

By: Senator(s) Blackmon

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 3053

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 ICFMR BEDS IN A COMMUNITY LIVING PROGRAM FOR DEVELOPMENTALLY
4 DISABLED ADULTS LOCATED IN MADISON COUNTY, MISSISSIPPI; AND FOR
5 RELATED PURPOSES.

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

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

9 41-7-191. (1) No person shall engage in any of the
10 following activities without obtaining the required certificate of
11 need:

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

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

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



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

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

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



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

63 (e) The relocation of one or more health services from
64 one physical facility or site to another physical facility or
65 site, unless such relocation, which does not involve a capital
66 expenditure by or on behalf of a health care facility, (i) is to a
67 physical facility or site within one thousand three hundred twenty
68 (1,320) feet from the main entrance of the health care facility
69 where the health care service is located, or (ii) is the result of
70 an order of a court of appropriate jurisdiction or a result of
71 pending litigation in such court, or by order of the State
72 Department of Health, or by order of any other agency or legal
73 entity of the state, the federal government, or any political
74 subdivision of either, whose order is also approved by the State
75 Department of Health;

76 (f) The acquisition or otherwise control of any major
77 medical equipment for the provision of medical services; provided,
78 however, (i) the acquisition of any major medical equipment used
79 only for research purposes, and (ii) the acquisition of major
80 medical equipment to replace medical equipment for which a
81 facility is already providing medical services and for which the
82 State Department of Health has been notified before the date of
83 such acquisition shall be exempt from this paragraph; an
84 acquisition for less than fair market value must be reviewed, if
85 the acquisition at fair market value would be subject to review;

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



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

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

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

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

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

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



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

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

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



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

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

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

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



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

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

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



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

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



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

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



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

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



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

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



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

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



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



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

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

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



457 43-7-193(1) regarding substantial compliance of the projection of
458 need as reported in the current State Health Plan is waived for
459 the purposes of this paragraph. If the certificate of need
460 authorized under this paragraph is not issued within twelve (12)
461 months after July 1, 1998, the department shall deny the
462 application for the certificate of need and shall not issue the
463 certificate of need at any time after the twelve-month period,
464 unless the issuance is contested. If the certificate of need is
465 issued and substantial construction of the nursing facility beds
466 has not commenced within eighteen (18) months after July 1, 1998,
467 the State Department of Health, after a hearing complying with due
468 process, shall revoke the certificate of need if it is still
469 outstanding, and the department shall not issue a license for the
470 nursing facility at any time after the eighteen-month period.
471 Provided, however, that if the issuance of the certificate of need
472 is contested, the department shall require substantial
473 construction of the nursing facility beds within six (6) months
474 after final adjudication on the issuance of the certificate of
475 need.

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

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



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

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



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

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



556 which counties have the highest need for nursing facility beds in
557 succeeding fiscal years.

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

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

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

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

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



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

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

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

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



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



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

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

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



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

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

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



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

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



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

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



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

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

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



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

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

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

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



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

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



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

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

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

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



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

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



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

973 (8) The Department of Health shall not grant approval for or
974 issue a certificate of need to any person proposing the new
975 construction of, addition to or expansion of a health care
976 facility as defined in subparagraph (viii) of Section 41-7-173(h),
977 except as hereinafter provided: the department may issue a
978 certificate of need to a nonprofit corporation located in Madison
979 County, Mississippi, for the construction, expansion or conversion
980 of not more than ten (10) beds in a Community Living Program for
981 Developmentally Disabled Adults in a facility as defined in
982 subparagraph (viii) of Section 41-7-173(h). For purposes of this
983 subparagraph, the provisions of Section 41-7-193(1) requiring
984 substantial compliance with the projection of need as reported in



985 the current State Health Plan are waived. There shall be no
986 prohibition or restrictions on participation in the Medicaid
987 program for the person receiving the certificate of need
988 authorized under this subparagraph.

989 (9) The Department of Health shall not grant approval for or
990 issue a certificate of need to any person proposing the
991 establishment of, or expansion of the currently approved territory
992 of, or the contracting to establish a home office, subunit or
993 branch office within the space operated as a health care facility
994 as defined in Section 41-7-173(h)(i) through (viii) by a health
995 care facility as defined in subparagraph (ix) of Section
996 41-7-173(h).

997 (10) Health care facilities owned and/or operated by the
998 state or its agencies are exempt from the restraints in this
999 section against issuance of a certificate of need if such addition
1000 or expansion consists of repairing or renovation necessary to
1001 comply with the state licensure law. This exception shall not
1002 apply to the new construction of any building by such state
1003 facility. This exception shall not apply to any health care
1004 facilities owned and/or operated by counties, municipalities,
1005 districts, unincorporated areas, other defined persons, or any
1006 combination thereof.

