds or a higher  
957 average daily census (ADC) than the maximum number specified in  
958 federal regulations for participation in the swing-bed program  
959 which receives such certificate of need shall develop a procedure  
960 to insure that before a patient is allowed to stay in the swing  
961 beds of the hospital, there are no vacant nursing home beds  
962 available for that patient located within a fifty-mile radius of  
963 the hospital. When any such hospital has a patient staying in the  
964 swing beds of the hospital and the hospital receives notice from a  
965 nursing home located within such radius that there is a vacant bed  
966 available for that patient, the hospital shall transfer the  
967 patient to the nursing home within a reasonable time after receipt  
968 of the notice. Any hospital which is subject to the requirements  
969 of the two (2) preceding sentences of this subsection may be  
970 suspended from participation in the swing-bed program for a  
971 reasonable period of time by the State Department of Health if the  
972 department, after a hearing complying with due process, determines  
973 that the hospital has failed to comply with any of those  
974 requirements.

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

979 (9) The Department of Health shall not grant approval for or  
980 issue a certificate of need to any person proposing the  
981 establishment of, or expansion of the currently approved territory  
982 of, or the contracting to establish a home office, subunit or  
983 branch office within the space operated as a health care facility  
984 as defined in Section 41-7-173(h) except as follows: From July 1,  
985 2002, through June 30, 2003, the State Department of Health may  
986 issue a certificate of need to a current provider of intermediate



987 care facility for the mentally retarded (ICF/MR) services for  
988 children and adolescents, for the construction of an ICF/MR  
989 facility for children and adolescents in District II of the  
990 Mentally Retarded/Developmentally Disabled Long-Term Care Planning  
991 Districts as designated in the most current State Health Plan, not  
992 exceeding sixty (60) beds.

993       (10) Health care facilities owned and/or operated by the  
994 state or its agencies are exempt from the restraints in this  
995 section against issuance of a certificate of need if such addition  
996 or expansion consists of repairing or renovation necessary to  
997 comply with the state licensure law. This exception shall not  
998 apply to the new construction of any building by such state  
999 facility. This exception shall not apply to any health care  
1000 facilities owned and/or operated by counties, municipalities,  
1001 districts, unincorporated areas, other defined persons, or any  
1002 combination thereof.

1003       (11) The new construction, renovation or expansion of or  
1004 addition to any health care facility defined in subparagraph (ii)  
1005 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1006 facility), subparagraph (vi) (intermediate care facility),  
1007 subparagraph (viii) (intermediate care facility for the mentally  
1008 retarded) and subparagraph (x) (psychiatric residential treatment  
1009 facility) of Section 41-7-173(h) which is owned by the State of  
1010 Mississippi and under the direction and control of the State  
1011 Department of Mental Health, and the addition of new beds or the  
1012 conversion of beds from one category to another in any such  
1013 defined health care facility which is owned by the State of  
1014 Mississippi and under the direction and control of the State  
1015 Department of Mental Health, shall not require the issuance of a  
1016 certificate of need under Section 41-7-171 et seq.,  
1017 notwithstanding any provision in Section 41-7-171 et seq. to the  
1018 contrary.



1019           (12) The new construction, renovation or expansion of or  
1020 addition to any veterans homes or domiciliaries for eligible  
1021 veterans of the State of Mississippi as authorized under Section  
1022 35-1-19 shall not require the issuance of a certificate of need,  
1023 notwithstanding any provision in Section 41-7-171 et seq. to the  
1024 contrary.

1025           (13) The new construction of a nursing facility or nursing  
1026 facility beds or the conversion of other beds to nursing facility  
1027 beds shall not require the issuance of a certificate of need,  
1028 notwithstanding any provision in Section 41-7-171 et seq. to the  
1029 contrary, if the conditions of this subsection are met.

