

By: Senator(s) Gordon

To: Public Health and Welfare

SENATE BILL NO. 2201

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE NURSING HOMES TO ADD UP TO 60 NEW BEDS WITHOUT A  
 3 CERTIFICATE OF NEED IF THE HOME HAS HAD AN AVERAGE OCCUPANCY RATE  
 4 OF AT LEAST 95% FOR THE PREVIOUS 12 MONTHS; TO REQUIRE ANY NURSING  
 5 HOME ADDING BEDS UNDER THIS PROVISION TO FIRST FILE A NOTICE OF  
 6 INTENT WITH THE STATE DEPARTMENT OF HEALTH; TO REQUIRE A CERTAIN  
 7 NUMBER OF THE NEW BEDS TO BE USED TO PROVIDE CARE EXCLUSIVELY TO  
 8 PATIENTS WITH ALZHEIMER'S DISEASE; TO REQUIRE SUBSTANTIAL  
 9 CONSTRUCTION OF THE NEW BEDS WITHIN 18 MONTHS AFTER THE NOTICE OF  
 10 INTENT IS FILED OR THE BEDS WILL NOT BE LICENSED; TO ALLOW ANY  
 11 NURSING HOME THAT HAS PREVIOUSLY ADDED NEW BEDS UNDER THIS  
 12 PROVISION TO ADD MORE NEW BEDS UNDER THIS PROVISION BEGINNING 12  
 13 MONTHS AFTER THE PREVIOUSLY ADDED BEDS ARE OPERATIONAL; AND FOR  
 14 RELATED PURPOSES.

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

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

18 41-7-191. (1) No person shall engage in any of the  
 19 following activities without obtaining the required certificate of  
 20 need:

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

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

30 (c) A change over a period of two (2) years' time, as  
 31 established by the State Department of Health, in existing bed  
 32 complement through the addition of more than ten (10) beds or more  
 33 than ten percent (10%) of the total bed capacity of a designated



34 licensed category or subcategory of any health care facility,  
35 whichever is less, from one physical facility or site to another;  
36 the conversion over a period of two (2) years' time, as  
37 established by the State Department of Health, of existing bed  
38 complement of more than ten (10) beds or more than ten percent  
39 (10%) of the total bed capacity of a designated licensed category  
40 or subcategory of any such health care facility, whichever is  
41 less; or the alteration, modernizing or refurbishing of any unit  
42 or department wherein such beds may be located; provided, however,  
43 that from and after July 1, 1994, no health care facility shall be  
44 authorized to add any beds or convert any beds to another category  
45 of beds without a certificate of need under the authority of  
46 subsection (1)(c) of this section unless there is a projected need  
47 for such beds in the planning district in which the facility is  
48 located, as reported in the most current State Health Plan;

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

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



67 (xii) Magnetic resonance imaging services;  
68 (xiii) Extracorporeal shock wave lithotripsy  
69 services;

70 (xiv) Long-term care hospital services;  
71 (xv) Positron Emission Tomography (PET) services;

72 (e) The relocation of one or more health services from  
73 one physical facility or site to another physical facility or  
74 site, unless such relocation, which does not involve a capital  
75 expenditure by or on behalf of a health care facility, (i) is to a  
76 physical facility or site within one thousand three hundred twenty  
77 (1,320) feet from the main entrance of the health care facility  
78 where the health care service is located, or (ii) is the result of  
79 an order of a court of appropriate jurisdiction or a result of  
80 pending litigation in such court, or by order of the State  
81 Department of Health, or by order of any other agency or legal  
82 entity of the state, the federal government, or any political  
83 subdivision of either, whose order is also approved by the State  
84 Department of Health;

85 (f) The acquisition or otherwise control of any major  
86 medical equipment for the provision of medical services; provided,  
87 however, (i) the acquisition of any major medical equipment used  
88 only for research purposes, and (ii) the acquisition of major  
89 medical equipment to replace medical equipment for which a  
90 facility is already providing medical services and for which the  
91 State Department of Health has been notified before the date of  
92 such acquisition shall be exempt from this paragraph; an  
93 acquisition for less than fair market value must be reviewed, if  
94 the acquisition at fair market value would be subject to review;