1007 (11) The new construction, renovation or expansion of or
1008 addition to any health care facility defined in subparagraph (ii)
1009 (psychiatric hospital), subparagraph (iv) (skilled nursing
1010 facility), subparagraph (vi) (intermediate care facility),
1011 subparagraph (viii) (intermediate care facility for the mentally
1012 retarded) and subparagraph (x) (psychiatric residential treatment
1013 facility) of Section 41-7-173(h) which is owned by the State of
1014 Mississippi and under the direction and control of the State
1015 Department of Mental Health, and the addition of new beds or the
1016 conversion of beds from one category to another in any such
1017 defined health care facility which is owned by the State of



1018 Mississippi and under the direction and control of the State
1019 Department of Mental Health, shall not require the issuance of a
1020 certificate of need under Section 41-7-171 et seq.,
1021 notwithstanding any provision in Section 41-7-171 et seq. to the
1022 contrary.

1023 (12) The new construction, renovation or expansion of or
1024 addition to any veterans homes or domiciliaries for eligible
1025 veterans of the State of Mississippi as authorized under Section
1026 35-1-19 shall not require the issuance of a certificate of need,
1027 notwithstanding any provision in Section 41-7-171 et seq. to the
1028 contrary.

1029 (13) The new construction of a nursing facility or nursing
1030 facility beds or the conversion of other beds to nursing facility
1031 beds shall not require the issuance of a certificate of need,
1032 notwithstanding any provision in Section 41-7-171 et seq. to the
1033 contrary, if the conditions of this subsection are met.

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



1051 is signed, the Division of Medicaid and the State Department of
1052 Health shall not certify any beds in the nursing facility for
1053 participation in the Medicaid program. If the nursing facility
1054 violates the terms of the written agreement by participating in
1055 the Medicaid program, having any beds certified for participation
1056 in the Medicaid program, admitting or keeping any patient in the
1057 facility who is participating in the Medicaid program, or
1058 submitting any claim for Medicaid reimbursement for any patient in
1059 the facility, the State Department of Health shall revoke the
1060 license of the nursing facility at the time that the department
1061 determines, after a hearing complying with due process, that the
1062 facility has violated the terms of the written agreement.

1063 (b) For the purposes of this subsection, participation
1064 in the Medicaid program by a nursing facility includes Medicaid
1065 reimbursement of coinsurance and deductibles for recipients who
1066 are qualified Medicare beneficiaries and/or those who are dually
1067 eligible. Any nursing facility exercising the authority under
1068 this subsection may not bill or submit a claim to the Division of
1069 Medicaid for services to qualified Medicare beneficiaries and/or
1070 those who are dually eligible.

1071 (c) The new construction of a nursing facility or
1072 nursing facility beds or the conversion of other beds to nursing
1073 facility beds described in this section must be either a part of a
1074 completely new continuing care retirement community, as described
1075 in the latest edition of the Mississippi State Health Plan, or an
1076 addition to existing personal care and independent living
1077 components, and so that the completed project will be a continuing
1078 care retirement community, containing (i) independent living
1079 accommodations, (ii) personal care beds, and (iii) the nursing
1080 home facility beds. The three (3) components must be located on a
1081 single site and be operated as one (1) inseparable facility. The
1082 nursing facility component must contain a minimum of thirty (30)
1083 beds. Any nursing facility beds authorized by this section will



1084 not be counted against the bed need set forth in the State Health
1085 Plan, as identified in Section 41-7-171, et seq.

1086 This subsection (13) shall stand repealed from and after July
1087 1, 2005.

1088 (14) The State Department of Health shall issue a
1089 certificate of need to any hospital which is currently licensed
1090 for two hundred fifty (250) or more acute care beds and is located
1091 in any general hospital service area not having a comprehensive
1092 cancer center, for the establishment and equipping of such a
1093 center which provides facilities and services for outpatient
1094 radiation oncology therapy, outpatient medical oncology therapy,
1095 and appropriate support services including the provision of
1096 radiation therapy services. The provision of Section 41-7-193(1)
1097 regarding substantial compliance with the projection of need as
1098 reported in the current State Health Plan is waived for the
1099 purpose of this subsection.

1100 (15) The State Department of Health may authorize the
1101 transfer of hospital beds, not to exceed sixty (60) beds, from the
1102 North Panola Community Hospital to the South Panola Community
1103 Hospital. The authorization for the transfer of those beds shall
1104 be exempt from the certificate of need review process.

1105 (16) Nothing in this section or in any other provision of
1106 Section 41-7-171 et seq. shall prevent any nursing facility from
1107 designating an appropriate number of existing beds in the facility
1108 as beds for providing care exclusively to patients with
1109 Alzheimer's disease.

1110 **SECTION 2.** This act shall take effect and be in force from
1111 and after its passage.

