

By: Representative Howell

To: Public Health and  
Welfare; Appropriations

HOUSE BILL NO. 1114

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE THE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED  
3 TO ESTABLISH AN END STAGE RENAL DIALYSIS FACILITY IN MONTGOMERY  
4 COUNTY; TO WAIVE THE REQUIREMENT THAT THE C.O.N. PROPOSAL FOR SUCH  
5 FACILITY MUST BE IN COMPLIANCE WITH THE PROJECTION OF NEED AS  
6 REPORTED IN THE STATE HEALTH PLAN; TO AMEND SECTION 41-7-193,  
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
8 PURPOSES.

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

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

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

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

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

24 (c) Any change in the existing bed complement of any  
25 health care facility through the addition or conversion of any  
26 beds or the alteration, modernizing or refurbishing of any unit or  
27 department in which the beds may be located;

28 (d) Offering of the following health services if those  
29 services have not been provided on a regular basis by the proposed



30 provider of such services within the period of twelve (12) months  
31 prior to the time such services would be offered:

32 (i) Open heart surgery services;  
33 (ii) Cardiac catheterization services;  
34 (iii) Comprehensive inpatient rehabilitation  
35 services;

36 (iv) Licensed psychiatric services;  
37 (v) Licensed chemical dependency services;  
38 (vi) Radiation therapy services;  
39 (vii) Diagnostic imaging services of an invasive  
40 nature, i.e. invasive digital angiography;

41 (viii) Nursing home care as defined in  
42 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

43 (ix) Home health services;

44 (x) Swing-bed services;

45 (xi) Ambulatory surgical services;

46 (xii) Magnetic resonance imaging services;

47 (xiii) Extracorporeal shock wave lithotripsy  
48 services;

49 (xiv) Long-term care hospital services;

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

51 (e) The relocation of one or more health services from  
52 one physical facility or site to another physical facility or  
53 site, unless such relocation, which does not involve a capital  
54 expenditure by or on behalf of a health care facility, (i) is to a  
55 physical facility or site within one thousand three hundred twenty  
56 (1,320) feet from the main entrance of the health care facility  
57 where the health care service is located, or (ii) is the result of  
58 an order of a court of appropriate jurisdiction or a result of  
59 pending litigation in such court, or by order of the State  
60 Department of Health, or by order of any other agency or legal  
61 entity of the state, the federal government, or any political



62 subdivision of either, whose order is also approved by the State  
63 Department of Health;

64 (f) The acquisition or otherwise control of any major  
65 medical equipment for the provision of medical services; provided,  
66 however, (i) the acquisition of any major medical equipment used  
67 only for research purposes, and (ii) the acquisition of major  
68 medical equipment to replace medical equipment for which a  
69 facility is already providing medical services and for which the  
70 State Department of Health has been notified before the date of  
71 such acquisition shall be exempt from this paragraph; an  
72 acquisition for less than fair market value must be reviewed, if  
73 the acquisition at fair market value would be subject to review;

74 (g) Changes of ownership of existing health care  
75 facilities in which a notice of intent is not filed with the State  
76 Department of Health at least thirty (30) days prior to the date  
77 such change of ownership occurs, or a change in services or bed  
78 capacity as prescribed in paragraph (c) or (d) of this subsection  
79 as a result of the change of ownership; an acquisition for less  
80 than fair market value must be reviewed, if the acquisition at  
81 fair market value would be subject to review;

82 (h) The change of ownership of any health care facility  
83 defined in subparagraphs (iv), (vi) and (viii) of Section  
84 41-7-173(h), in which a notice of intent as described in paragraph  
85 (g) has not been filed and if the Executive Director, Division of  
86 Medicaid, Office of the Governor, has not certified in writing  
87 that there will be no increase in allowable costs to Medicaid from  
88 revaluation of the assets or from increased interest and  
89 depreciation as a result of the proposed change of ownership;

90 (i) Any activity described in paragraphs (a) through  
91 (h) if undertaken by any person if that same activity would  
92 require certificate of need approval if undertaken by a health  
93 care facility;



94 (j) Any capital expenditure or deferred capital  
95 expenditure by or on behalf of a health care facility not covered  
96 by paragraphs (a) through (h);

97 (k) The contracting of a health care facility as  
98 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
99 to establish a home office, subunit, or branch office in the space  
100 operated as a health care facility through a formal arrangement  
101 with an existing health care facility as defined in subparagraph  
102 (ix) of Section 41-7-173(h).

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

110 (a) The department may issue a certificate of need to  
111 any person proposing the new construction of any health care  
112 facility defined in subparagraphs (iv) and (vi) of Section  
113 41-7-173(h) as part of a life care retirement facility, in any  
114 county bordering on the Gulf of Mexico in which is located a  
115 National Aeronautics and Space Administration facility, not to  
116 exceed forty (40) beds. From and after July 1, 1999, there shall  
117 be no prohibition or restrictions on participation in the Medicaid  
118 program (Section 43-13-101 et seq.) for the beds in the health  
119 care facility that were authorized under this paragraph (a).

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



127           (c) The department may issue a certificate of need for  
128 the addition to or expansion of any skilled nursing facility that  
129 is part of an existing continuing care retirement community  
130 located in Madison County, provided that the recipient of the  
131 certificate of need agrees in writing that the skilled nursing  
132 facility will not at any time participate in the Medicaid program  
133 (Section 43-13-101 et seq.) or admit or keep any patients in the  
134 skilled nursing facility who are participating in the Medicaid  
135 program. This written agreement by the recipient of the  
136 certificate of need shall be fully binding on any subsequent owner  
137 of the skilled nursing facility, if the ownership of the facility  
138 is transferred at any time after the issuance of the certificate  
139 of need. Agreement that the skilled nursing facility will not  
140 participate in the Medicaid program shall be a condition of the  
141 issuance of a certificate of need to any person under this  
142 paragraph (c), and if such skilled nursing facility at any time  
143 after the issuance of the certificate of need, regardless of the  
144 ownership of the facility, participates in the Medicaid program or  
145 admits or keeps any patients in the facility who are participating  
146 in the Medicaid program, the State Department of Health shall  
147 revoke the certificate of need, if it is still outstanding, and  
148 shall deny or revoke the license of the skilled nursing facility,  
149 at the time that the department determines, after a hearing  
150 complying with due process, that the facility has failed to comply  
151 with any of the conditions upon which the certificate of need was  
152 issued, as provided in this paragraph and in the written agreement  
153 by the recipient of the certificate of need. The total number of  
154 beds that may be authorized under the authority of this paragraph  
155 (c) shall not exceed sixty (60) beds.

156           (d) The State Department of Health may issue a  
157 certificate of need to any hospital located in DeSoto County for  
158 the new construction of a skilled nursing facility, not to exceed  
159 one hundred twenty (120) beds, in DeSoto County. From and after



160 July 1, 1999, there shall be no prohibition or restrictions on  
161 participation in the Medicaid program (Section 43-13-101 et seq.)  
162 for the beds in the nursing facility that were authorized under  
163 this paragraph (d).