95 (g) Changes of ownership of existing health care  
96 facilities in which a notice of intent is not filed with the State  
97 Department of Health at least thirty (30) days prior to the date  
98 such change of ownership occurs, or a change in services or bed  
99 capacity as prescribed in paragraph (c) or (d) of this subsection



100 as a result of the change of ownership; an acquisition for less  
101 than fair market value must be reviewed, if the acquisition at  
102 fair market value would be subject to review;

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

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

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

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

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

131 (a) The department may issue a certificate of need to  
132 any person proposing the new construction of any health care



133 facility defined in subparagraphs (iv) and (vi) of Section  
134 41-7-173(h) as part of a life care retirement facility, in any  
135 county bordering on the Gulf of Mexico in which is located a  
136 National Aeronautics and Space Administration facility, not to  
137 exceed forty (40) beds. From and after July 1, 1999, there shall  
138 be no prohibition or restrictions on participation in the Medicaid  
139 program (Section 43-13-101 et seq.) for the beds in the health  
140 care facility that were authorized under this paragraph (a).

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

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



166 admits or keeps any patients in the facility who are participating  
167 in the Medicaid program, the State Department of Health shall  
168 revoke the certificate of need, if it is still outstanding, and  
169 shall deny or revoke the license of the skilled nursing facility,  
170 at the time that the department determines, after a hearing  
171 complying with due process, that the facility has failed to comply  
172 with any of the conditions upon which the certificate of need was  
173 issued, as provided in this paragraph and in the written agreement  
174 by the recipient of the certificate of need. The total number of  
175 beds that may be authorized under the authority of this paragraph  
176 (c) shall not exceed sixty (60) beds.

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

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

194 (f) The State Department of Health may issue a  
195 certificate of need for conversion of a county hospital facility  
196 in Itawamba County to a nursing facility, not to exceed sixty (60)  
197 beds, including any necessary construction, renovation or  
198 expansion. From and after July 1, 1999, there shall be no



199 prohibition or restrictions on participation in the Medicaid  
200 program (Section 43-13-101 et seq.) for the beds in the nursing  
201 facility that were authorized under this paragraph (f).

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

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

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



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

257 (j) The department may issue certificates of need to  
258 allow any existing freestanding long-term care facility in  
259 Tishomingo County and Hancock County that on July 1, 1995, is  
260 licensed with fewer than sixty (60) beds. For the purposes of  
261 this paragraph (j), the provision of Section 41-7-193(1) requiring  
262 substantial compliance with the projection of need as reported in  
263 the current State Health Plan is waived. From and after July 1,  
264 1999, there shall be no prohibition or restrictions on





265 participation in the Medicaid program (Section 43-13-101 et seq.)  
266 for the beds in the long-term care facilities that were authorized  
267 under this paragraph (j).

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



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

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



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

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



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

395 (o) The department may issue a certificate of need for  
396 the new construction, addition or conversion of skilled nursing



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



430 months after the effective date of July 1, 2001, the State  
431 Department of Health, after a hearing complying with due process,  
432 shall revoke the certificate of need if it is still outstanding,  
433 and the department shall not issue a license for the nursing  
434 facility at any time after the eighteen-month period. Provided,  
435 however, that if the issuance of the certificate of need is  
436 contested, the department shall require substantial construction  
437 of the nursing facility beds within six (6) months after final  
438 adjudication on the issuance of the certificate of need.

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

451 Agreement that the skilled nursing facility will not participate  
452 in the Medicaid program shall be a condition of the issuance of a  
453 certificate of need to any person under this paragraph (p), and if  
454 such skilled nursing facility at any time after the issuance of  
455 the certificate of need, regardless of the ownership of the  
456 facility, participates in the Medicaid program or admits or keeps  
457 any patients in the facility who are participating in the Medicaid  
458 program, the State Department of Health shall revoke the  
459 certificate of need, if it is still outstanding, and shall deny or  
460 revoke the license of the skilled nursing facility, at the time  
461 that the department determines, after a hearing complying with due  
462 process, that the facility has failed to comply with any of the



