

By: Representative Moody

To: Public Health and
Welfare; Appropriations

HOUSE BILL NO. 1429

1 AN ACT TO ALLOW CRITICAL ACCESS HOSPITALS TO BANK LICENSED
2 HOSPITAL ACUTE CARE BEDS; TO AMEND SECTION 41-7-191, MISSISSIPPI
3 CODE OF 1972, TO REVISE THE ACTIVITIES THAT REQUIRE A CERTIFICATE
4 OF NEED; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** The following shall be codified as new section

7 41-9-210, Mississippi Code of 1972:

8 41-9-210. If a hospital seeks a new license from the
9 department in order to be designated as a critical access
10 hospital, the department shall maintain a record of the acute care
11 beds of that hospital that have been delicensed as a result of
12 that designation and continue counting those beds as part of the
13 state's total acute care bed count for health care planning
14 purposes. If a critical access hospital later desires to
15 relicense some or all of its delicensed acute care beds, it shall
16 notify the department of its intent to increase the number of its
17 licensed acute care beds. The department shall survey the
18 hospital within thirty (30) days of that notice and, if
19 appropriate, issue the hospital a new license reflecting the new
20 contingent of beds. That change may be accomplished without the
21 need of the hospital to seek certificate of need approval under
22 Section 41-7-171 et seq. However, in no event may a hospital that
23 has delicensed some of its acute care beds in order to be
24 designated as a critical access hospital be reissued a license to
25 operate acute care beds in excess of its acute care bed count
26 before the delicensure of some of its beds without seeking
27 certificate of need approval.



28 This section shall apply to all hospitals that are designated
29 as critical access hospitals on July 1, 2003, and all hospitals
30 that may become designated as critical access hospitals after July
31 1, 2003.

32 **SECTION 2.** Section 41-7-191, Mississippi Code of 1972, is
33 amended as follows:

34 41-7-191. (1) No person shall engage in any of the
35 following activities without obtaining the required certificate of
36 need:

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

39 (b) The relocation of a health care facility or portion
40 thereof, or major medical equipment, unless such relocation of a
41 health care facility or portion thereof, or major medical
42 equipment, which does not involve a capital expenditure by or on
43 behalf of a health care facility, is within five thousand two
44 hundred eighty (5,280) feet from the main entrance of the health
45 care facility;

46 (c) Any change in the existing bed complement of any
47 health care facility through the addition or conversion of any
48 beds or the alteration, modernizing or refurbishing of any unit or
49 department in which the beds may be located; however, if a health
50 care facility has voluntarily delicensed some of its existing bed
51 complement, it may later relicense some or all of its delicensed
52 beds without the necessity of having to acquire a certificate of
53 need. The State Department of Health shall maintain a record of
54 the delicensing health care facility and its voluntarily
55 delicensed beds and continue counting those beds as part of the
56 state's total bed count for health care planning purposes. If a
57 health care facility that has voluntarily delicensed some of its
58 beds later desires to relicense some or all of its voluntarily
59 delicensed beds, it shall notify the State Department of Health of
60 its intent to increase the number of its licensed beds. The State



61 Department of Health shall survey the health care facility within
62 thirty (30) days of that notice and, if appropriate, issue the
63 health care facility a new license reflecting the new contingent
64 of beds. However, in no event may a health care facility that has
65 voluntarily delicensed some of its beds be reissued a license to
66 operate beds in excess of its bed count before the voluntary
67 delicensure of some of its beds without seeking certificate of
68 need approval;

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

- 73 (i) Open heart surgery services;
- 74 (ii) Cardiac catheterization services;
- 75 (iii) Comprehensive inpatient rehabilitation
76 services;
- 77 (iv) Licensed psychiatric services;
- 78 (v) Licensed chemical dependency services;
- 79 (vi) Radiation therapy services;
- 80 (vii) Diagnostic imaging services of an invasive
81 nature, i.e. invasive digital angiography;
- 82 (viii) Nursing home care as defined in
83 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 84 (ix) Home health services;
- 85 (x) Swing-bed services;
- 86 (xi) Ambulatory surgical services;
- 87 (xii) Magnetic resonance imaging services;
- 88 (xiii) Extracorporeal shock wave lithotripsy
89 services;