164 (e) The State Department of Health may issue a  
165 certificate of need for the construction of a nursing facility or  
166 the conversion of beds to nursing facility beds at a personal care  
167 facility for the elderly in Lowndes County that is owned and  
168 operated by a Mississippi nonprofit corporation, not to exceed  
169 sixty (60) beds. From and after July 1, 1999, there shall be no  
170 prohibition or restrictions on participation in the Medicaid  
171 program (Section 43-13-101 et seq.) for the beds in the nursing  
172 facility that were authorized under this paragraph (e).

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

181 (g) The State Department of Health may issue a  
182 certificate of need for the construction or expansion of nursing  
183 facility beds or the conversion of other beds to nursing facility  
184 beds in either Hinds, Madison or Rankin County, not to exceed  
185 sixty (60) beds. From and after July 1, 1999, there shall be no  
186 prohibition or restrictions on participation in the Medicaid  
187 program (Section 43-13-101 et seq.) for the beds in the nursing  
188 facility that were authorized under this paragraph (g).

189 (h) The State Department of Health may issue a  
190 certificate of need for the construction or expansion of nursing  
191 facility beds or the conversion of other beds to nursing facility  
192 beds in either Hancock, Harrison or Jackson County, not to exceed



193 sixty (60) beds. From and after July 1, 1999, there shall be no  
194 prohibition or restrictions on participation in the Medicaid  
195 program (Section 43-13-101 et seq.) for the beds in the facility  
196 that were authorized under this paragraph (h).

197 (i) The department may issue a certificate of need for  
198 the new construction of a skilled nursing facility in Leake  
199 County, provided that the recipient of the certificate of need  
200 agrees in writing that the skilled nursing facility will not at  
201 any time participate in the Medicaid program (Section 43-13-101 et  
202 seq.) or admit or keep any patients in the skilled nursing  
203 facility who are participating in the Medicaid program. This  
204 written agreement by the recipient of the certificate of need  
205 shall be fully binding on any subsequent owner of the skilled  
206 nursing facility, if the ownership of the facility is transferred  
207 at any time after the issuance of the certificate of need.  
208 Agreement that the skilled nursing facility will not participate  
209 in the Medicaid program shall be a condition of the issuance of a  
210 certificate of need to any person under this paragraph (i), and if  
211 such skilled nursing facility at any time after the issuance of  
212 the certificate of need, regardless of the ownership of the  
213 facility, participates in the Medicaid program or admits or keeps  
214 any patients in the facility who are participating in the Medicaid  
215 program, the State Department of Health shall revoke the  
216 certificate of need, if it is still outstanding, and shall deny or  
217 revoke the license of the skilled nursing facility, at the time  
218 that the department determines, after a hearing complying with due  
219 process, that the facility has failed to comply with any of the  
220 conditions upon which the certificate of need was issued, as  
221 provided in this paragraph and in the written agreement by the  
222 recipient of the certificate of need. The provision of Section  
223 43-7-193(1) regarding substantial compliance of the projection of  
224 need as reported in the current State Health Plan is waived for  
225 the purposes of this paragraph. The total number of nursing



226 facility beds that may be authorized by any certificate of need  
227 issued under this paragraph (i) shall not exceed sixty (60) beds.  
228 If the skilled nursing facility authorized by the certificate of  
229 need issued under this paragraph is not constructed and fully  
230 operational within eighteen (18) months after July 1, 1994, the  
231 State Department of Health, after a hearing complying with due  
232 process, shall revoke the certificate of need, if it is still  
233 outstanding, and shall not issue a license for the skilled nursing  
234 facility at any time after the expiration of the eighteen-month  
235 period.

236 (j) The department may issue certificates of need to  
237 allow any existing freestanding long-term care facility in  
238 Tishomingo County and Hancock County that on July 1, 1995, is  
239 licensed with fewer than sixty (60) beds. For the purposes of  
240 this paragraph (j), the provision of Section 41-7-193(1) requiring  
241 substantial compliance with the projection of need as reported in  
242 the current State Health Plan is waived. From and after July 1,  
243 1999, there shall be no prohibition or restrictions on  
244 participation in the Medicaid program (Section 43-13-101 et seq.)  
245 for the beds in the long-term care facilities that were authorized  
246 under this paragraph (j).

247 (k) The department may issue a certificate of need for  
248 the construction of a nursing facility at a continuing care  
249 retirement community in Lowndes County. The total number of beds  
250 that may be authorized under the authority of this paragraph (k)  
251 shall not exceed sixty (60) beds. From and after July 1, 2001,  
252 the prohibition on the facility participating in the Medicaid  
253 program (Section 43-13-101 et seq.) that was a condition of  
254 issuance of the certificate of need under this paragraph (k) shall  
255 be revised as follows: The nursing facility may participate in  
256 the Medicaid program from and after July 1, 2001, if the owner of  
257 the facility on July 1, 2001, agrees in writing that no more than  
258 thirty (30) of the beds at the facility will be certified for





259 participation in the Medicaid program, and that no claim will be  
260 submitted for Medicaid reimbursement for more than thirty (30)  
261 patients in the facility in any month or for any patient in the  
262 facility who is in a bed that is not Medicaid-certified. This  
263 written agreement by the owner of the facility shall be a  
264 condition of licensure of the facility, and the agreement shall be  
265 fully binding on any subsequent owner of the facility if the  
266 ownership of the facility is transferred at any time after July 1,  
267 2001. After this written agreement is executed, the Division of  
268 Medicaid and the State Department of Health shall not certify more  
269 than thirty (30) of the beds in the facility for participation in  
270 the Medicaid program. If the facility violates the terms of the  
271 written agreement by admitting or keeping in the facility on a  
272 regular or continuing basis more than thirty (30) patients who are  
273 participating in the Medicaid program, the State Department of  
274 Health shall revoke the license of the facility, at the time that  
275 the department determines, after a hearing complying with due  
276 process, that the facility has violated the written agreement.

277 (l) Provided that funds are specifically appropriated  
278 therefor by the Legislature, the department may issue a  
279 certificate of need to a rehabilitation hospital in Hinds County  
280 for the construction of a sixty-bed long-term care nursing  
281 facility dedicated to the care and treatment of persons with  
282 severe disabilities including persons with spinal cord and  
283 closed-head injuries and ventilator-dependent patients. The  
284 provision of Section 41-7-193(1) regarding substantial compliance  
285 with projection of need as reported in the current State Health  
286 Plan is hereby waived for the purpose of this paragraph.