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

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



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

518                   (iii) Subject to the provisions of subparagraph  
519 (v), the certificate of need issued under subparagraph (ii) for  
520 nursing facility beds in each Long-Term Care Planning District  
521 during each fiscal year shall first be available for nursing  
522 facility beds in the county in the district having the highest  
523 need for those beds, as shown in the fiscal year 1999 State Health  
524 Plan. If there are no applications for a certificate of need for  
525 nursing facility beds in the county having the highest need for  
526 those beds by the date specified by the department, then the  
527 certificate of need shall be available for nursing facility beds





528 in other counties in the district in descending order of the need  
529 for those beds, from the county with the second highest need to  
530 the county with the lowest need, until an application is received  
531 for nursing facility beds in an eligible county in the district.

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

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



561 any fiscal year of the four-year period, a certificate of need  
562 shall not be available again under this paragraph (q) for  
563 additional nursing facility beds in that county during the  
564 four-year period, and that county shall be excluded in determining  
565 which counties have the highest need for nursing facility beds in  
566 succeeding fiscal years.

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

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

578 2. The county-owned hospital's qualifications  
579 for the certificate of need, as shown in its application and as  
580 determined by the department, are at least equal to the  
581 qualifications of the other applicants for the certificate of  
582 need.

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

591 (ii) Not more than twenty (20) beds may be  
592 authorized by any certificate of need issued under this paragraph  
593 (r), and not more than a total of sixty (60) beds may be



594 authorized in any Long-Term Care Planning District by all  
595 certificates of need issued under this paragraph (r). However,  
596 the total number of beds that may be authorized by all  
597 certificates of need issued under this paragraph (r) during any  
598 fiscal year shall not exceed one hundred twenty (120) beds, and  
599 the total number of beds that may be authorized in any Long-Term  
600 Care Planning District during any fiscal year shall not exceed  
601 forty (40) beds. Of the certificates of need that are issued for  
602 each Long-Term Care Planning District during the next two (2)  
603 fiscal years, at least one (1) shall be issued for beds in the  
604 northern part of the district, at least one (1) shall be issued  
605 for beds in the central part of the district, and at least one (1)  
606 shall be issued for beds in the southern part of the district.

607 (iii) The State Department of Health, in  
608 consultation with the Department of Mental Health and the Division  
609 of Medicaid, shall develop and prescribe the staffing levels,  
610 space requirements and other standards and requirements that must  
611 be met with regard to the nursing facility beds authorized under  
612 this paragraph (r) to provide care exclusively to patients with  
613 Alzheimer's disease.

614 (3) The State Department of Health may grant approval for  
615 and issue certificates of need to any person proposing the new  
616 construction of, addition to, conversion of beds of or expansion  
617 of any health care facility defined in subparagraph (x)  
618 (psychiatric residential treatment facility) of Section  
619 41-7-173(h). The total number of beds which may be authorized by  
620 such certificates of need shall not exceed three hundred  
621 thirty-four (334) beds for the entire state.

622 (a) Of the total number of beds authorized under this  
623 subsection, the department shall issue a certificate of need to a  
624 privately owned psychiatric residential treatment facility in  
625 Simpson County for the conversion of sixteen (16) intermediate  
626 care facility for the mentally retarded (ICF-MR) beds to



627 psychiatric residential treatment facility beds, provided that  
628 facility agrees in writing that the facility shall give priority  
629 for the use of those sixteen (16) beds to Mississippi residents  
630 who are presently being treated in out-of-state facilities.

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



660 agreement by admitting or keeping in the facility on a regular or  
661 continuing basis more than thirty (30) patients who are  
662 participating in the Mississippi Medicaid program, the State  
663 Department of Health shall revoke the license of the facility, at  
664 the time that the department determines, after a hearing complying  
665 with due process, that the facility has violated the condition  
666 upon which the certificate of need was issued, as provided in this  
667 paragraph and in the written agreement.