- 90 (xiv) Long-term care hospital services;
 - 91 (xv) Positron Emission Tomography (PET) services;
- 92 (e) The relocation of one or more health services from
93 one physical facility or site to another physical facility or



94 site, unless such relocation, which does not involve a capital
95 expenditure by or on behalf of a health care facility, (i) is to a
96 physical facility or site within one thousand three hundred twenty
97 (1,320) feet from the main entrance of the health care facility
98 where the health care service is located, or (ii) is the result of
99 an order of a court of appropriate jurisdiction or a result of
100 pending litigation in such court, or by order of the State
101 Department of Health, or by order of any other agency or legal
102 entity of the state, the federal government, or any political
103 subdivision of either, whose order is also approved by the State
104 Department of Health;

105 (f) The acquisition or otherwise control of any major
106 medical equipment for the provision of medical services; provided,
107 however, (i) the acquisition of any major medical equipment used
108 only for research purposes, and (ii) the acquisition of major
109 medical equipment to replace medical equipment for which a
110 facility is already providing medical services and for which the
111 State Department of Health has been notified before the date of
112 such acquisition shall be exempt from this paragraph; an
113 acquisition for less than fair market value must be reviewed, if
114 the acquisition at fair market value would be subject to review;

115 (g) Changes of ownership of existing health care
116 facilities in which a notice of intent is not filed with the State
117 Department of Health at least thirty (30) days prior to the date
118 such change of ownership occurs, or a change in services or bed
119 capacity as prescribed in paragraph (c) or (d) of this subsection
120 as a result of the change of ownership; an acquisition for less
121 than fair market value must be reviewed, if the acquisition at
122 fair market value would be subject to review;

123 (h) The change of ownership of any health care facility
124 defined in subparagraphs (iv), (vi) and (viii) of Section
125 41-7-173(h), in which a notice of intent as described in paragraph
126 (g) has not been filed and if the Executive Director, Division of



127 Medicaid, Office of the Governor, has not certified in writing
128 that there will be no increase in allowable costs to Medicaid from
129 revaluation of the assets or from increased interest and
130 depreciation as a result of the proposed change of ownership;

131 (i) Any activity described in paragraphs (a) through
132 (h) if undertaken by any person if that same activity would
133 require certificate of need approval if undertaken by a health
134 care facility;

135 (j) Any capital expenditure or deferred capital
136 expenditure by or on behalf of a health care facility not covered
137 by paragraphs (a) through (h);

138 (k) The contracting of a health care facility as
139 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
140 to establish a home office, subunit, or branch office in the space
141 operated as a health care facility through a formal arrangement
142 with an existing health care facility as defined in subparagraph
143 (ix) of Section 41-7-173(h).

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

151 (a) The department may issue a certificate of need to
152 any person proposing the new construction of any health care
153 facility defined in subparagraphs (iv) and (vi) of Section
154 41-7-173(h) as part of a life care retirement facility, in any
155 county bordering on the Gulf of Mexico in which is located a
156 National Aeronautics and Space Administration facility, not to
157 exceed forty (40) beds. From and after July 1, 1999, there shall
158 be no prohibition or restrictions on participation in the Medicaid



159 program (Section 43-13-101 et seq.) for the beds in the health
160 care facility that were authorized under this paragraph (a).

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

168 (c) The department may issue a certificate of need for
169 the addition to or expansion of any skilled nursing facility that
170 is part of an existing continuing care retirement community
171 located in Madison County, provided that the recipient of the
172 certificate of need agrees in writing that the skilled nursing
173 facility will not at any time participate in the Medicaid program
174 (Section 43-13-101 et seq.) or admit or keep any patients in the
175 skilled nursing facility who are participating in the Medicaid
176 program. This written agreement by the recipient of the
177 certificate of need shall be fully binding on any subsequent owner
178 of the skilled nursing facility, if the ownership of the facility
179 is transferred at any time after the issuance of the certificate
180 of need. Agreement that the skilled nursing facility will not
181 participate in the Medicaid program shall be a condition of the
182 issuance of a certificate of need to any person under this
183 paragraph (c), and if such skilled nursing facility at any time
184 after the issuance of the certificate of need, regardless of the
185 ownership of the facility, participates in the Medicaid program or
186 admits or keeps any patients in the facility who are participating
187 in the Medicaid program, the State Department of Health shall
188 revoke the certificate of need, if it is still outstanding, and
189 shall deny or revoke the license of the skilled nursing facility,
190 at the time that the department determines, after a hearing
191 complying with due process, that the facility has failed to comply