287 (m) The State Department of Health may issue a  
288 certificate of need to a county-owned hospital in the Second  
289 Judicial District of Panola County for the conversion of not more  
290 than seventy-two (72) hospital beds to nursing facility beds,  
291 provided that the recipient of the certificate of need agrees in



292 writing that none of the beds at the nursing facility will be  
293 certified for participation in the Medicaid program (Section  
294 43-13-101 et seq.), and that no claim will be submitted for  
295 Medicaid reimbursement in the nursing facility in any day or for  
296 any patient in the nursing facility. This written agreement by  
297 the recipient of the certificate of need shall be a condition of  
298 the issuance of the certificate of need under this paragraph, and  
299 the agreement shall be fully binding on any subsequent owner of  
300 the nursing facility if the ownership of the nursing facility is  
301 transferred at any time after the issuance of the certificate of  
302 need. After this written agreement is executed, the Division of  
303 Medicaid and the State Department of Health shall not certify any  
304 of the beds in the nursing facility for participation in the  
305 Medicaid program. If the nursing facility violates the terms of  
306 the written agreement by admitting or keeping in the nursing  
307 facility on a regular or continuing basis any patients who are  
308 participating in the Medicaid program, the State Department of  
309 Health shall revoke the license of the nursing facility, at the  
310 time that the department determines, after a hearing complying  
311 with due process, that the nursing facility has violated the  
312 condition upon which the certificate of need was issued, as  
313 provided in this paragraph and in the written agreement. If the  
314 certificate of need authorized under this paragraph is not issued  
315 within twelve (12) months after July 1, 2001, the department shall  
316 deny the application for the certificate of need and shall not  
317 issue the certificate of need at any time after the twelve-month  
318 period, unless the issuance is contested. If the certificate of  
319 need is issued and substantial construction of the nursing  
320 facility beds has not commenced within eighteen (18) months after  
321 July 1, 2001, the State Department of Health, after a hearing  
322 complying with due process, shall revoke the certificate of need  
323 if it is still outstanding, and the department shall not issue a  
324 license for the nursing facility at any time after the



325 eighteen-month period. Provided, however, that if the issuance of  
326 the certificate of need is contested, the department shall require  
327 substantial construction of the nursing facility beds within six  
328 (6) months after final adjudication on the issuance of the  
329 certificate of need.

330 (n) The department may issue a certificate of need for  
331 the new construction, addition or conversion of skilled nursing  
332 facility beds in Madison County, provided that the recipient of  
333 the certificate of need agrees in writing that the skilled nursing  
334 facility will not at any time participate in the Medicaid program  
335 (Section 43-13-101 et seq.) or admit or keep any patients in the  
336 skilled nursing facility who are participating in the Medicaid  
337 program. This written agreement by the recipient of the  
338 certificate of need shall be fully binding on any subsequent owner  
339 of the skilled nursing facility, if the ownership of the facility  
340 is transferred at any time after the issuance of the certificate  
341 of need. Agreement that the skilled nursing facility will not  
342 participate in the Medicaid program shall be a condition of the  
343 issuance of a certificate of need to any person under this  
344 paragraph (n), and if such skilled nursing facility at any time  
345 after the issuance of the certificate of need, regardless of the  
346 ownership of the facility, participates in the Medicaid program or  
347 admits or keeps any patients in the facility who are participating  
348 in the Medicaid program, the State Department of Health shall  
349 revoke the certificate of need, if it is still outstanding, and  
350 shall deny or revoke the license of the skilled nursing facility,  
351 at the time that the department determines, after a hearing  
352 complying with due process, that the facility has failed to comply  
353 with any of the conditions upon which the certificate of need was  
354 issued, as provided in this paragraph and in the written agreement  
355 by the recipient of the certificate of need. The total number of  
356 nursing facility beds that may be authorized by any certificate of  
357 need issued under this paragraph (n) shall not exceed sixty (60)



358 beds. If the certificate of need authorized under this paragraph  
359 is not issued within twelve (12) months after July 1, 1998, the  
360 department shall deny the application for the certificate of need  
361 and shall not issue the certificate of need at any time after the  
362 twelve-month period, unless the issuance is contested. If the  
363 certificate of need is issued and substantial construction of the  
364 nursing facility beds has not commenced within eighteen (18)  
365 months after the effective date of July 1, 1998, the State  
366 Department of Health, after a hearing complying with due process,  
367 shall revoke the certificate of need if it is still outstanding,  
368 and the department shall not issue a license for the nursing  
369 facility at any time after the eighteen-month period. Provided,  
370 however, that if the issuance of the certificate of need is  
371 contested, the department shall require substantial construction  
372 of the nursing facility beds within six (6) months after final  
373 adjudication on the issuance of the certificate of need.

374 (o) The department may issue a certificate of need for  
375 the new construction, addition or conversion of skilled nursing  
376 facility beds in Leake County, provided that the recipient of the  
377 certificate of need agrees in writing that the skilled nursing  
378 facility will not at any time participate in the Medicaid program  
379 (Section 43-13-101 et seq.) or admit or keep any patients in the  
380 skilled nursing facility who are participating in the Medicaid  
381 program. This written agreement by the recipient of the  
382 certificate of need shall be fully binding on any subsequent owner  
383 of the skilled nursing facility, if the ownership of the facility  
384 is transferred at any time after the issuance of the certificate  
385 of need. Agreement that the skilled nursing facility will not  
386 participate in the Medicaid program shall be a condition of the  
387 issuance of a certificate of need to any person under this  
388 paragraph (o), and if such skilled nursing facility at any time  
389 after the issuance of the certificate of need, regardless of the  
390 ownership of the facility, participates in the Medicaid program or



391 admits or keeps any patients in the facility who are participating  
392 in the Medicaid program, the State Department of Health shall  
393 revoke the certificate of need, if it is still outstanding, and  
394 shall deny or revoke the license of the skilled nursing facility,  
395 at the time that the department determines, after a hearing  
396 complying with due process, that the facility has failed to comply  
397 with any of the conditions upon which the certificate of need was  
398 issued, as provided in this paragraph and in the written agreement  
399 by the recipient of the certificate of need. The total number of  
400 nursing facility beds that may be authorized by any certificate of  
401 need issued under this paragraph (o) shall not exceed sixty (60)  
402 beds. If the certificate of need authorized under this paragraph  
403 is not issued within twelve (12) months after July 1, 2001, the  
404 department shall deny the application for the certificate of need  
405 and shall not issue the certificate of need at any time after the  
406 twelve-month period, unless the issuance is contested. If the  
407 certificate of need is issued and substantial construction of the  
408 nursing facility beds has not commenced within eighteen (18)  
409 months after the effective date of July 1, 2001, the State  
410 Department of Health, after a hearing complying with due process,  
411 shall revoke the certificate of need if it is still outstanding,  
412 and the department shall not issue a license for the nursing  
413 facility at any time after the eighteen-month period. Provided,  
414 however, that if the issuance of the certificate of need is  
415 contested, the department shall require substantial construction  
416 of the nursing facility beds within six (6) months after final  
417 adjudication on the issuance of the certificate of need.