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

679         (c) Of the total number of beds authorized under this  
680 subsection, the department shall issue a certificate of need to a  
681 hospital currently operating Medicaid-certified acute psychiatric  
682 beds for adolescents in DeSoto County, for the establishment of a  
683 forty-bed psychiatric residential treatment facility in DeSoto  
684 County, provided that the hospital agrees in writing (i) that the  
685 hospital shall give priority for the use of those forty (40) beds  
686 to Mississippi residents who are presently being treated in  
687 out-of-state facilities, and (ii) that no more than fifteen (15)  
688 of the beds at the psychiatric residential treatment facility will  
689 be certified for participation in the Medicaid program (Section  
690 43-13-101 et seq.), and that no claim will be submitted for  
691 Medicaid reimbursement for more than fifteen (15) patients in the  
692 psychiatric residential treatment facility in any day or for any



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

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

722 (e) Of the total number of beds authorized under this  
723 subsection (3) the department shall issue a certificate of need to  
724 a privately owned, nonprofit psychiatric residential treatment  
725 facility in Hinds County for an eight-bed expansion of the



726 facility, provided that the facility agrees in writing that the  
727 facility shall give priority for the use of those eight (8) beds  
728 to Mississippi residents who are presently being treated in  
729 out-of-state facilities.

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

757 (4) (a) From and after July 1, 1993, the department shall  
758 not issue a certificate of need to any person for the new



759 construction of any hospital, psychiatric hospital or chemical  
760 dependency hospital that will contain any child/adolescent  
761 psychiatric or child/adolescent chemical dependency beds, or for  
762 the conversion of any other health care facility to a hospital,  
763 psychiatric hospital or chemical dependency hospital that will  
764 contain any child/adolescent psychiatric or child/adolescent  
765 chemical dependency beds, or for the addition of any  
766 child/adolescent psychiatric or child/adolescent chemical  
767 dependency beds in any hospital, psychiatric hospital or chemical  
768 dependency hospital, or for the conversion of any beds of another  
769 category in any hospital, psychiatric hospital or chemical  
770 dependency hospital to child/adolescent psychiatric or  
771 child/adolescent chemical dependency beds, except as hereinafter  
772 authorized:

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





792 under this subparagraph (a)(i), and if such hospital, psychiatric  
793 hospital or chemical dependency hospital at any time after the  
794 issuance of the certificate of need, regardless of the ownership  
795 of the facility, participates in the Medicaid program or admits or  
796 keeps any patients in the hospital, psychiatric hospital or  
797 chemical dependency hospital who are participating in the Medicaid  
798 program, the State Department of Health shall revoke the  
799 certificate of need, if it is still outstanding, and shall deny or  
800 revoke the license of the hospital, psychiatric hospital or  
801 chemical dependency hospital, at the time that the department  
802 determines, after a hearing complying with due process, that the  
803 hospital, psychiatric hospital or chemical dependency hospital has  
804 failed to comply with any of the conditions upon which the  
805 certificate of need was issued, as provided in this subparagraph  
806 and in the written agreement by the recipient of the certificate  
807 of need.

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

821 (iii) The department may issue a certificate or  
822 certificates of need for the construction or expansion of  
823 child/adolescent psychiatric beds or the conversion of other beds  
824 to child/adolescent psychiatric beds in Warren County. For



825 purposes of this subparagraph, the provisions of Section  
826 41-7-193(1) requiring substantial compliance with the projection  
827 of need as reported in the current State Health Plan are waived.  
828 The total number of beds that may be authorized under the  
829 authority of this subparagraph shall not exceed twenty (20) beds.  
830 There shall be no prohibition or restrictions on participation in  
831 the Medicaid program (Section 43-13-101 et seq.) for the person  
832 receiving the certificate of need authorized under this  
833 subparagraph (a)(iii) or for the beds converted pursuant to the  
834 authority of that certificate of need.

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

846                 (iv) The department shall issue a certificate of  
847 need to the Region 7 Mental Health/Retardation Commission for the  
848 construction or expansion of child/adolescent psychiatric beds or  
849 the conversion of other beds to child/adolescent psychiatric beds  
850 in any of the counties served by the commission. For purposes of  
851 this subparagraph, the provisions of Section 41-7-193(1) requiring  
852 substantial compliance with the projection of need as reported in  
853 the current State Health Plan is waived. The total number of beds  
854 that may be authorized under the authority of this subparagraph  
855 shall not exceed twenty (20) beds. There shall be no prohibition  
856 or restrictions on participation in the Medicaid program (Section  
857 43-13-101 et seq.) for the person receiving the certificate of



858 need authorized under this subparagraph (a)(iv) or for the beds  
859 converted pursuant to the authority of that certificate of need.