192 with any of the conditions upon which the certificate of need was
193 issued, as provided in this paragraph and in the written agreement
194 by the recipient of the certificate of need. The total number of
195 beds that may be authorized under the authority of this paragraph
196 (c) shall not exceed sixty (60) beds.

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

205 (e) The State Department of Health may issue a
206 certificate of need for the construction of a nursing facility or
207 the conversion of beds to nursing facility beds at a personal care
208 facility for the elderly in Lowndes County that is owned and
209 operated by a Mississippi nonprofit corporation, not to exceed
210 sixty (60) beds. From and after July 1, 1999, there shall be no
211 prohibition or restrictions on participation in the Medicaid
212 program (Section 43-13-101 et seq.) for the beds in the nursing
213 facility that were authorized under this paragraph (e).

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

222 (g) The State Department of Health may issue a
223 certificate of need for the construction or expansion of nursing
224 facility beds or the conversion of other beds to nursing facility



225 beds in either Hinds, Madison or Rankin County, not to exceed
226 sixty (60) beds. From and after July 1, 1999, there shall be no
227 prohibition or restrictions on participation in the Medicaid
228 program (Section 43-13-101 et seq.) for the beds in the nursing
229 facility that were authorized under this paragraph (g).

230 (h) The State Department of Health may issue a
231 certificate of need for the construction or expansion of nursing
232 facility beds or the conversion of other beds to nursing facility
233 beds in either Hancock, Harrison or Jackson County, not to exceed
234 sixty (60) beds. From and after July 1, 1999, there shall be no
235 prohibition or restrictions on participation in the Medicaid
236 program (Section 43-13-101 et seq.) for the beds in the facility
237 that were authorized under this paragraph (h).

238 (i) The department may issue a certificate of need for
239 the new construction of a skilled nursing facility in Leake
240 County, provided that the recipient of the certificate of need
241 agrees in writing that the skilled nursing facility will not at
242 any time participate in the Medicaid program (Section 43-13-101 et
243 seq.) or admit or keep any patients in the skilled nursing
244 facility who are participating in the Medicaid program. This
245 written agreement by the recipient of the certificate of need
246 shall be fully binding on any subsequent owner of the skilled
247 nursing facility, if the ownership of the facility is transferred
248 at any time after the issuance of the certificate of need.
249 Agreement that the skilled nursing facility will not participate
250 in the Medicaid program shall be a condition of the issuance of a
251 certificate of need to any person under this paragraph (i), and if
252 such skilled nursing facility at any time after the issuance of
253 the certificate of need, regardless of the ownership of the
254 facility, participates in the Medicaid program or admits or keeps
255 any patients in the facility who are participating in the Medicaid
256 program, the State Department of Health shall revoke the
257 certificate of need, if it is still outstanding, and shall deny or



258 revoke the license of the skilled nursing facility, at the time
259 that the department determines, after a hearing complying with due
260 process, that the facility has failed to comply with any of the
261 conditions upon which the certificate of need was issued, as
262 provided in this paragraph and in the written agreement by the
263 recipient of the certificate of need. The provision of Section
264 43-7-193(1) regarding substantial compliance of the projection of
265 need as reported in the current State Health Plan is waived for
266 the purposes of this paragraph. The total number of nursing
267 facility beds that may be authorized by any certificate of need
268 issued under this paragraph (i) shall not exceed sixty (60) beds.
269 If the skilled nursing facility authorized by the certificate of
270 need issued under this paragraph is not constructed and fully
271 operational within eighteen (18) months after July 1, 1994, the
272 State Department of Health, after a hearing complying with due
273 process, shall revoke the certificate of need, if it is still
274 outstanding, and shall not issue a license for the skilled nursing
275 facility at any time after the expiration of the eighteen-month
276 period.

