

By: Representative Green

To: Public Health and
Welfare; Appropriations

HOUSE BILL NO. 1127

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ANY NURSING FACILITY THAT IS THE ONLY NURSING
3 FACILITY IN THE COUNTY IN WHICH IT IS LOCATED TO INCREASE ITS
4 NUMBER OF MEDICAID CERTIFIED BEDS BY NOT MORE THAN TWELVE BEDS
5 WITHOUT THE ISSUANCE OF A CERTIFICATE OF NEED, IF CERTAIN
6 CONDITIONS ARE MET; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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



30 (i) Open heart surgery services;
31 (ii) Cardiac catheterization services;
32 (iii) Comprehensive inpatient rehabilitation
33 services;
34 (iv) Licensed psychiatric services;
35 (v) Licensed chemical dependency services;
36 (vi) Radiation therapy services;
37 (vii) Diagnostic imaging services of an invasive
38 nature, i.e. invasive digital angiography;
39 (viii) Nursing home care as defined in
40 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
41 (ix) Home health services;
42 (x) Swing-bed services;
43 (xi) Ambulatory surgical services;
44 (xii) Magnetic resonance imaging services;
45 (xiii) Extracorporeal shock wave lithotripsy
46 services;
47 (xiv) Long-term care hospital services;
48 (xv) Positron Emission Tomography (PET) services;
49 (e) The relocation of one or more health services from
50 one physical facility or site to another physical facility or
51 site, unless such relocation, which does not involve a capital
52 expenditure by or on behalf of a health care facility, (i) is to a
53 physical facility or site within one thousand three hundred twenty
54 (1,320) feet from the main entrance of the health care facility
55 where the health care service is located, or (ii) is the result of
56 an order of a court of appropriate jurisdiction or a result of
57 pending litigation in such court, or by order of the State
58 Department of Health, or by order of any other agency or legal
59 entity of the state, the federal government, or any political
60 subdivision of either, whose order is also approved by the State
61 Department of Health;



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

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

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

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

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



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

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

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

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

125 (c) The department may issue a certificate of need for
126 the addition to or expansion of any skilled nursing facility that
127 is part of an existing continuing care retirement community



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

154 (d) The State Department of Health may issue a
155 certificate of need to any hospital located in DeSoto County for
156 the new construction of a skilled nursing facility, not to exceed
157 one hundred twenty (120) beds, in DeSoto County. From and after
158 July 1, 1999, there shall be no prohibition or restrictions on
159 participation in the Medicaid program (Section 43-13-101 et seq.)



160 for the beds in the nursing facility that were authorized under
161 this paragraph (d).

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

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

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

187 (h) The State Department of Health may issue a
188 certificate of need for the construction or expansion of nursing
189 facility beds or the conversion of other beds to nursing facility
190 beds in either Hancock, Harrison or Jackson County, not to exceed
191 sixty (60) beds. From and after July 1, 1999, there shall be no
192 prohibition or restrictions on participation in the Medicaid



193 program (Section 43-13-101 et seq.) for the beds in the facility
194 that were authorized under this paragraph (h).

195 (i) The department may issue a certificate of need for
196 the new construction of a skilled nursing facility in Leake
197 County, provided that the recipient of the certificate of need
198 agrees in writing that the skilled nursing facility will not at
199 any time participate in the Medicaid program (Section 43-13-101 et
200 seq.) or admit or keep any patients in the skilled nursing
201 facility who are participating in the Medicaid program. This
202 written agreement by the recipient of the certificate of need
203 shall be fully binding on any subsequent owner of the skilled
204 nursing facility, if the ownership of the facility is transferred
205 at any time after the issuance of the certificate of need.
206 Agreement that the skilled nursing facility will not participate
207 in the Medicaid program shall be a condition of the issuance of a
208 certificate of need to any person under this paragraph (i), and if
209 such skilled nursing facility at any time after the issuance of
210 the certificate of need, regardless of the ownership of the
211 facility, participates in the Medicaid program or admits or keeps
212 any patients in the facility who are participating in the Medicaid
213 program, the State Department of Health shall revoke the
214 certificate of need, if it is still outstanding, and shall deny or
215 revoke the license of the skilled nursing facility, at the time
216 that the department determines, after a hearing complying with due
217 process, that the facility has failed to comply with any of the
218 conditions upon which the certificate of need was issued, as
219 provided in this paragraph and in the written agreement by the
220 recipient of the certificate of need. The provision of Section
221 43-7-193(1) regarding substantial compliance of the projection of
222 need as reported in the current State Health Plan is waived for
223 the purposes of this paragraph. The total number of nursing
224 facility beds that may be authorized by any certificate of need
225 issued under this paragraph (i) shall not exceed sixty (60) beds.