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

888 (vi) The department may issue a certificate or  
889 certificates of need for the expansion of child psychiatric beds  
890 or the conversion of other beds to child psychiatric beds at the



891 University of Mississippi Medical Center. For purposes of this  
892 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
893 requiring substantial compliance with the projection of need as  
894 reported in the current State Health Plan is waived. The total  
895 number of beds that may be authorized under the authority of this  
896 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
897 shall be no prohibition or restrictions on participation in the  
898 Medicaid program (Section 43-13-101 et seq.) for the hospital  
899 receiving the certificate of need authorized under this  
900 subparagraph (a)(vi) or for the beds converted pursuant to the  
901 authority of that certificate of need.

902 (b) From and after July 1, 1990, no hospital,  
903 psychiatric hospital or chemical dependency hospital shall be  
904 authorized to add any child/adolescent psychiatric or  
905 child/adolescent chemical dependency beds or convert any beds of  
906 another category to child/adolescent psychiatric or  
907 child/adolescent chemical dependency beds without a certificate of  
908 need under the authority of subsection (1)(c) of this section.

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

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



924 care hospital, if the ownership of the facility is transferred at  
925 any time after the issuance of the certificate of need. Agreement  
926 that the long-term care hospital will not participate in the  
927 Medicaid program shall be a condition of the issuance of a  
928 certificate of need to any person under this subsection (6), and  
929 if such long-term care hospital at any time after the issuance of  
930 the certificate of need, regardless of the ownership of the  
931 facility, participates in the Medicaid program or admits or keeps  
932 any patients in the facility who are participating in the Medicaid  
933 program, the State Department of Health shall revoke the  
934 certificate of need, if it is still outstanding, and shall deny or  
935 revoke the license of the long-term care hospital, at the time  
936 that the department determines, after a hearing complying with due  
937 process, that the facility has failed to comply with any of the  
938 conditions upon which the certificate of need was issued, as  
939 provided in this subsection and in the written agreement by the  
940 recipient of the certificate of need. For purposes of this  
941 subsection, the provision of Section 41-7-193(1) requiring  
942 substantial compliance with the projection of need as reported in  
943 the current State Health Plan is hereby waived.

944 (7) The State Department of Health may issue a certificate  
945 of need to any hospital in the state to utilize a portion of its  
946 beds for the "swing-bed" concept. Any such hospital must be in  
947 conformance with the federal regulations regarding such swing-bed  
948 concept at the time it submits its application for a certificate  
949 of need to the State Department of Health, except that such  
950 hospital may have more licensed beds or a higher average daily  
951 census (ADC) than the maximum number specified in federal  
952 regulations for participation in the swing-bed program. Any  
953 hospital meeting all federal requirements for participation in the  
954 swing-bed program which receives such certificate of need shall  
955 render services provided under the swing-bed concept to any  
956 patient eligible for Medicare (Title XVIII of the Social Security



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

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

986 (9) The Department of Health shall not grant approval for or  
987 issue a certificate of need to any person proposing the  
988 establishment of, or expansion of the currently approved territory  
989 of, or the contracting to establish a home office, subunit or



990 branch office within the space operated as a health care facility  
991 as defined in Section 41-7-173(h) (i) through (viii) by a health  
992 care facility as defined in subparagraph (ix) of Section  
993 41-7-173(h).

994 (10) Health care facilities owned and/or operated by the  
995 state or its agencies are exempt from the restraints in this  
996 section against issuance of a certificate of need if such addition  
997 or expansion consists of repairing or renovation necessary to  
998 comply with the state licensure law. This exception shall not  
999 apply to the new construction of any building by such state  
1000 facility. This exception shall not apply to any health care  
1001 facilities owned and/or operated by counties, municipalities,  
1002 districts, unincorporated areas, other defined persons, or any  
1003 combination thereof.