418 (p) The department may issue a certificate of need for  
419 the construction of a municipally-owned nursing facility within  
420 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
421 beds, provided that the recipient of the certificate of need  
422 agrees in writing that the skilled nursing facility will not at  
423 any time participate in the Medicaid program (Section 43-13-101 et



424 seq.) or admit or keep any patients in the skilled nursing  
425 facility who are participating in the Medicaid program. This  
426 written agreement by the recipient of the certificate of need  
427 shall be fully binding on any subsequent owner of the skilled  
428 nursing facility, if the ownership of the facility is transferred  
429 at any time after the issuance of the certificate of need.  
430 Agreement that the skilled nursing facility will not participate  
431 in the Medicaid program shall be a condition of the issuance of a  
432 certificate of need to any person under this paragraph (p), and if  
433 such skilled nursing facility at any time after the issuance of  
434 the certificate of need, regardless of the ownership of the  
435 facility, participates in the Medicaid program or admits or keeps  
436 any patients in the facility who are participating in the Medicaid  
437 program, the State Department of Health shall revoke the  
438 certificate of need, if it is still outstanding, and shall deny or  
439 revoke the license of the skilled nursing facility, at the time  
440 that the department determines, after a hearing complying with due  
441 process, that the facility has failed to comply with any of the  
442 conditions upon which the certificate of need was issued, as  
443 provided in this paragraph and in the written agreement by the  
444 recipient of the certificate of need. The provision of Section  
445 43-7-193(1) regarding substantial compliance of the projection of  
446 need as reported in the current State Health Plan is waived for  
447 the purposes of this paragraph. If the certificate of need  
448 authorized under this paragraph is not issued within twelve (12)  
449 months after July 1, 1998, the department shall deny the  
450 application for the certificate of need and shall not issue the  
451 certificate of need at any time after the twelve-month period,  
452 unless the issuance is contested. If the certificate of need is  
453 issued and substantial construction of the nursing facility beds  
454 has not commenced within eighteen (18) months after July 1, 1998,  
455 the State Department of Health, after a hearing complying with due  
456 process, shall revoke the certificate of need if it is still



457 outstanding, and the department shall not issue a license for the  
458 nursing facility at any time after the eighteen-month period.  
459 Provided, however, that if the issuance of the certificate of need  
460 is contested, the department shall require substantial  
461 construction of the nursing facility beds within six (6) months  
462 after final adjudication on the issuance of the certificate of  
463 need.

464           (q) (i) Beginning on July 1, 1999, the State  
465 Department of Health shall issue certificates of need during each  
466 of the next four (4) fiscal years for the construction or  
467 expansion of nursing facility beds or the conversion of other beds  
468 to nursing facility beds in each county in the state having a need  
469 for fifty (50) or more additional nursing facility beds, as shown  
470 in the fiscal year 1999 State Health Plan, in the manner provided  
471 in this paragraph (q). The total number of nursing facility beds  
472 that may be authorized by any certificate of need authorized under  
473 this paragraph (q) shall not exceed sixty (60) beds.

474           (ii) Subject to the provisions of subparagraph  
475 (v), during each of the next four (4) fiscal years, the department  
476 shall issue six (6) certificates of need for new nursing facility  
477 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
478 (1) certificate of need shall be issued for new nursing facility  
479 beds in the county in each of the four (4) Long-Term Care Planning  
480 Districts designated in the fiscal year 1999 State Health Plan  
481 that has the highest need in the district for those beds; and two  
482 (2) certificates of need shall be issued for new nursing facility  
483 beds in the two (2) counties from the state at large that have the  
484 highest need in the state for those beds, when considering the  
485 need on a statewide basis and without regard to the Long-Term Care  
486 Planning Districts in which the counties are located. During  
487 fiscal year 2003, one (1) certificate of need shall be issued for  
488 new nursing facility beds in any county having a need for fifty  
489 (50) or more additional nursing facility beds, as shown in the



490 fiscal year 1999 State Health Plan, that has not received a  
491 certificate of need under this paragraph (q) during the three (3)  
492 previous fiscal years. During fiscal year 2000, in addition to  
493 the six (6) certificates of need authorized in this subparagraph,  
494 the department also shall issue a certificate of need for new  
495 nursing facility beds in Amite County and a certificate of need  
496 for new nursing facility beds in Carroll County.

497 (iii) Subject to the provisions of subparagraph  
498 (v), the certificate of need issued under subparagraph (ii) for  
499 nursing facility beds in each Long-Term Care Planning District  
500 during each fiscal year shall first be available for nursing  
501 facility beds in the county in the district having the highest  
502 need for those beds, as shown in the fiscal year 1999 State Health  
503 Plan. If there are no applications for a certificate of need for  
504 nursing facility beds in the county having the highest need for  
505 those beds by the date specified by the department, then the  
506 certificate of need shall be available for nursing facility beds  
507 in other counties in the district in descending order of the need  
508 for those beds, from the county with the second highest need to  
509 the county with the lowest need, until an application is received  
510 for nursing facility beds in an eligible county in the district.

511 (iv) Subject to the provisions of subparagraph  
512 (v), the certificate of need issued under subparagraph (ii) for  
513 nursing facility beds in the two (2) counties from the state at  
514 large during each fiscal year shall first be available for nursing  
515 facility beds in the two (2) counties that have the highest need  
516 in the state for those beds, as shown in the fiscal year 1999  
517 State Health Plan, when considering the need on a statewide basis  
518 and without regard to the Long-Term Care Planning Districts in  
519 which the counties are located. If there are no applications for  
520 a certificate of need for nursing facility beds in either of the  
521 two (2) counties having the highest need for those beds on a  
522 statewide basis by the date specified by the department, then the





523 certificate of need shall be available for nursing facility beds  
524 in other counties from the state at large in descending order of  
525 the need for those beds on a statewide basis, from the county with  
526 the second highest need to the county with the lowest need, until  
527 an application is received for nursing facility beds in an  
528 eligible county from the state at large.

529           (v) If a certificate of need is authorized to be  
530 issued under this paragraph (q) for nursing facility beds in a  
531 county on the basis of the need in the Long-Term Care Planning  
532 District during any fiscal year of the four-year period, a  
533 certificate of need shall not also be available under this  
534 paragraph (q) for additional nursing facility beds in that county  
535 on the basis of the need in the state at large, and that county  
536 shall be excluded in determining which counties have the highest  
537 need for nursing facility beds in the state at large for that  
538 fiscal year. After a certificate of need has been issued under  
539 this paragraph (q) for nursing facility beds in a county during  
540 any fiscal year of the four-year period, a certificate of need  
541 shall not be available again under this paragraph (q) for  
542 additional nursing facility beds in that county during the  
543 four-year period, and that county shall be excluded in determining  
544 which counties have the highest need for nursing facility beds in  
545 succeeding fiscal years.

546           (vi) If more than one (1) application is made for  
547 a certificate of need for nursing home facility beds available  
548 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
549 County, and one (1) of the applicants is a county-owned hospital  
550 located in the county where the nursing facility beds are  
551 available, the department shall give priority to the county-owned  
552 hospital in granting the certificate of need if the following  
553 conditions are met:



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

557                   2. The county-owned hospital's qualifications  
558 for the certificate of need, as shown in its application and as  
559 determined by the department, are at least equal to the  
560 qualifications of the other applicants for the certificate of  
561 need.