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

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

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



259 patients in the facility in any month or for any patient in the
260 facility who is in a bed that is not Medicaid-certified. This
261 written agreement by the owner of the facility shall be a
262 condition of licensure of the facility, and the agreement shall be
263 fully binding on any subsequent owner of the facility if the
264 ownership of the facility is transferred at any time after July 1,
265 2001. After this written agreement is executed, the Division of
266 Medicaid and the State Department of Health shall not certify more
267 than thirty (30) of the beds in the facility for participation in
268 the Medicaid program. If the facility violates the terms of the
269 written agreement by admitting or keeping in the facility on a
270 regular or continuing basis more than thirty (30) patients who are
271 participating in the Medicaid program, the State Department of
272 Health shall revoke the license of the facility, at the time that
273 the department determines, after a hearing complying with due
274 process, that the facility has violated the written agreement.

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

285 (m) The State Department of Health may issue a
286 certificate of need to a county-owned hospital in the Second
287 Judicial District of Panola County for the conversion of not more
288 than seventy-two (72) hospital beds to nursing facility beds,
289 provided that the recipient of the certificate of need agrees in
290 writing that none of the beds at the nursing facility will be
291 certified for participation in the Medicaid program (Section



292 43-13-101 et seq.), and that no claim will be submitted for
293 Medicaid reimbursement in the nursing facility in any day or for
294 any patient in the nursing facility. This written agreement by
295 the recipient of the certificate of need shall be a condition of
296 the issuance of the certificate of need under this paragraph, and
297 the agreement shall be fully binding on any subsequent owner of
298 the nursing facility if the ownership of the nursing facility is
299 transferred at any time after the issuance of the certificate of
300 need. After this written agreement is executed, the Division of
301 Medicaid and the State Department of Health shall not certify any
302 of the beds in the nursing facility for participation in the
303 Medicaid program. If the nursing facility violates the terms of
304 the written agreement by admitting or keeping in the nursing
305 facility on a regular or continuing basis any patients who are
306 participating in the Medicaid program, the State Department of
307 Health shall revoke the license of the nursing facility, at the
308 time that the department determines, after a hearing complying
309 with due process, that the nursing facility has violated the
310 condition upon which the certificate of need was issued, as
311 provided in this paragraph and in the written agreement. If the
312 certificate of need authorized under this paragraph is not issued
313 within twelve (12) months after July 1, 2001, the department shall
314 deny the application for the certificate of need and shall not
315 issue the certificate of need at any time after the twelve-month
316 period, unless the issuance is contested. If the certificate of
317 need is issued and substantial construction of the nursing
318 facility beds has not commenced within eighteen (18) months after
319 July 1, 2001, the State Department of Health, after a hearing
320 complying with due process, shall revoke the certificate of need
321 if it is still outstanding, and the department shall not issue a
322 license for the nursing facility at any time after the
323 eighteen-month period. Provided, however, that if the issuance of
324 the certificate of need is contested, the department shall require



325 substantial construction of the nursing facility beds within six
326 (6) months after final adjudication on the issuance of the
327 certificate of need.