1004 (11) The new construction, renovation or expansion of or  
1005 addition to any health care facility defined in subparagraph (ii)  
1006 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1007 facility), subparagraph (vi) (intermediate care facility),  
1008 subparagraph (viii) (intermediate care facility for the mentally  
1009 retarded) and subparagraph (x) (psychiatric residential treatment  
1010 facility) of Section 41-7-173(h) which is owned by the State of  
1011 Mississippi and under the direction and control of the State  
1012 Department of Mental Health, and the addition of new beds or the  
1013 conversion of beds from one category to another in any such  
1014 defined health care facility which is owned by the State of  
1015 Mississippi and under the direction and control of the State  
1016 Department of Mental Health, shall not require the issuance of a  
1017 certificate of need under Section 41-7-171 et seq.,  
1018 notwithstanding any provision in Section 41-7-171 et seq. to the  
1019 contrary.

1020 (12) The new construction, renovation or expansion of or  
1021 addition to any veterans homes or domiciliaries for eligible  
1022 veterans of the State of Mississippi as authorized under Section



1023 35-1-19 shall not require the issuance of a certificate of need,  
1024 notwithstanding any provision in Section 41-7-171 et seq. to the  
1025 contrary.

1026 (13) The new construction of a nursing facility or nursing  
1027 facility beds or the conversion of other beds to nursing facility  
1028 beds shall not require the issuance of a certificate of need,  
1029 notwithstanding any provision in Section 41-7-171 et seq. to the  
1030 contrary, if the conditions of this subsection are met.

1031 (a) Before any construction or conversion may be  
1032 undertaken without a certificate of need, the owner of the nursing  
1033 facility, in the case of an existing facility, or the applicant to  
1034 construct a nursing facility, in the case of new construction,  
1035 first must file a written notice of intent and sign a written  
1036 agreement with the State Department of Health that the entire  
1037 nursing facility will not at any time participate in or have any  
1038 beds certified for participation in the Medicaid program (Section  
1039 43-13-101 et seq.), will not admit or keep any patients in the  
1040 nursing facility who are participating in the Medicaid program,  
1041 and will not submit any claim for Medicaid reimbursement for any  
1042 patient in the facility. This written agreement by the owner or  
1043 applicant shall be a condition of exercising the authority under  
1044 this subsection without a certificate of need, and the agreement  
1045 shall be fully binding on any subsequent owner of the nursing  
1046 facility if the ownership of the facility is transferred at any  
1047 time after the agreement is signed. After the written agreement  
1048 is signed, the Division of Medicaid and the State Department of  
1049 Health shall not certify any beds in the nursing facility for  
1050 participation in the Medicaid program. If the nursing facility  
1051 violates the terms of the written agreement by participating in  
1052 the Medicaid program, having any beds certified for participation  
1053 in the Medicaid program, admitting or keeping any patient in the  
1054 facility who is participating in the Medicaid program, or  
1055 submitting any claim for Medicaid reimbursement for any patient in





1056 the facility, the State Department of Health shall revoke the  
1057 license of the nursing facility at the time that the department  
1058 determines, after a hearing complying with due process, that the  
1059 facility has violated the terms of the written agreement.

1060 (b) For the purposes of this subsection, participation  
1061 in the Medicaid program by a nursing facility includes Medicaid  
1062 reimbursement of coinsurance and deductibles for recipients who  
1063 are qualified Medicare beneficiaries and/or those who are dually  
1064 eligible. Any nursing facility exercising the authority under  
1065 this subsection may not bill or submit a claim to the Division of  
1066 Medicaid for services to qualified Medicare beneficiaries and/or  
1067 those who are dually eligible.

1068 (c) The new construction of a nursing facility or  
1069 nursing facility beds or the conversion of other beds to nursing  
1070 facility beds described in this section must be either a part of a  
1071 completely new continuing care retirement community, as described  
1072 in the latest edition of the Mississippi State Health Plan, or an  
1073 addition to existing personal care and independent living  
1074 components, and so that the completed project will be a continuing  
1075 care retirement community, containing (i) independent living  
1076 accommodations, (ii) personal care beds, and (iii) the nursing  
1077 home facility beds. The three (3) components must be located on a  
1078 single site and be operated as one (1) inseparable facility. The  
1079 nursing facility component must contain a minimum of thirty (30)  
1080 beds. Any nursing facility beds authorized by this section will  
1081 not be counted against the bed need set forth in the State Health  
1082 Plan, as identified in Section 41-7-171, et seq.