1030           (a) Before any construction or conversion may be  
1031 undertaken without a certificate of need, the owner of the nursing  
1032 facility, in the case of an existing facility, or the applicant to  
1033 construct a nursing facility, in the case of new construction,  
1034 first must file a written notice of intent and sign a written  
1035 agreement with the State Department of Health that the entire  
1036 nursing facility will not at any time participate in or have any  
1037 beds certified for participation in the Medicaid program (Section  
1038 43-13-101 et seq.), will not admit or keep any patients in the  
1039 nursing facility who are participating in the Medicaid program,  
1040 and will not submit any claim for Medicaid reimbursement for any  
1041 patient in the facility. This written agreement by the owner or  
1042 applicant shall be a condition of exercising the authority under  
1043 this subsection without a certificate of need, and the agreement  
1044 shall be fully binding on any subsequent owner of the nursing  
1045 facility if the ownership of the facility is transferred at any  
1046 time after the agreement is signed. After the written agreement  
1047 is signed, the Division of Medicaid and the State Department of  
1048 Health shall not certify any beds in the nursing facility for  
1049 participation in the Medicaid program. If the nursing facility  
1050 violates the terms of the written agreement by participating in  
1051 the Medicaid program, having any beds certified for participation





1052 in the Medicaid program, admitting or keeping any patient in the  
1053 facility who is participating in the Medicaid program, or  
1054 submitting any claim for Medicaid reimbursement for any patient in  
1055 the facility, the State Department of Health shall revoke the  
1056 license of the nursing facility at the time that the department  
1057 determines, after a hearing complying with due process, that the  
1058 facility has violated the terms of the written agreement.

1059 (b) For the purposes of this subsection, participation  
1060 in the Medicaid program by a nursing facility includes Medicaid  
1061 reimbursement of coinsurance and deductibles for recipients who  
1062 are qualified Medicare beneficiaries and/or those who are dually  
1063 eligible. Any nursing facility exercising the authority under  
1064 this subsection may not bill or submit a claim to the Division of  
1065 Medicaid for services to qualified Medicare beneficiaries and/or  
1066 those who are dually eligible.

1067 (c) The new construction of a nursing facility or  
1068 nursing facility beds or the conversion of other beds to nursing  
1069 facility beds described in this section must be either a part of a  
1070 completely new continuing care retirement community, as described  
1071 in the latest edition of the Mississippi State Health Plan, or an  
1072 addition to existing personal care and independent living  
1073 components, and so that the completed project will be a continuing  
1074 care retirement community, containing (i) independent living  
1075 accommodations, (ii) personal care beds, and (iii) the nursing  
1076 home facility beds. The three (3) components must be located on a  
1077 single site and be operated as one (1) inseparable facility. The  
1078 nursing facility component must contain a minimum of thirty (30)  
1079 beds. Any nursing facility beds authorized by this section will  
1080 not be counted against the bed need set forth in the State Health  
1081 Plan, as identified in Section 41-7-171, et seq.

1082 This subsection (13) shall stand repealed from and after July  
1083 1, 2005.



1084           (14) The State Department of Health shall issue a  
1085 certificate of need to any hospital which is currently licensed  
1086 for two hundred fifty (250) or more acute care beds and is located  
1087 in any general hospital service area not having a comprehensive  
1088 cancer center, for the establishment and equipping of such a  
1089 center which provides facilities and services for outpatient  
1090 radiation oncology therapy, outpatient medical oncology therapy,  
1091 and appropriate support services including the provision of  
1092 radiation therapy services. The provision of Section 41-7-193(1)  
1093 regarding substantial compliance with the projection of need as  
1094 reported in the current State Health Plan is waived for the  
1095 purpose of this subsection.

1096           (15) The State Department of Health may authorize the  
1097 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1098 North Panola Community Hospital to the South Panola Community  
1099 Hospital. The authorization for the transfer of those beds shall  
1100 be exempt from the certificate of need review process.

1101           (16) Nothing in this section or in any other provision of  
1102 Section 41-7-171 et seq. shall prevent any nursing facility from  
1103 designating an appropriate number of existing beds in the facility  
1104 as beds for providing care exclusively to patients with  
1105 Alzheimer's disease.

1106           **SECTION 2.** This act shall take effect and be in force from  
1107 and after July 1, 2002.