328 (n) The department may issue a certificate of need for
329 the new construction, addition or conversion of skilled nursing
330 facility beds in Madison County, provided that the recipient of
331 the certificate of need agrees in writing that the skilled nursing
332 facility will not at any time participate in the Medicaid program
333 (Section 43-13-101 et seq.) or admit or keep any patients in the
334 skilled nursing facility who are participating in the Medicaid
335 program. This written agreement by the recipient of the
336 certificate of need shall be fully binding on any subsequent owner
337 of the skilled nursing facility, if the ownership of the facility
338 is transferred at any time after the issuance of the certificate
339 of need. Agreement that the skilled nursing facility will not
340 participate in the Medicaid program shall be a condition of the
341 issuance of a certificate of need to any person under this
342 paragraph (n), and if such skilled nursing facility at any time
343 after the issuance of the certificate of need, regardless of the
344 ownership of the facility, participates in the Medicaid program or
345 admits or keeps any patients in the facility who are participating
346 in the Medicaid program, the State Department of Health shall
347 revoke the certificate of need, if it is still outstanding, and
348 shall deny or revoke the license of the skilled nursing facility,
349 at the time that the department determines, after a hearing
350 complying with due process, that the facility has failed to comply
351 with any of the conditions upon which the certificate of need was
352 issued, as provided in this paragraph and in the written agreement
353 by the recipient of the certificate of need. The total number of
354 nursing facility beds that may be authorized by any certificate of
355 need issued under this paragraph (n) shall not exceed sixty (60)
356 beds. If the certificate of need authorized under this paragraph
357 is not issued within twelve (12) months after July 1, 1998, the



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

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



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

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



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



457 Provided, however, that if the issuance of the certificate of need
458 is contested, the department shall require substantial
459 construction of the nursing facility beds within six (6) months
460 after final adjudication on the issuance of the certificate of
461 need.

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

472 (ii) Subject to the provisions of subparagraph
473 (v), during each of the next four (4) fiscal years, the department
474 shall issue six (6) certificates of need for new nursing facility
475 beds, as follows: During fiscal years 2000, 2001 and 2002, one
476 (1) certificate of need shall be issued for new nursing facility
477 beds in the county in each of the four (4) Long-Term Care Planning
478 Districts designated in the fiscal year 1999 State Health Plan
479 that has the highest need in the district for those beds; and two
480 (2) certificates of need shall be issued for new nursing facility
481 beds in the two (2) counties from the state at large that have the
482 highest need in the state for those beds, when considering the
483 need on a statewide basis and without regard to the Long-Term Care
484 Planning Districts in which the counties are located. During
485 fiscal year 2003, one (1) certificate of need shall be issued for
486 new nursing facility beds in any county having a need for fifty
487 (50) or more additional nursing facility beds, as shown in the
488 fiscal year 1999 State Health Plan, that has not received a
489 certificate of need under this paragraph (q) during the three (3)



490 previous fiscal years. During fiscal year 2000, in addition to
491 the six (6) certificates of need authorized in this subparagraph,
492 the department also shall issue a certificate of need for new
493 nursing facility beds in Amite County and a certificate of need
494 for new nursing facility beds in Carroll County.

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

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



523 the need for those beds on a statewide basis, from the county with
524 the second highest need to the county with the lowest need, until
525 an application is received for nursing facility beds in an
526 eligible county from the state at large.

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

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

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



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

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

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

584 (iii) The State Department of Health, in
585 consultation with the Department of Mental Health and the Division
586 of Medicaid, shall develop and prescribe the staffing levels,
587 space requirements and other standards and requirements that must



588 be met with regard to the nursing facility beds authorized under
589 this paragraph (r) to provide care exclusively to patients with
590 Alzheimer's disease.

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

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

608 (b) Of the total number of beds authorized under this
609 subsection, the department may issue a certificate or certificates
610 of need for the construction or expansion of psychiatric
611 residential treatment facility beds or the conversion of other
612 beds to psychiatric residential treatment facility beds in Warren
613 County, not to exceed sixty (60) psychiatric residential treatment
614 facility beds, provided that the facility agrees in writing that
615 no more than thirty (30) of the beds at the psychiatric
616 residential treatment facility will be certified for participation
617 in the Medicaid program (Section 43-13-101 et seq.) for the use of
618 any patients other than those who are participating only in the
619 Medicaid program of another state, and that no claim will be
620 submitted to the Division of Medicaid for Medicaid reimbursement