562                   (r) (i) Beginning on July 1, 1999, the State  
563 Department of Health shall issue certificates of need during each  
564 of the next two (2) fiscal years for the construction or expansion  
565 of nursing facility beds or the conversion of other beds to  
566 nursing facility beds in each of the four (4) Long-Term Care  
567 Planning Districts designated in the fiscal year 1999 State Health  
568 Plan, to provide care exclusively to patients with Alzheimer's  
569 disease.

570                   (ii) Not more than twenty (20) beds may be  
571 authorized by any certificate of need issued under this paragraph  
572 (r), and not more than a total of sixty (60) beds may be  
573 authorized in any Long-Term Care Planning District by all  
574 certificates of need issued under this paragraph (r). However,  
575 the total number of beds that may be authorized by all  
576 certificates of need issued under this paragraph (r) during any  
577 fiscal year shall not exceed one hundred twenty (120) beds, and  
578 the total number of beds that may be authorized in any Long-Term  
579 Care Planning District during any fiscal year shall not exceed  
580 forty (40) beds. Of the certificates of need that are issued for  
581 each Long-Term Care Planning District during the next two (2)  
582 fiscal years, at least one (1) shall be issued for beds in the  
583 northern part of the district, at least one (1) shall be issued  
584 for beds in the central part of the district, and at least one (1)  
585 shall be issued for beds in the southern part of the district.



586 (iii) The State Department of Health, in  
587 consultation with the Department of Mental Health and the Division  
588 of Medicaid, shall develop and prescribe the staffing levels,  
589 space requirements and other standards and requirements that must  
590 be met with regard to the nursing facility beds authorized under  
591 this paragraph (r) to provide care exclusively to patients with  
592 Alzheimer's disease.

593 (3) The State Department of Health may grant approval for  
594 and issue certificates of need to any person proposing the new  
595 construction of, addition to, conversion of beds of or expansion  
596 of any health care facility defined in subparagraph (x)  
597 (psychiatric residential treatment facility) of Section  
598 41-7-173(h). The total number of beds which may be authorized by  
599 such certificates of need shall not exceed three hundred  
600 thirty-four (334) beds for the entire state.

601 (a) Of the total number of beds authorized under this  
602 subsection, the department shall issue a certificate of need to a  
603 privately-owned psychiatric residential treatment facility in  
604 Simpson County for the conversion of sixteen (16) intermediate  
605 care facility for the mentally retarded (ICF-MR) beds to  
606 psychiatric residential treatment facility beds, provided that  
607 facility agrees in writing that the facility shall give priority  
608 for the use of those sixteen (16) beds to Mississippi residents  
609 who are presently being treated in out-of-state facilities.

610 (b) Of the total number of beds authorized under this  
611 subsection, the department may issue a certificate or certificates  
612 of need for the construction or expansion of psychiatric  
613 residential treatment facility beds or the conversion of other  
614 beds to psychiatric residential treatment facility beds in Warren  
615 County, not to exceed sixty (60) psychiatric residential treatment  
616 facility beds, provided that the facility agrees in writing that  
617 no more than thirty (30) of the beds at the psychiatric  
618 residential treatment facility will be certified for participation



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

647 The State Department of Health, on or before July 1, 2002,  
648 shall transfer the certificate of need authorized under the  
649 authority of this paragraph (b), or reissue the certificate of  
650 need if it has expired, to River Region Health System.



651 (c) Of the total number of beds authorized under this  
652 subsection, the department shall issue a certificate of need to a  
653 hospital currently operating Medicaid-certified acute psychiatric  
654 beds for adolescents in DeSoto County, for the establishment of a  
655 forty-bed psychiatric residential treatment facility in DeSoto  
656 County, provided that the hospital agrees in writing (i) that the  
657 hospital shall give priority for the use of those forty (40) beds  
658 to Mississippi residents who are presently being treated in  
659 out-of-state facilities, and (ii) that no more than fifteen (15)  
660 of the beds at the psychiatric residential treatment facility will  
661 be certified for participation in the Medicaid program (Section  
662 43-13-101 et seq.), and that no claim will be submitted for  
663 Medicaid reimbursement for more than fifteen (15) patients in the  
664 psychiatric residential treatment facility in any day or for any  
665 patient in the psychiatric residential treatment facility who is  
666 in a bed that is not Medicaid-certified. This written agreement  
667 by the recipient of the certificate of need shall be a condition  
668 of the issuance of the certificate of need under this paragraph,  
669 and the agreement shall be fully binding on any subsequent owner  
670 of the psychiatric residential treatment facility if the ownership  
671 of the facility is transferred at any time after the issuance of  
672 the certificate of need. After this written agreement is  
673 executed, the Division of Medicaid and the State Department of  
674 Health shall not certify more than fifteen (15) of the beds in the  
675 psychiatric residential treatment facility for participation in  
676 the Medicaid program. If the psychiatric residential treatment  
677 facility violates the terms of the written agreement by admitting  
678 or keeping in the facility on a regular or continuing basis more  
679 than fifteen (15) patients who are participating in the Medicaid  
680 program, the State Department of Health shall revoke the license  
681 of the facility, at the time that the department determines, after  
682 a hearing complying with due process, that the facility has  
683 violated the condition upon which the certificate of need was



684 issued, as provided in this paragraph and in the written  
685 agreement.

686 (d) Of the total number of beds authorized under this  
687 subsection, the department may issue a certificate or certificates  
688 of need for the construction or expansion of psychiatric  
689 residential treatment facility beds or the conversion of other  
690 beds to psychiatric treatment facility beds, not to exceed thirty  
691 (30) psychiatric residential treatment facility beds, in either  
692 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
693 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

694 (e) Of the total number of beds authorized under this  
695 subsection (3) the department shall issue a certificate of need to  
696 a privately-owned, nonprofit psychiatric residential treatment  
697 facility in Hinds County for an eight-bed expansion of the  
698 facility, provided that the facility agrees in writing that the  
699 facility shall give priority for the use of those eight (8) beds  
700 to Mississippi residents who are presently being treated in  
701 out-of-state facilities.

702 (f) The department shall issue a certificate of need to  
703 a one-hundred-thirty-four-bed specialty hospital located on  
704 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
705 at 5900 Highway 39 North in Meridian (Lauderdale County),  
706 Mississippi, for the addition, construction or expansion of  
707 child/adolescent psychiatric residential treatment facility beds  
708 in Lauderdale County. As a condition of issuance of the  
709 certificate of need under this paragraph, the facility shall give  
710 priority in admissions to the child/adolescent psychiatric  
711 residential treatment facility beds authorized under this  
712 paragraph to patients who otherwise would require out-of-state  
713 placement. The Division of Medicaid, in conjunction with the  
714 Department of Human Services, shall furnish the facility a list of  
715 all out-of-state patients on a quarterly basis. Furthermore,  
716 notice shall also be provided to the parent, custodial parent or



717 guardian of each out-of-state patient notifying them of the  
718 priority status granted by this paragraph. For purposes of this  
719 paragraph, the provisions of Section 41-7-193(1) requiring  
720 substantial compliance with the projection of need as reported in  
721 the current State Health Plan are waived. The total number of  
722 child/adolescent psychiatric residential treatment facility beds  
723 that may be authorized under the authority of this paragraph shall  
724 be sixty (60) beds. There shall be no prohibition or restrictions  
725 on participation in the Medicaid program (Section 43-13-101 et  
726 seq.) for the person receiving the certificate of need authorized  
727 under this paragraph or for the beds converted pursuant to the  
728 authority of that certificate of need.