1083 This subsection (13) shall stand repealed from and after July  
1084 1, 2005.

1085 (14) The State Department of Health shall issue a  
1086 certificate of need to any hospital which is currently licensed  
1087 for two hundred fifty (250) or more acute care beds and is located  
1088 in any general hospital service area not having a comprehensive



1089 cancer center, for the establishment and equipping of such a  
1090 center which provides facilities and services for outpatient  
1091 radiation oncology therapy, outpatient medical oncology therapy,  
1092 and appropriate support services including the provision of  
1093 radiation therapy services. The provision of Section 41-7-193(1)  
1094 regarding substantial compliance with the projection of need as  
1095 reported in the current State Health Plan is waived for the  
1096 purpose of this subsection.

1097 (15) The State Department of Health may authorize the  
1098 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1099 North Panola Community Hospital to the South Panola Community  
1100 Hospital. The authorization for the transfer of those beds shall  
1101 be exempt from the certificate of need review process.

1102 (16) Nothing in this section or in any other provision of  
1103 Section 41-7-171 et seq. shall prevent any nursing facility from  
1104 designating an appropriate number of existing beds in the facility  
1105 as beds for providing care exclusively to patients with  
1106 Alzheimer's disease.

1107 (17) A nursing facility may construct new nursing facility  
1108 beds or convert other beds to nursing facility beds without the  
1109 issuance of a certificate of need, notwithstanding any provision  
1110 in Section 41-7-171 et seq. to the contrary, if all of the  
1111 conditions of this subsection are met.

1112 (a) A nursing facility may not add more than sixty (60)  
1113 new nursing facility beds under this subsection at any one time.

1114 (b) Before a nursing facility may add any new nursing  
1115 facility beds under this subsection, the owner of the facility  
1116 shall first file a written notice of intent with the State  
1117 Department of Health that the facility intends to add new nursing  
1118 facility beds under this subsection. The facility shall include  
1119 in the notice of intent the number of new nursing facility beds  
1120 that it intends to add, and the time period within which the new  
1121 beds will be operational.



1122           (c) The nursing facility must have had an average rate  
1123 of occupancy for the nursing facility beds in the facility that is  
1124 not less than ninety-five percent (95%), rounded to the nearest  
1125 whole number, for the twelve-month period immediately preceding  
1126 the date on which the facility files the notice of intent with the  
1127 department.

1128           (d) The nursing facility shall use not less than  
1129 one-third (1/3) of the new nursing facility beds that are added by  
1130 the facility under this subsection, rounded to the nearest whole  
1131 number, or ten (10) of those new beds, whichever is greater, to  
1132 provide care exclusively to patients with Alzheimer's disease.  
1133 The nursing facility must indicate in the notice of intent filed  
1134 with the department the number of the new beds that will be used  
1135 to provide care exclusively to patients with Alzheimer's disease,  
1136 and the facility shall not use those beds for any other purpose.  
1137 The beds that are used to provide care exclusively to patients  
1138 with Alzheimer's disease shall meet the same staffing levels,  
1139 space requirements and other standards and requirements prescribed  
1140 by the department under paragraph (r)(iii) of this section.

1141           (e) For any new nursing facility beds added under this  
1142 subsection that are to be constructed, the nursing facility must  
1143 begin substantial construction of the beds within eighteen (18)  
1144 months after the date on which the facility files the notice of  
1145 intent with the department. If substantial construction of the  
1146 new beds is not begun within the eighteen-month period, the  
1147 department shall not issue a license for the new beds at any time  
1148 after the eighteen-month period.

1149           (f) After the nursing facility has added new nursing  
1150 facility beds under this subsection, the facility may add new  
1151 nursing facility beds again under this subsection at any time  
1152 beginning twelve (12) months after the beds that were previously  
1153 added under this subsection are operational, if all the conditions



1154 of this subsection are met with regard to the later addition of  
1155 new beds.

1156           **SECTION 2.** This act shall take effect and be in force from  
1157 and after July 1, 2002.