621 for more than thirty (30) patients in the psychiatric residential
622 treatment facility in any day or for any patient in the
623 psychiatric residential treatment facility who is in a bed that is
624 not Medicaid-certified. This written agreement by the recipient
625 of the certificate of need shall be a condition of the issuance of
626 the certificate of need under this paragraph, and the agreement
627 shall be fully binding on any subsequent owner of the psychiatric
628 residential treatment facility if the ownership of the facility is
629 transferred at any time after the issuance of the certificate of
630 need. After this written agreement is executed, the Division of
631 Medicaid and the State Department of Health shall not certify more
632 than thirty (30) of the beds in the psychiatric residential
633 treatment facility for participation in the Medicaid program for
634 the use of any patients other than those who are participating
635 only in the Medicaid program of another state. If the psychiatric
636 residential treatment facility violates the terms of the written
637 agreement by admitting or keeping in the facility on a regular or
638 continuing basis more than thirty (30) patients who are
639 participating in the Mississippi Medicaid program, the State
640 Department of Health shall revoke the license of the facility, at
641 the time that the department determines, after a hearing complying
642 with due process, that the facility has violated the condition
643 upon which the certificate of need was issued, as provided in this
644 paragraph and in the written agreement.

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

649 (c) Of the total number of beds authorized under this
650 subsection, the department shall issue a certificate of need to a
651 hospital currently operating Medicaid-certified acute psychiatric
652 beds for adolescents in DeSoto County, for the establishment of a
653 forty-bed psychiatric residential treatment facility in DeSoto



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

684 (d) Of the total number of beds authorized under this
685 subsection, the department may issue a certificate or certificates
686 of need for the construction or expansion of psychiatric



687 residential treatment facility beds or the conversion of other
688 beds to psychiatric treatment facility beds, not to exceed thirty
689 (30) psychiatric residential treatment facility beds, in either
690 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
691 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

700 (f) The department shall issue a certificate of need to
701 a one-hundred-thirty-four-bed specialty hospital located on
702 twenty-nine and forty-four one-hundredths (29.44) commercial acres
703 at 5900 Highway 39 North in Meridian (Lauderdale County),
704 Mississippi, for the addition, construction or expansion of
705 child/adolescent psychiatric residential treatment facility beds
706 in Lauderdale County. As a condition of issuance of the
707 certificate of need under this paragraph, the facility shall give
708 priority in admissions to the child/adolescent psychiatric
709 residential treatment facility beds authorized under this
710 paragraph to patients who otherwise would require out-of-state
711 placement. The Division of Medicaid, in conjunction with the
712 Department of Human Services, shall furnish the facility a list of
713 all out-of-state patients on a quarterly basis. Furthermore,
714 notice shall also be provided to the parent, custodial parent or
715 guardian of each out-of-state patient notifying them of the
716 priority status granted by this paragraph. For purposes of this
717 paragraph, the provisions of Section 41-7-193(1) requiring
718 substantial compliance with the projection of need as reported in
719 the current State Health Plan are waived. The total number of



720 child/adolescent psychiatric residential treatment facility beds
721 that may be authorized under the authority of this paragraph shall
722 be sixty (60) beds. There shall be no prohibition or restrictions
723 on participation in the Medicaid program (Section 43-13-101 et
724 seq.) for the person receiving the certificate of need authorized
725 under this paragraph or for the beds converted pursuant to the
726 authority of that certificate of need.

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

743 (i) The department may issue certificates of need
744 to any person for any purpose described in this subsection,
745 provided that the hospital, psychiatric hospital or chemical
746 dependency hospital does not participate in the Medicaid program
747 (Section 43-13-101 et seq.) at the time of the application for the
748 certificate of need and the owner of the hospital, psychiatric
749 hospital or chemical dependency hospital agrees in writing that
750 the hospital, psychiatric hospital or chemical dependency hospital
751 will not at any time participate in the Medicaid program or admit
752 or keep any patients who are participating in the Medicaid program



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

778 (ii) The department may issue a certificate of
779 need for the conversion of existing beds in a county hospital in
780 Choctaw County from acute care beds to child/adolescent chemical
781 dependency beds. For purposes of this subparagraph, the
782 provisions of Section 41-7-193(1) requiring substantial compliance
783 with the projection of need as reported in the current State
784 Health Plan is waived. The total number of beds that may be
785 authorized under authority of this subparagraph shall not exceed



786 twenty (20) beds. There shall be no prohibition or restrictions
787 on participation in the Medicaid program (Section 43-13-101 et
788 seq.) for the hospital receiving the certificate of need
789 authorized under this subparagraph (a)(ii) or for the beds
790 converted pursuant to the authority of that certificate of need.