277 (j) The department may issue certificates of need to
278 allow any existing freestanding long-term care facility in
279 Tishomingo County and Hancock County that on July 1, 1995, is
280 licensed with fewer than sixty (60) beds. For the purposes of
281 this paragraph (j), the provision of Section 41-7-193(1) requiring
282 substantial compliance with the projection of need as reported in
283 the current State Health Plan is waived. From and after July 1,
284 1999, there shall be no prohibition or restrictions on
285 participation in the Medicaid program (Section 43-13-101 et seq.)
286 for the beds in the long-term care facilities that were authorized
287 under this paragraph (j).

288 (k) The department may issue a certificate of need for
289 the construction of a nursing facility at a continuing care
290 retirement community in Lowndes County. The total number of beds



291 that may be authorized under the authority of this paragraph (k)
292 shall not exceed sixty (60) beds. From and after July 1, 2001,
293 the prohibition on the facility participating in the Medicaid
294 program (Section 43-13-101 et seq.) that was a condition of
295 issuance of the certificate of need under this paragraph (k) shall
296 be revised as follows: The nursing facility may participate in
297 the Medicaid program from and after July 1, 2001, if the owner of
298 the facility on July 1, 2001, agrees in writing that no more than
299 thirty (30) of the beds at the facility will be certified for
300 participation in the Medicaid program, and that no claim will be
301 submitted for Medicaid reimbursement for more than thirty (30)
302 patients in the facility in any month or for any patient in the
303 facility who is in a bed that is not Medicaid-certified. This
304 written agreement by the owner of the facility shall be a
305 condition of licensure of the facility, and the agreement shall be
306 fully binding on any subsequent owner of the facility if the
307 ownership of the facility is transferred at any time after July 1,
308 2001. After this written agreement is executed, the Division of
309 Medicaid and the State Department of Health shall not certify more
310 than thirty (30) of the beds in the facility for participation in
311 the Medicaid program. If the facility violates the terms of the
312 written agreement by admitting or keeping in the facility on a
313 regular or continuing basis more than thirty (30) patients who are
314 participating in the Medicaid program, the State Department of
315 Health shall revoke the license of the facility, at the time that
316 the department determines, after a hearing complying with due
317 process, that the facility has violated the written agreement.

318 (1) Provided that funds are specifically appropriated
319 therefor by the Legislature, the department may issue a
320 certificate of need to a rehabilitation hospital in Hinds County
321 for the construction of a sixty-bed long-term care nursing
322 facility dedicated to the care and treatment of persons with
323 severe disabilities including persons with spinal cord and



324 closed-head injuries and ventilator-dependent patients. The
325 provision of Section 41-7-193(1) regarding substantial compliance
326 with projection of need as reported in the current State Health
327 Plan is hereby waived for the purpose of this paragraph.

328 (m) The State Department of Health may issue a
329 certificate of need to a county-owned hospital in the Second
330 Judicial District of Panola County for the conversion of not more
331 than seventy-two (72) hospital beds to nursing facility beds,
332 provided that the recipient of the certificate of need agrees in
333 writing that none of the beds at the nursing facility will be
334 certified for participation in the Medicaid program (Section
335 43-13-101 et seq.), and that no claim will be submitted for
336 Medicaid reimbursement in the nursing facility in any day or for
337 any patient in the nursing facility. This written agreement by
338 the recipient of the certificate of need shall be a condition of
339 the issuance of the certificate of need under this paragraph, and
340 the agreement shall be fully binding on any subsequent owner of
341 the nursing facility if the ownership of the nursing facility is
342 transferred at any time after the issuance of the certificate of
343 need. After this written agreement is executed, the Division of
344 Medicaid and the State Department of Health shall not certify any
345 of the beds in the nursing facility for participation in the
346 Medicaid program. If the nursing facility violates the terms of
347 the written agreement by admitting or keeping in the nursing
348 facility on a regular or continuing basis any patients who are
349 participating in the Medicaid program, the State Department of
350 Health shall revoke the license of the nursing facility, at the
351 time that the department determines, after a hearing complying
352 with due process, that the nursing facility has violated the
353 condition upon which the certificate of need was issued, as
354 provided in this paragraph and in the written agreement. If the
355 certificate of need authorized under this paragraph is not issued
356 within twelve (12) months after July 1, 2001, the department shall



