

By: Senator(s) Chaney

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 3061

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO TRANSFER A CERTAIN  
3 CERTIFICATE OF NEED AUTHORIZING PSYCHIATRIC RESIDENTIAL TREATMENT  
4 FACILITY BEDS IN WARREN COUNTY; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the  
9 following activities without obtaining the required certificate of  
10 need:

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

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

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



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

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

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



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

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

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

93           (h) The change of ownership of any health care facility  
94 defined in subparagraphs (iv), (vi) and (viii) of Section



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

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

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

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

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

121 (a) The department may issue a certificate of need to  
122 any person proposing the new construction of any health care  
123 facility defined in subparagraphs (iv) and (vi) of Section  
124 41-7-173(h) as part of a life care retirement facility, in any  
125 county bordering on the Gulf of Mexico in which is located a  
126 National Aeronautics and Space Administration facility, not to  
127 exceed forty (40) beds. From and after July 1, 1999, there shall



128 be no prohibition or restrictions on participation in the Medicaid  
129 program (Section 43-13-101 et seq.) for the beds in the health  
130 care facility that were authorized under this paragraph (a).

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

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



161 complying with due process, that the facility has failed to comply  
162 with any of the conditions upon which the certificate of need was  
163 issued, as provided in this paragraph and in the written agreement  
164 by the recipient of the certificate of need. The total number of  
165 beds that may be authorized under the authority of this paragraph  
166 (c) shall not exceed sixty (60) beds.

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

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

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

192 (g) The State Department of Health may issue a  
193 certificate of need for the construction or expansion of nursing



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

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

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



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

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

258 (k) The department may issue a certificate of need for  
259 the construction of a nursing facility at a continuing care





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

288 (1) Provided that funds are specifically appropriated  
289 therefor by the Legislature, the department may issue a  
290 certificate of need to a rehabilitation hospital in Hinds County  
291 for the construction of a sixty-bed long-term care nursing  
292 facility dedicated to the care and treatment of persons with



293 severe disabilities including persons with spinal cord and  
294 closed-head injuries and ventilator-dependent patients. The  
295 provision of Section 41-7-193(1) regarding substantial compliance  
296 with projection of need as reported in the current State Health  
297 Plan is hereby waived for the purpose of this paragraph.

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



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

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



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

385 (o) The department may issue a certificate of need for  
386 the new construction, addition or conversion of skilled nursing  
387 facility beds in Leake County, provided that the recipient of the  
388 certificate of need agrees in writing that the skilled nursing  
389 facility will not at any time participate in the Medicaid program  
390 (Section 43-13-101 et seq.) or admit or keep any patients in the  
391 skilled nursing facility who are participating in the Medicaid



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



425 however, that if the issuance of the certificate of need is  
426 contested, the department shall require substantial construction  
427 of the nursing facility beds within six (6) months after final  
428 adjudication on the issuance of the certificate of need.

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

441 Agreement that the skilled nursing facility will not participate  
442 in the Medicaid program shall be a condition of the issuance of a  
443 certificate of need to any person under this paragraph (p), and if  
444 such skilled nursing facility at any time after the issuance of  
445 the certificate of need, regardless of the ownership of the  
446 facility, participates in the Medicaid program or admits or keeps  
447 any patients in the facility who are participating in the Medicaid  
448 program, the State Department of Health shall revoke the  
449 certificate of need, if it is still outstanding, and shall deny or  
450 revoke the license of the skilled nursing facility, at the time  
451 that the department determines, after a hearing complying with due  
452 process, that the facility has failed to comply with any of the  
453 conditions upon which the certificate of need was issued, as  
454 provided in this paragraph and in the written agreement by the  
455 recipient of the certificate of need. The provision of Section  
456 43-7-193(1) regarding substantial compliance of the projection of  
457 need as reported in the current State Health Plan is waived for



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

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

485 (ii) Subject to the provisions of subparagraph  
486 (v), during each of the next four (4) fiscal years, the department  
487 shall issue six (6) certificates of need for new nursing facility  
488 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
489 (1) certificate of need shall be issued for new nursing facility  
490 beds in the county in each of the four (4) Long-Term Care Planning



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

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

522 (iv) Subject to the provisions of subparagraph  
523 (v), the certificate of need issued under subparagraph (ii) for





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

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



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

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

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

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

581                   (ii) Not more than twenty (20) beds may be  
582 authorized by any certificate of need issued under this paragraph  
583 (r), and not more than a total of sixty (60) beds may be  
584 authorized in any Long-Term Care Planning District by all  
585 certificates of need issued under this paragraph (r). However,  
586 the total number of beds that may be authorized by all  
587 certificates of need issued under this paragraph (r) during any  
588 fiscal year shall not exceed one hundred twenty (120) beds, and  
589 the total number of beds that may be authorized in any Long-Term



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

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

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

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

621 (b) Of the total number of beds authorized under this  
622 subsection, the department may issue a certificate or certificates



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



656 upon which the certificate of need was issued, as provided in this  
657 paragraph and in the written agreement.

