

By: Senator(s) Chaney

To: Public Health and Welfare

SENATE BILL NO. 2106

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL AMEND THE
3 CONDITIONS UPON WHICH A CERTIFICATE OF NEED WAS ISSUED FOR
4 CONSTRUCTION OF A REPLACEMENT NURSING FACILITY IN THE CITY OF
5 VICKSBURG TO PROVIDE THAT 15 OF THE BEDS AT THE NURSING FACILITY
6 MAY PARTICIPATE IN THE MEDICAID PROGRAM UNDER CERTAIN
7 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

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

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

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

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) (i) through (viii) by a health
985 care facility as defined in subparagraph (ix) of Section
986 41-7-173(h).



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

997 (11) The new construction, renovation or expansion of or
998 addition to any health care facility defined in subparagraph (ii)
999 (psychiatric hospital), subparagraph (iv) (skilled nursing
1000 facility), subparagraph (vi) (intermediate care facility),
1001 subparagraph (viii) (intermediate care facility for the mentally
1002 retarded) and subparagraph (x) (psychiatric residential treatment
1003 facility) of Section 41-7-173(h) which is owned by the State of
1004 Mississippi and under the direction and control of the State
1005 Department of Mental Health, and the addition of new beds or the
1006 conversion of beds from one category to another in any such
1007 defined health care facility which is owned by the State of
1008 Mississippi and under the direction and control of the State
1009 Department of Mental Health, shall not require the issuance of a
1010 certificate of need under Section 41-7-171 et seq.,
1011 notwithstanding any provision in Section 41-7-171 et seq. to the
1012 contrary.

1013 (12) The new construction, renovation or expansion of or
1014 addition to any veterans homes or domiciliaries for eligible
1015 veterans of the State of Mississippi as authorized under Section
1016 35-1-19 shall not require the issuance of a certificate of need,
1017 notwithstanding any provision in Section 41-7-171 et seq. to the
1018 contrary.



1019 (13) The new construction of a nursing facility or nursing
1020 facility beds or the conversion of other beds to nursing facility
1021 beds shall not require the issuance of a certificate of need,
1022 notwithstanding any provision in Section 41-7-171 et seq. to the
1023 contrary, if the conditions of this subsection are met.

1024 (a) Before any construction or conversion may be
1025 undertaken without a certificate of need, the owner of the nursing
1026 facility, in the case of an existing facility, or the applicant to
1027 construct a nursing facility, in the case of new construction,
1028 first must file a written notice of intent and sign a written
1029 agreement with the State Department of Health that the entire
1030 nursing facility will not at any time participate in or have any
1031 beds certified for participation in the Medicaid program (Section
1032 43-13-101 et seq.), will not admit or keep any patients in the
1033 nursing facility who are participating in the Medicaid program,
1034 and will not submit any claim for Medicaid reimbursement for any
1035 patient in the facility. This written agreement by the owner or
1036 applicant shall be a condition of exercising the authority under
1037 this subsection without a certificate of need, and the agreement
1038 shall be fully binding on any subsequent owner of the nursing
1039 facility if the ownership of the facility is transferred at any
1040 time after the agreement is signed. After the written agreement
1041 is signed, the Division of Medicaid and the State Department of
1042 Health shall not certify any beds in the nursing facility for
1043 participation in the Medicaid program. If the nursing facility
1044 violates the terms of the written agreement by participating in
1045 the Medicaid program, having any beds certified for participation
1046 in the Medicaid program, admitting or keeping any patient in the
1047 facility who is participating in the Medicaid program, or
1048 submitting any claim for Medicaid reimbursement for any patient in
1049 the facility, the State Department of Health shall revoke the
1050 license of the nursing facility at the time that the department



1051 determines, after a hearing complying with due process, that the
1052 facility has violated the terms of the written agreement.

1053 (b) For the purposes of this subsection, participation
1054 in the Medicaid program by a nursing facility includes Medicaid
1055 reimbursement of coinsurance and deductibles for recipients who
1056 are qualified Medicare beneficiaries and/or those who are dually
1057 eligible. Any nursing facility exercising the authority under
1058 this subsection may not bill or submit a claim to the Division of
1059 Medicaid for services to qualified Medicare beneficiaries and/or
1060 those who are dually eligible.