729 (4) (a) From and after July 1, 1993, the department shall  
730 not issue a certificate of need to any person for the new  
731 construction of any hospital, psychiatric hospital or chemical  
732 dependency hospital that will contain any child/adolescent  
733 psychiatric or child/adolescent chemical dependency beds, or for  
734 the conversion of any other health care facility to a hospital,  
735 psychiatric hospital or chemical dependency hospital that will  
736 contain any child/adolescent psychiatric or child/adolescent  
737 chemical dependency beds, or for the addition of any  
738 child/adolescent psychiatric or child/adolescent chemical  
739 dependency beds in any hospital, psychiatric hospital or chemical  
740 dependency hospital, or for the conversion of any beds of another  
741 category in any hospital, psychiatric hospital or chemical  
742 dependency hospital to child/adolescent psychiatric or  
743 child/adolescent chemical dependency beds, except as hereinafter  
744 authorized:

745 (i) The department may issue certificates of need  
746 to any person for any purpose described in this subsection,  
747 provided that the hospital, psychiatric hospital or chemical  
748 dependency hospital does not participate in the Medicaid program  
749 (Section 43-13-101 et seq.) at the time of the application for the



750 certificate of need and the owner of the hospital, psychiatric  
751 hospital or chemical dependency hospital agrees in writing that  
752 the hospital, psychiatric hospital or chemical dependency hospital  
753 will not at any time participate in the Medicaid program or admit  
754 or keep any patients who are participating in the Medicaid program  
755 in the hospital, psychiatric hospital or chemical dependency  
756 hospital. This written agreement by the recipient of the  
757 certificate of need shall be fully binding on any subsequent owner  
758 of the hospital, psychiatric hospital or chemical dependency  
759 hospital, if the ownership of the facility is transferred at any  
760 time after the issuance of the certificate of need. Agreement  
761 that the hospital, psychiatric hospital or chemical dependency  
762 hospital will not participate in the Medicaid program shall be a  
763 condition of the issuance of a certificate of need to any person  
764 under this subparagraph (a)(i), and if such hospital, psychiatric  
765 hospital or chemical dependency hospital at any time after the  
766 issuance of the certificate of need, regardless of the ownership  
767 of the facility, participates in the Medicaid program or admits or  
768 keeps any patients in the hospital, psychiatric hospital or  
769 chemical dependency hospital who are participating in the Medicaid  
770 program, the State Department of Health shall revoke the  
771 certificate of need, if it is still outstanding, and shall deny or  
772 revoke the license of the hospital, psychiatric hospital or  
773 chemical dependency hospital, at the time that the department  
774 determines, after a hearing complying with due process, that the  
775 hospital, psychiatric hospital or chemical dependency hospital has  
776 failed to comply with any of the conditions upon which the  
777 certificate of need was issued, as provided in this subparagraph  
778 and in the written agreement by the recipient of the certificate  
779 of need.

780 (ii) The department may issue a certificate of  
781 need for the conversion of existing beds in a county hospital in  
782 Choctaw County from acute care beds to child/adolescent chemical





783 dependency beds. For purposes of this subparagraph, the  
784 provisions of Section 41-7-193(1) requiring substantial compliance  
785 with the projection of need as reported in the current State  
786 Health Plan is waived. The total number of beds that may be  
787 authorized under authority of this subparagraph shall not exceed  
788 twenty (20) beds. There shall be no prohibition or restrictions  
789 on participation in the Medicaid program (Section 43-13-101 et  
790 seq.) for the hospital receiving the certificate of need  
791 authorized under this subparagraph (a)(ii) or for the beds  
792 converted pursuant to the authority of that certificate of need.

793 (iii) The department may issue a certificate or  
794 certificates of need for the construction or expansion of  
795 child/adolescent psychiatric beds or the conversion of other beds  
796 to child/adolescent psychiatric beds in Warren County. For  
797 purposes of this subparagraph, the provisions of Section  
798 41-7-193(1) requiring substantial compliance with the projection  
799 of need as reported in the current State Health Plan are waived.  
800 The total number of beds that may be authorized under the  
801 authority of this subparagraph shall not exceed twenty (20) beds.  
802 There shall be no prohibition or restrictions on participation in  
803 the Medicaid program (Section 43-13-101 et seq.) for the person  
804 receiving the certificate of need authorized under this  
805 subparagraph (a)(iii) or for the beds converted pursuant to the  
806 authority of that certificate of need.

807 If by January 1, 2002, there has been no significant  
808 commencement of construction of the beds authorized under this  
809 subparagraph (a)(iii), or no significant action taken to convert  
810 existing beds to the beds authorized under this subparagraph, then  
811 the certificate of need that was previously issued under this  
812 subparagraph shall expire. If the previously issued certificate  
813 of need expires, the department may accept applications for  
814 issuance of another certificate of need for the beds authorized  
815 under this subparagraph, and may issue a certificate of need to



816 authorize the construction, expansion or conversion of the beds  
817 authorized under this subparagraph.

818 (iv) The department shall issue a certificate of  
819 need to the Region 7 Mental Health/Retardation Commission for the  
820 construction or expansion of child/adolescent psychiatric beds or  
821 the conversion of other beds to child/adolescent psychiatric beds  
822 in any of the counties served by the commission. For purposes of  
823 this subparagraph, the provisions of Section 41-7-193(1) requiring  
824 substantial compliance with the projection of need as reported in  
825 the current State Health Plan is waived. The total number of beds  
826 that may be authorized under the authority of this subparagraph  
827 shall not exceed twenty (20) beds. There shall be no prohibition  
828 or restrictions on participation in the Medicaid program (Section  
829 43-13-101 et seq.) for the person receiving the certificate of  
830 need authorized under this subparagraph (a)(iv) or for the beds  
831 converted pursuant to the authority of that certificate of need.