658 The State Department of Health, on or before July 1, 2002,  
659 shall transfer the certificate of need authorized under the  
660 authority of this paragraph (b), or reissue the certificate of  
661 need in the event that it has expired, to River Region Health  
662 System.

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



689 facility violates the terms of the written agreement by admitting  
690 or keeping in the facility on a regular or continuing basis more  
691 than fifteen (15) patients who are participating in the Medicaid  
692 program, the State Department of Health shall revoke the license  
693 of the facility, at the time that the department determines, after  
694 a hearing complying with due process, that the facility has  
695 violated the condition upon which the certificate of need was  
696 issued, as provided in this paragraph and in the written  
697 agreement.

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

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

714 (f) The department shall issue a certificate of need to  
715 a one-hundred-thirty-four-bed specialty hospital located on  
716 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
717 at 5900 Highway 39 North in Meridian (Lauderdale County),  
718 Mississippi, for the addition, construction or expansion of  
719 child/adolescent psychiatric residential treatment facility beds  
720 in Lauderdale County. As a condition of issuance of the  
721 certificate of need under this paragraph, the facility shall give



722 priority in admissions to the child/adolescent psychiatric  
723 residential treatment facility beds authorized under this  
724 paragraph to patients who otherwise would require out-of-state  
725 placement. The Division of Medicaid, in conjunction with the  
726 Department of Human Services, shall furnish the facility a list of  
727 all out-of-state patients on a quarterly basis. Furthermore,  
728 notice shall also be provided to the parent, custodial parent or  
729 guardian of each out-of-state patient notifying them of the  
730 priority status granted by this paragraph. For purposes of this  
731 paragraph, the provisions of Section 41-7-193(1) requiring  
732 substantial compliance with the projection of need as reported in  
733 the current State Health Plan are waived. The total number of  
734 child/adolescent psychiatric residential treatment facility beds  
735 that may be authorized under the authority of this paragraph shall  
736 be sixty (60) beds. There shall be no prohibition or restrictions  
737 on participation in the Medicaid program (Section 43-13-101 et  
738 seq.) for the person receiving the certificate of need authorized  
739 under this paragraph or for the beds converted pursuant to the  
740 authority of that certificate of need.

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



755 child/adolescent chemical dependency beds, except as hereinafter  
756 authorized:

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





788 failed to comply with any of the conditions upon which the  
789 certificate of need was issued, as provided in this subparagraph  
790 and in the written agreement by the recipient of the certificate  
791 of need.

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

805 (iii) The department may issue a certificate or  
806 certificates of need for the construction or expansion of  
807 child/adolescent psychiatric beds or the conversion of other beds  
808 to child/adolescent psychiatric beds in Warren County. For  
809 purposes of this subparagraph, the provisions of Section  
810 41-7-193(1) requiring substantial compliance with the projection  
811 of need as reported in the current State Health Plan are waived.  
812 The total number of beds that may be authorized under the  
813 authority of this subparagraph shall not exceed twenty (20) beds.  
814 There shall be no prohibition or restrictions on participation in  
815 the Medicaid program (Section 43-13-101 et seq.) for the person  
816 receiving the certificate of need authorized under this  
817 subparagraph (a)(iii) or for the beds converted pursuant to the  
818 authority of that certificate of need.

819 If by January 1, 2002, there has been no significant  
820 commencement of construction of the beds authorized under this



821 subparagraph (a)(iii), or no significant action taken to convert  
822 existing beds to the beds authorized under this subparagraph, then  
823 the certificate of need that was previously issued under this  
824 subparagraph shall expire. If the previously issued certificate  
825 of need expires, the department may accept applications for  
826 issuance of another certificate of need for the beds authorized  
827 under this subparagraph, and may issue a certificate of need to  
828 authorize the construction, expansion or conversion of the beds  
829 authorized under this subparagraph.