1061 (c) The new construction of a nursing facility or
1062 nursing facility beds or the conversion of other beds to nursing
1063 facility beds described in this section must be either a part of a
1064 completely new continuing care retirement community, as described
1065 in the latest edition of the Mississippi State Health Plan, or an
1066 addition to existing personal care and independent living
1067 components, and so that the completed project will be a continuing
1068 care retirement community, containing (i) independent living
1069 accommodations, (ii) personal care beds, and (iii) the nursing
1070 home facility beds. The three (3) components must be located on a
1071 single site and be operated as one (1) inseparable facility. The
1072 nursing facility component must contain a minimum of thirty (30)
1073 beds. Any nursing facility beds authorized by this section will
1074 not be counted against the bed need set forth in the State Health
1075 Plan, as identified in Section 41-7-171, et seq.

1076 This subsection (13) shall stand repealed from and after July
1077 1, 2005.

1078 (14) The State Department of Health shall issue a
1079 certificate of need to any hospital which is currently licensed
1080 for two hundred fifty (250) or more acute care beds and is located
1081 in any general hospital service area not having a comprehensive
1082 cancer center, for the establishment and equipping of such a
1083 center which provides facilities and services for outpatient



1084 radiation oncology therapy, outpatient medical oncology therapy,
1085 and appropriate support services including the provision of
1086 radiation therapy services. The provision of Section 41-7-193(1)
1087 regarding substantial compliance with the projection of need as
1088 reported in the current State Health Plan is waived for the
1089 purpose of this subsection.

1090 (15) The State Department of Health may authorize the
1091 transfer of hospital beds, not to exceed sixty (60) beds, from the
1092 North Panola Community Hospital to the South Panola Community
1093 Hospital. The authorization for the transfer of those beds shall
1094 be exempt from the certificate of need review process.

1095 (16) Nothing in this section or in any other provision of
1096 Section 41-7-171 et seq. shall prevent any nursing facility from
1097 designating an appropriate number of existing beds in the facility
1098 as beds for providing care exclusively to patients with
1099 Alzheimer's disease.

1100 (17) The State Department of Health shall amend the
1101 conditions upon which the certificate of need was issued to the
1102 River City Limited Partnership, d/b/a The Sydney House, on April
1103 18, 1990, for construction of a sixty-bed replacement nursing
1104 facility in the City of Vicksburg, as follows:

1105 The conditions that The Sydney House shall not participate in
1106 the Medicaid program and that nonparticipation in the Medicaid
1107 program shall be a written condition on the license shall be
1108 modified to provide that fifteen (15) of the beds at the nursing
1109 facility may be certified for participation in the Medicaid
1110 program, provided that the owner of the nursing facility on July
1111 1, 2002, agrees in writing that no more than fifteen (15) of the
1112 beds at the nursing facility will be certified for participation
1113 in the Medicaid program, and that no claim will be submitted for
1114 Medicaid reimbursement for more than fifteen (15) patients in the
1115 nursing facility in any day or for any patient in the nursing
1116 facility who is in a bed that is not Medicaid-certified. This



1117 written agreement by the owner of the nursing facility on July 1,
1118 2002, shall be fully binding on any subsequent owner of the
1119 nursing facility if the ownership of the nursing facility is
1120 transferred at any time after July 1, 2002. After this written
1121 agreement is executed, the Division of Medicaid and the State
1122 Department of Health shall not certify more than fifteen (15) of
1123 the beds in the nursing facility for participation in the Medicaid
1124 program. If the nursing facility violates the terms of the
1125 written agreement by admitting or keeping in the nursing facility
1126 on a regular or continuing basis more than fifteen (15) patients
1127 who are participating in the Medicaid program, the State
1128 Department of Health shall revoke the license of the nursing
1129 facility at the time that the department determines, after a
1130 hearing complying with due process, that the nursing facility has
1131 violated the terms of the written agreement as provided in this
1132 subsection.

1133 **SECTION 2.** This act shall take effect and be in force from
1134 and after July 1, 2002.