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

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

816 (iv) The department shall issue a certificate of
817 need to the Region 7 Mental Health/Retardation Commission for the
818 construction or expansion of child/adolescent psychiatric beds or



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

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



852 is still outstanding, and shall deny or revoke the license of the
853 hospital at the time that the department determines, after a
854 hearing complying with due process, that the hospital has failed
855 to comply with any of the conditions upon which the certificate of
856 need was issued, as provided in this subparagraph and in the
857 written agreement by the recipient of the certificate of need.

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

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

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

882 (6) The State Department of Health shall issue a certificate
883 of need to a Mississippi corporation qualified to manage a
884 long-term care hospital as defined in Section 41-7-173(h)(xii) in



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

914 (7) The State Department of Health may issue a certificate
915 of need to any hospital in the state to utilize a portion of its
916 beds for the "swing-bed" concept. Any such hospital must be in
917 conformance with the federal regulations regarding such swing-bed



918 concept at the time it submits its application for a certificate
919 of need to the State Department of Health, except that such
920 hospital may have more licensed beds or a higher average daily
921 census (ADC) than the maximum number specified in federal
922 regulations for participation in the swing-bed program. Any
923 hospital meeting all federal requirements for participation in the
924 swing-bed program which receives such certificate of need shall
925 render services provided under the swing-bed concept to any
926 patient eligible for Medicare (Title XVIII of the Social Security
927 Act) who is certified by a physician to be in need of such
928 services, and no such hospital shall permit any patient who is
929 eligible for both Medicaid and Medicare or eligible only for
930 Medicaid to stay in the swing beds of the hospital for more than
931 thirty (30) days per admission unless the hospital receives prior
932 approval for such patient from the Division of Medicaid, Office of
933 the Governor. Any hospital having more licensed beds or a higher
934 average daily census (ADC) than the maximum number specified in
935 federal regulations for participation in the swing-bed program
936 which receives such certificate of need shall develop a procedure
937 to insure that before a patient is allowed to stay in the swing
938 beds of the hospital, there are no vacant nursing home beds
939 available for that patient located within a fifty-mile radius of
940 the hospital. When any such hospital has a patient staying in the
941 swing beds of the hospital and the hospital receives notice from a
942 nursing home located within such radius that there is a vacant bed
943 available for that patient, the hospital shall transfer the
944 patient to the nursing home within a reasonable time after receipt
945 of the notice. Any hospital which is subject to the requirements
946 of the two (2) preceding sentences of this subsection may be
947 suspended from participation in the swing-bed program for a
948 reasonable period of time by the State Department of Health if the
949 department, after a hearing complying with due process, determines



950 that the hospital has failed to comply with any of those
951 requirements.

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

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

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

974 (11) The new construction, renovation or expansion of or
975 addition to any health care facility defined in subparagraph (ii)
976 (psychiatric hospital), subparagraph (iv) (skilled nursing
977 facility), subparagraph (vi) (intermediate care facility),
978 subparagraph (viii) (intermediate care facility for the mentally
979 retarded) and subparagraph (x) (psychiatric residential treatment
980 facility) of Section 41-7-173(h) which is owned by the State of
981 Mississippi and under the direction and control of the State
982 Department of Mental Health, and the addition of new beds or the



983 conversion of beds from one category to another in any such
984 defined health care facility which is owned by the State of
985 Mississippi and under the direction and control of the State
986 Department of Mental Health, shall not require the issuance of a
987 certificate of need under Section 41-7-171 et seq.,
988 notwithstanding any provision in Section 41-7-171 et seq. to the
989 contrary.