832 (v) The department may issue a certificate of need  
833 to any county hospital located in Leflore County for the  
834 construction or expansion of adult psychiatric beds or the  
835 conversion of other beds to adult psychiatric beds, not to exceed  
836 twenty (20) beds, provided that the recipient of the certificate  
837 of need agrees in writing that the adult psychiatric beds will not  
838 at any time be certified for participation in the Medicaid program  
839 and that the hospital will not admit or keep any patients who are  
840 participating in the Medicaid program in any of such adult  
841 psychiatric beds. This written agreement by the recipient of the  
842 certificate of need shall be fully binding on any subsequent owner  
843 of the hospital if the ownership of the hospital is transferred at  
844 any time after the issuance of the certificate of need. Agreement  
845 that the adult psychiatric beds will not be certified for  
846 participation in the Medicaid program shall be a condition of the  
847 issuance of a certificate of need to any person under this  
848 subparagraph (a)(v), and if such hospital at any time after the



849 issuance of the certificate of need, regardless of the ownership  
850 of the hospital, has any of such adult psychiatric beds certified  
851 for participation in the Medicaid program or admits or keeps any  
852 Medicaid patients in such adult psychiatric beds, the State  
853 Department of Health shall revoke the certificate of need, if it  
854 is still outstanding, and shall deny or revoke the license of the  
855 hospital at the time that the department determines, after a  
856 hearing complying with due process, that the hospital has failed  
857 to comply with any of the conditions upon which the certificate of  
858 need was issued, as provided in this subparagraph and in the  
859 written agreement by the recipient of the certificate of need.

860           (vi) The department may issue a certificate or  
861 certificates of need for the expansion of child psychiatric beds  
862 or the conversion of other beds to child psychiatric beds at the  
863 University of Mississippi Medical Center. For purposes of this  
864 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
865 requiring substantial compliance with the projection of need as  
866 reported in the current State Health Plan is waived. The total  
867 number of beds that may be authorized under the authority of this  
868 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
869 shall be no prohibition or restrictions on participation in the  
870 Medicaid program (Section 43-13-101 et seq.) for the hospital  
871 receiving the certificate of need authorized under this  
872 subparagraph (a)(vi) or for the beds converted pursuant to the  
873 authority of that certificate of need.

874           (b) From and after July 1, 1990, no hospital,  
875 psychiatric hospital or chemical dependency hospital shall be  
876 authorized to add any child/adolescent psychiatric or  
877 child/adolescent chemical dependency beds or convert any beds of  
878 another category to child/adolescent psychiatric or  
879 child/adolescent chemical dependency beds without a certificate of  
880 need under the authority of subsection (1)(c) of this section.



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

884 (6) The State Department of Health shall issue a certificate  
885 of need to a Mississippi corporation qualified to manage a  
886 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
887 Harrison County, not to exceed eighty (80) beds, including any  
888 necessary renovation or construction required for licensure and  
889 certification, provided that the recipient of the certificate of  
890 need agrees in writing that the long-term care hospital will not  
891 at any time participate in the Medicaid program (Section 43-13-101  
892 et seq.) or admit or keep any patients in the long-term care  
893 hospital who are participating in the Medicaid program. This  
894 written agreement by the recipient of the certificate of need  
895 shall be fully binding on any subsequent owner of the long-term  
896 care hospital, if the ownership of the facility is transferred at  
897 any time after the issuance of the certificate of need. Agreement  
898 that the long-term care hospital will not participate in the  
899 Medicaid program shall be a condition of the issuance of a  
900 certificate of need to any person under this subsection (6), and  
901 if such long-term care hospital at any time after the issuance of  
902 the certificate of need, regardless of the ownership of the  
903 facility, participates in the Medicaid program or admits or keeps  
904 any patients in the facility who are participating in the Medicaid  
905 program, the State Department of Health shall revoke the  
906 certificate of need, if it is still outstanding, and shall deny or  
907 revoke the license of the long-term care hospital, at the time  
908 that the department determines, after a hearing complying with due  
909 process, that the facility has failed to comply with any of the  
910 conditions upon which the certificate of need was issued, as  
911 provided in this subsection and in the written agreement by the  
912 recipient of the certificate of need. For purposes of this  
913 subsection, the provision of Section 41-7-193(1) requiring



914 substantial compliance with the projection of need as reported in  
915 the current State Health Plan is hereby waived.

916 (7) The State Department of Health may issue a certificate  
917 of need to any hospital in the state to utilize a portion of its  
918 beds for the "swing-bed" concept. Any such hospital must be in  
919 conformance with the federal regulations regarding such swing-bed  
920 concept at the time it submits its application for a certificate  
921 of need to the State Department of Health, except that such  
922 hospital may have more licensed beds or a higher average daily  
923 census (ADC) than the maximum number specified in federal  
924 regulations for participation in the swing-bed program. Any  
925 hospital meeting all federal requirements for participation in the  
926 swing-bed program which receives such certificate of need shall  
927 render services provided under the swing-bed concept to any  
928 patient eligible for Medicare (Title XVIII of the Social Security  
929 Act) who is certified by a physician to be in need of such  
930 services, and no such hospital shall permit any patient who is  
931 eligible for both Medicaid and Medicare or eligible only for  
932 Medicaid to stay in the swing beds of the hospital for more than  
933 thirty (30) days per admission unless the hospital receives prior  
934 approval for such patient from the Division of Medicaid, Office of  
935 the Governor. Any hospital having more licensed beds or a higher  
936 average daily census (ADC) than the maximum number specified in  
937 federal regulations for participation in the swing-bed program  
938 which receives such certificate of need shall develop a procedure  
939 to insure that before a patient is allowed to stay in the swing  
940 beds of the hospital, there are no vacant nursing home beds  
941 available for that patient located within a fifty-mile radius of  
942 the hospital. When any such hospital has a patient staying in the  
943 swing beds of the hospital and the hospital receives notice from a  
944 nursing home located within such radius that there is a vacant bed  
945 available for that patient, the hospital shall transfer the  
946 patient to the nursing home within a reasonable time after receipt



947 of the notice. Any hospital which is subject to the requirements  
948 of the two (2) preceding sentences of this subsection may be  
949 suspended from participation in the swing-bed program for a  
950 reasonable period of time by the State Department of Health if the  
951 department, after a hearing complying with due process, determines  
952 that the hospital has failed to comply with any of those  
953 requirements.

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

958 (9) The Department of Health shall not grant approval for or  
959 issue a certificate of need to any person proposing the  
960 establishment of, or expansion of the currently approved territory  
961 of, or the contracting to establish a home office, subunit or  
962 branch office within the space operated as a health care facility  
963 as defined in Section 41-7-173(h)(i) through (viii) by a health  
964 care facility as defined in subparagraph (ix) of Section  
965 41-7-173(h).

966 (10) Health care facilities owned and/or operated by the  
967 state or its agencies are exempt from the restraints in this  
968 section against issuance of a certificate of need if such addition  
969 or expansion consists of repairing or renovation necessary to  
970 comply with the state licensure law. This exception shall not  
971 apply to the new construction of any building by such state  
972 facility. This exception shall not apply to any health care  
973 facilities owned and/or operated by counties, municipalities,  
974 districts, unincorporated areas, other defined persons, or any  
975 combination thereof.

976 (11) The new construction, renovation or expansion of or  
977 addition to any health care facility defined in subparagraph (ii)  
978 (psychiatric hospital), subparagraph (iv) (skilled nursing  
979 facility), subparagraph (vi) (intermediate care facility),



980 subparagraph (viii) (intermediate care facility for the mentally  
981 retarded) and subparagraph (x) (psychiatric residential treatment  
982 facility) of Section 41-7-173(h) which is owned by the State of  
983 Mississippi and under the direction and control of the State  
984 Department of Mental Health, and the addition of new beds or the  
985 conversion of beds from one category to another in any such  
986 defined health care facility which is owned by the State of  
987 Mississippi and under the direction and control of the State  
988 Department of Mental Health, shall not require the issuance of a  
989 certificate of need under Section 41-7-171 et seq.,  
990 notwithstanding any provision in Section 41-7-171 et seq. to the  
991 contrary.