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

844 (v) The department may issue a certificate of need  
845 to any county hospital located in Leflore County for the  
846 construction or expansion of adult psychiatric beds or the  
847 conversion of other beds to adult psychiatric beds, not to exceed  
848 twenty (20) beds, provided that the recipient of the certificate  
849 of need agrees in writing that the adult psychiatric beds will not  
850 at any time be certified for participation in the Medicaid program  
851 and that the hospital will not admit or keep any patients who are  
852 participating in the Medicaid program in any of such adult  
853 psychiatric beds. This written agreement by the recipient of the



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

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



886 (b) From and after July 1, 1990, no hospital,  
887 psychiatric hospital or chemical dependency hospital shall be  
888 authorized to add any child/adolescent psychiatric or  
889 child/adolescent chemical dependency beds or convert any beds of  
890 another category to child/adolescent psychiatric or  
891 child/adolescent chemical dependency beds without a certificate of  
892 need under the authority of subsection (1)(c) of this section.

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

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



919 revoke the license of the long-term care hospital, at the time  
920 that the department determines, after a hearing complying with due  
921 process, that the facility has failed to comply with any of the  
922 conditions upon which the certificate of need was issued, as  
923 provided in this subsection and in the written agreement by the  
924 recipient of the certificate of need. For purposes of this  
925 subsection, the provision of Section 41-7-193(1) requiring  
926 substantial compliance with the projection of need as reported in  
927 the current State Health Plan is hereby waived.

928 (7) The State Department of Health may issue a certificate  
929 of need to any hospital in the state to utilize a portion of its  
930 beds for the "swing-bed" concept. Any such hospital must be in  
931 conformance with the federal regulations regarding such swing-bed  
932 concept at the time it submits its application for a certificate  
933 of need to the State Department of Health, except that such  
934 hospital may have more licensed beds or a higher average daily  
935 census (ADC) than the maximum number specified in federal  
936 regulations for participation in the swing-bed program. Any  
937 hospital meeting all federal requirements for participation in the  
938 swing-bed program which receives such certificate of need shall  
939 render services provided under the swing-bed concept to any  
940 patient eligible for Medicare (Title XVIII of the Social Security  
941 Act) who is certified by a physician to be in need of such  
942 services, and no such hospital shall permit any patient who is  
943 eligible for both Medicaid and Medicare or eligible only for  
944 Medicaid to stay in the swing beds of the hospital for more than  
945 thirty (30) days per admission unless the hospital receives prior  
946 approval for such patient from the Division of Medicaid, Office of  
947 the Governor. Any hospital having more licensed beds or a higher  
948 average daily census (ADC) than the maximum number specified in  
949 federal regulations for participation in the swing-bed program  
950 which receives such certificate of need shall develop a procedure  
951 to insure that before a patient is allowed to stay in the swing



952 beds of the hospital, there are no vacant nursing home beds  
953 available for that patient located within a fifty-mile radius of  
954 the hospital. When any such hospital has a patient staying in the  
955 swing beds of the hospital and the hospital receives notice from a  
956 nursing home located within such radius that there is a vacant bed  
957 available for that patient, the hospital shall transfer the  
958 patient to the nursing home within a reasonable time after receipt  
959 of the notice. Any hospital which is subject to the requirements  
960 of the two (2) preceding sentences of this subsection may be  
961 suspended from participation in the swing-bed program for a  
962 reasonable period of time by the State Department of Health if the  
963 department, after a hearing complying with due process, determines  
964 that the hospital has failed to comply with any of those  
965 requirements.

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

970 (9) The Department of Health shall not grant approval for or  
971 issue a certificate of need to any person proposing the  
972 establishment of, or expansion of the currently approved territory  
973 of, or the contracting to establish a home office, subunit or  
974 branch office within the space operated as a health care facility  
975 as defined in Section 41-7-173(h)(i) through (viii) by a health  
976 care facility as defined in subparagraph (ix) of Section  
977 41-7-173(h).

978 (10) Health care facilities owned and/or operated by the  
979 state or its agencies are exempt from the restraints in this  
980 section against issuance of a certificate of need if such addition  
981 or expansion consists of repairing or renovation necessary to  
982 comply with the state licensure law. This exception shall not  
983 apply to the new construction of any building by such state  
984 facility. This exception shall not apply to any health care



985 facilities owned and/or operated by counties, municipalities,  
986 districts, unincorporated areas, other defined persons, or any  
987 combination thereof.

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

1004         (12) The new construction, renovation or expansion of or  
1005 addition to any veterans homes or domiciliaries for eligible  
1006 veterans of the State of Mississippi as authorized under Section  
1007 35-1-19 shall not require the issuance of a certificate of need,  
1008 notwithstanding any provision in Section 41-7-171 et seq. to the  
1009 contrary.