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

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

1001 (a) Before any construction or conversion may be
1002 undertaken without a certificate of need, the owner of the nursing
1003 facility, in the case of an existing facility, or the applicant to
1004 construct a nursing facility, in the case of new construction,
1005 first must file a written notice of intent and sign a written
1006 agreement with the State Department of Health that the entire
1007 nursing facility will not at any time participate in or have any
1008 beds certified for participation in the Medicaid program (Section
1009 43-13-101 et seq.), will not admit or keep any patients in the
1010 nursing facility who are participating in the Medicaid program,
1011 and will not submit any claim for Medicaid reimbursement for any
1012 patient in the facility. This written agreement by the owner or
1013 applicant shall be a condition of exercising the authority under
1014 this subsection without a certificate of need, and the agreement
1015 shall be fully binding on any subsequent owner of the nursing



1016 facility if the ownership of the facility is transferred at any
1017 time after the agreement is signed. After the written agreement
1018 is signed, the Division of Medicaid and the State Department of
1019 Health shall not certify any beds in the nursing facility for
1020 participation in the Medicaid program. If the nursing facility
1021 violates the terms of the written agreement by participating in
1022 the Medicaid program, having any beds certified for participation
1023 in the Medicaid program, admitting or keeping any patient in the
1024 facility who is participating in the Medicaid program, or
1025 submitting any claim for Medicaid reimbursement for any patient in
1026 the facility, the State Department of Health shall revoke the
1027 license of the nursing facility at the time that the department
1028 determines, after a hearing complying with due process, that the
1029 facility has violated the terms of the written agreement.

1030 (b) For the purposes of this subsection, participation
1031 in the Medicaid program by a nursing facility includes Medicaid
1032 reimbursement of coinsurance and deductibles for recipients who
1033 are qualified Medicare beneficiaries and/or those who are dually
1034 eligible. Any nursing facility exercising the authority under
1035 this subsection may not bill or submit a claim to the Division of
1036 Medicaid for services to qualified Medicare beneficiaries and/or
1037 those who are dually eligible.

1038 (c) The new construction of a nursing facility or
1039 nursing facility beds or the conversion of other beds to nursing
1040 facility beds described in this section must be either a part of a
1041 completely new continuing care retirement community, as described
1042 in the latest edition of the Mississippi State Health Plan, or an
1043 addition to existing personal care and independent living
1044 components, and so that the completed project will be a continuing
1045 care retirement community, containing (i) independent living
1046 accommodations, (ii) personal care beds, and (iii) the nursing
1047 home facility beds. The three (3) components must be located on a
1048 single site and be operated as one (1) inseparable facility. The



1049 nursing facility component must contain a minimum of thirty (30)
1050 beds. Any nursing facility beds authorized by this section will
1051 not be counted against the bed need set forth in the State Health
1052 Plan, as identified in Section 41-7-171 et seq.

1053 This subsection (13) shall stand repealed from and after July
1054 1, 2005.

1055 (14) The State Department of Health shall issue a
1056 certificate of need to any hospital which is currently licensed
1057 for two hundred fifty (250) or more acute care beds and is located
1058 in any general hospital service area not having a comprehensive
1059 cancer center, for the establishment and equipping of such a
1060 center which provides facilities and services for outpatient
1061 radiation oncology therapy, outpatient medical oncology therapy,
1062 and appropriate support services including the provision of
1063 radiation therapy services. The provision of Section 41-7-193(1)
1064 regarding substantial compliance with the projection of need as
1065 reported in the current State Health Plan is waived for the
1066 purpose of this subsection.

1067 (15) The State Department of Health may authorize the
1068 transfer of hospital beds, not to exceed sixty (60) beds, from the
1069 North Panola Community Hospital to the South Panola Community
1070 Hospital. The authorization for the transfer of those beds shall
1071 be exempt from the certificate of need review process.

1072 (16) Any nursing facility licensed by the State Department
1073 of Health on July 1, 2003, that is the only nursing facility in
1074 the county in which it is located may increase the number of
1075 Medicaid certified beds in the facility by not more than twelve
1076 (12) beds without the issuance of a certificate of need, if those
1077 beds are located in existing space of the facility that meets
1078 licensure and Medicaid certification standards but was not used to
1079 provide nursing facility services before July 1, 2003. No new
1080 construction of any kind, including, but not limited to,



1081 construction to free up or supplement existing space in the
1082 facility, shall be allowed under the authority 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.** This act shall take effect and be in force from
1089 and after July 1, 2003.