992 (12) The new construction, renovation or expansion of or  
993 addition to any veterans homes or domiciliaries for eligible  
994 veterans of the State of Mississippi as authorized under Section  
995 35-1-19 shall not require the issuance of a certificate of need,  
996 notwithstanding any provision in Section 41-7-171 et seq. to the  
997 contrary.

998 (13) The new construction of a nursing facility or nursing  
999 facility beds or the conversion of other beds to nursing facility  
1000 beds shall not require the issuance of a certificate of need,  
1001 notwithstanding any provision in Section 41-7-171 et seq. to the  
1002 contrary, if the conditions of this subsection are met.

1003 (a) Before any construction or conversion may be  
1004 undertaken without a certificate of need, the owner of the nursing  
1005 facility, in the case of an existing facility, or the applicant to  
1006 construct a nursing facility, in the case of new construction,  
1007 first must file a written notice of intent and sign a written  
1008 agreement with the State Department of Health that the entire  
1009 nursing facility will not at any time participate in or have any  
1010 beds certified for participation in the Medicaid program (Section  
1011 43-13-101 et seq.), will not admit or keep any patients in the  
1012 nursing facility who are participating in the Medicaid program,



1013 and will not submit any claim for Medicaid reimbursement for any  
1014 patient in the facility. This written agreement by the owner or  
1015 applicant shall be a condition of exercising the authority under  
1016 this subsection without a certificate of need, and the agreement  
1017 shall be fully binding on any subsequent owner of the nursing  
1018 facility if the ownership of the facility is transferred at any  
1019 time after the agreement is signed. After the written agreement  
1020 is signed, the Division of Medicaid and the State Department of  
1021 Health shall not certify any beds in the nursing facility for  
1022 participation in the Medicaid program. If the nursing facility  
1023 violates the terms of the written agreement by participating in  
1024 the Medicaid program, having any beds certified for participation  
1025 in the Medicaid program, admitting or keeping any patient in the  
1026 facility who is participating in the Medicaid program, or  
1027 submitting any claim for Medicaid reimbursement for any patient in  
1028 the facility, the State Department of Health shall revoke the  
1029 license of the nursing facility at the time that the department  
1030 determines, after a hearing complying with due process, that the  
1031 facility has violated the terms of the written agreement.

1032           (b) For the purposes of this subsection, participation  
1033 in the Medicaid program by a nursing facility includes Medicaid  
1034 reimbursement of coinsurance and deductibles for recipients who  
1035 are qualified Medicare beneficiaries and/or those who are dually  
1036 eligible. Any nursing facility exercising the authority under  
1037 this subsection may not bill or submit a claim to the Division of  
1038 Medicaid for services to qualified Medicare beneficiaries and/or  
1039 those who are dually eligible.

1040           (c) The new construction of a nursing facility or  
1041 nursing facility beds or the conversion of other beds to nursing  
1042 facility beds described in this section must be either a part of a  
1043 completely new continuing care retirement community, as described  
1044 in the latest edition of the Mississippi State Health Plan, or an  
1045 addition to existing personal care and independent living





1046 components, and so that the completed project will be a continuing  
1047 care retirement community, containing (i) independent living  
1048 accommodations, (ii) personal care beds, and (iii) the nursing  
1049 home facility beds. The three (3) components must be located on a  
1050 single site and be operated as one (1) inseparable facility. The  
1051 nursing facility component must contain a minimum of thirty (30)  
1052 beds. Any nursing facility beds authorized by this section will  
1053 not be counted against the bed need set forth in the State Health  
1054 Plan, as identified in Section 41-7-171 et seq.

1055 This subsection (13) shall stand repealed from and after July  
1056 1, 2005.

1057 (14) The State Department of Health shall issue a  
1058 certificate of need to any hospital which is currently licensed  
1059 for two hundred fifty (250) or more acute care beds and is located  
1060 in any general hospital service area not having a comprehensive  
1061 cancer center, for the establishment and equipping of such a  
1062 center which provides facilities and services for outpatient  
1063 radiation oncology therapy, outpatient medical oncology therapy,  
1064 and appropriate support services including the provision of  
1065 radiation therapy services. The provision of Section 41-7-193(1)  
1066 regarding substantial compliance with the projection of need as  
1067 reported in the current State Health Plan is waived for the  
1068 purpose of this subsection.

1069 (15) The State Department of Health may authorize the  
1070 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1071 North Panola Community Hospital to the South Panola Community  
1072 Hospital. The authorization for the transfer of those beds shall  
1073 be exempt from the certificate of need review process.

1074 (16) The State Department of Health shall issue a  
1075 certificate of need for the establishment of one (1) end stage  
1076 renal dialysis facility as defined in Section 41-7-173(h) (v) in  
1077 Montgomery County. Preference shall be given by the department to  
1078 an applicant evidencing current treatment of the greatest number



1079 of Montgomery County residents. The provision of Section  
1080 41-7-193(1) regarding substantial compliance with the projection  
1081 of need as reported in the current state health plan is waived for  
1082 the purpose of this subsection.

1083       (17) Nothing in this section or in any other provision of  
1084 Section 41-7-171 et seq. shall prevent any nursing facility from  
1085 designating an appropriate number of existing beds in the facility  
1086 as beds for providing care exclusively to patients with  
1087 Alzheimer's disease.

1088       **SECTION 2.** Section 41-7-193, Mississippi Code of 1972, is  
1089 amended as follows:

1090       41-7-193. (1) No person may enter into any financing  
1091 arrangement or commitment for financing a new institutional health  
1092 service or any other project requiring a certificate of need  
1093 unless such certificate has been granted for such purpose. A  
1094 certificate of need shall not be granted or issued to any person  
1095 for any proposal, cause or reason, unless the proposal has been  
1096 reviewed for consistency with the specifications and the criteria  
1097 established by the State Department of Health and, except as  
1098 otherwise provided in Section 41-7-191(16), substantially complies  
1099 with the projection of need as reported in the state health plan  
1100 in effect at the time the application for the proposal was  
1101 submitted.

1102       (2) An application for a certificate of need for an  
1103 institutional health service, medical equipment or any proposal  
1104 requiring a certificate of need shall specify the time, within  
1105 that granted, such shall be functional or operational according to  
1106 a time schedule submitted with the application. Each certificate  
1107 of need shall specify the maximum amount of capital expenditure  
1108 that may be obligated. The State Department of Health shall  
1109 periodically review the progress and time schedule of any person  
1110 issued or granted a certificate of need for any purpose.



1111           **SECTION 3.** This act shall take effect and be in force from  
1112 and after July 1, 2003.