1010         (13) The new construction of a nursing facility or nursing  
1011 facility beds or the conversion of other beds to nursing facility  
1012 beds shall not require the issuance of a certificate of need,  
1013 notwithstanding any provision in Section 41-7-171 et seq. to the  
1014 contrary, if the conditions of this subsection are met.

1015             (a) Before any construction or conversion may be  
1016 undertaken without a certificate of need, the owner of the nursing  
1017 facility, in the case of an existing facility, or the applicant to



1018 construct a nursing facility, in the case of new construction,  
1019 first must file a written notice of intent and sign a written  
1020 agreement with the State Department of Health that the entire  
1021 nursing facility will not at any time participate in or have any  
1022 beds certified for participation in the Medicaid program (Section  
1023 43-13-101 et seq.), will not admit or keep any patients in the  
1024 nursing facility who are participating in the Medicaid program,  
1025 and will not submit any claim for Medicaid reimbursement for any  
1026 patient in the facility. This written agreement by the owner or  
1027 applicant shall be a condition of exercising the authority under  
1028 this subsection without a certificate of need, and the agreement  
1029 shall be fully binding on any subsequent owner of the nursing  
1030 facility if the ownership of the facility is transferred at any  
1031 time after the agreement is signed. After the written agreement  
1032 is signed, the Division of Medicaid and the State Department of  
1033 Health shall not certify any beds in the nursing facility for  
1034 participation in the Medicaid program. If the nursing facility  
1035 violates the terms of the written agreement by participating in  
1036 the Medicaid program, having any beds certified for participation  
1037 in the Medicaid program, admitting or keeping any patient in the  
1038 facility who is participating in the Medicaid program, or  
1039 submitting any claim for Medicaid reimbursement for any patient in  
1040 the facility, the State Department of Health shall revoke the  
1041 license of the nursing facility at the time that the department  
1042 determines, after a hearing complying with due process, that the  
1043 facility has violated the terms of the written agreement.

1044 (b) For the purposes of this subsection, participation  
1045 in the Medicaid program by a nursing facility includes Medicaid  
1046 reimbursement of coinsurance and deductibles for recipients who  
1047 are qualified Medicare beneficiaries and/or those who are dually  
1048 eligible. Any nursing facility exercising the authority under  
1049 this subsection may not bill or submit a claim to the Division of





1050 Medicaid for services to qualified Medicare beneficiaries and/or  
1051 those who are dually eligible.

1052           (c) The new construction of a nursing facility or  
1053 nursing facility beds or the conversion of other beds to nursing  
1054 facility beds described in this section must be either a part of a  
1055 completely new continuing care retirement community, as described  
1056 in the latest edition of the Mississippi State Health Plan, or an  
1057 addition to existing personal care and independent living  
1058 components, and so that the completed project will be a continuing  
1059 care retirement community, containing (i) independent living  
1060 accommodations, (ii) personal care beds, and (iii) the nursing  
1061 home facility beds. The three (3) components must be located on a  
1062 single site and be operated as one (1) inseparable facility. The  
1063 nursing facility component must contain a minimum of thirty (30)  
1064 beds. Any nursing facility beds authorized by this section will  
1065 not be counted against the bed need set forth in the State Health  
1066 Plan, as identified in Section 41-7-171, et seq.

1067           This subsection (13) shall stand repealed from and after July  
1068 1, 2005.

1069           (14) The State Department of Health shall issue a  
1070 certificate of need to any hospital which is currently licensed  
1071 for two hundred fifty (250) or more acute care beds and is located  
1072 in any general hospital service area not having a comprehensive  
1073 cancer center, for the establishment and equipping of such a  
1074 center which provides facilities and services for outpatient  
1075 radiation oncology therapy, outpatient medical oncology therapy,  
1076 and appropriate support services including the provision of  
1077 radiation therapy services. The provision of Section 41-7-193(1)  
1078 regarding substantial compliance with the projection of need as  
1079 reported in the current State Health Plan is waived for the  
1080 purpose of this subsection.

1081           (15) The State Department of Health may authorize the  
1082 transfer of hospital beds, not to exceed sixty (60) beds, from the



1083 North Panola Community Hospital to the South Panola Community  
1084 Hospital. The authorization for the transfer of those beds shall  
1085 be exempt from the certificate of need review process.

1086 (16) Nothing in this section or in any other provision of  
1087 Section 41-7-171 et seq. shall prevent any nursing facility from  
1088 designating an appropriate number of existing beds in the facility  
1089 as beds for providing care exclusively to patients with  
1090 Alzheimer's disease.

1091 **SECTION 2.** This act shall take effect and be in force from  
1092 and after its passage.