357 deny the application for the certificate of need and shall not
358 issue the certificate of need at any time after the twelve-month
359 period, unless the issuance is contested. If the certificate of
360 need is issued and substantial construction of the nursing
361 facility beds has not commenced within eighteen (18) months after
362 July 1, 2001, the State Department of Health, after a hearing
363 complying with due process, shall revoke the certificate of need
364 if it is still outstanding, and the department shall not issue a
365 license for the nursing facility at any time after the
366 eighteen-month period. Provided, however, that if the issuance of
367 the certificate of need is contested, the department shall require
368 substantial construction of the nursing facility beds within six
369 (6) months after final adjudication on the issuance of the
370 certificate of need.

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



390 revoke the certificate of need, if it is still outstanding, and
391 shall deny or revoke the license of the skilled nursing facility,
392 at the time that the department determines, after a hearing
393 complying with due process, that the facility has failed to comply
394 with any of the conditions upon which the certificate of need was
395 issued, as provided in this paragraph and in the written agreement
396 by the recipient of the certificate of need. The total number of
397 nursing facility beds that may be authorized by any certificate of
398 need issued under this paragraph (n) shall not exceed sixty (60)
399 beds. If the certificate of need authorized under this paragraph
400 is not issued within twelve (12) months after July 1, 1998, the
401 department shall deny the application for the certificate of need
402 and shall not issue the certificate of need at any time after the
403 twelve-month period, unless the issuance is contested. If the
404 certificate of need is issued and substantial construction of the
405 nursing facility beds has not commenced within eighteen (18)
406 months after the effective date of July 1, 1998, the State
407 Department of Health, after a hearing complying with due process,
408 shall revoke the certificate of need if it is still outstanding,
409 and the department shall not issue a license for the nursing
410 facility at any time after the eighteen-month period. Provided,
411 however, that if the issuance of the certificate of need is
412 contested, the department shall require substantial construction
413 of the nursing facility beds within six (6) months after final
414 adjudication on the issuance of the certificate of need.

415 (o) The department may issue a certificate of need for
416 the new construction, addition or conversion of skilled nursing
417 facility beds in Leake County, provided that the recipient of the
418 certificate of need agrees in writing that the skilled nursing
419 facility will not at any time participate in the Medicaid program
420 (Section 43-13-101 et seq.) or admit or keep any patients in the
421 skilled nursing facility who are participating in the Medicaid
422 program. This written agreement by the recipient of the



423 certificate of need shall be fully binding on any subsequent owner
424 of the skilled nursing facility, if the ownership of the facility
425 is transferred at any time after the issuance of the certificate
426 of need. Agreement that the skilled nursing facility will not
427 participate in the Medicaid program shall be a condition of the
428 issuance of a certificate of need to any person under this
429 paragraph (o), and if such skilled nursing facility at any time
430 after the issuance of the certificate of need, regardless of the
431 ownership of the facility, participates in the Medicaid program or
432 admits or keeps any patients in the facility who are participating
433 in the Medicaid program, the State Department of Health shall
434 revoke the certificate of need, if it is still outstanding, and
435 shall deny or revoke the license of the skilled nursing facility,
436 at the time that the department determines, after a hearing
437 complying with due process, that the facility has failed to comply
438 with any of the conditions upon which the certificate of need was
439 issued, as provided in this paragraph and in the written agreement
440 by the recipient of the certificate of need. The total number of
441 nursing facility beds that may be authorized by any certificate of
442 need issued under this paragraph (o) shall not exceed sixty (60)
443 beds. If the certificate of need authorized under this paragraph
444 is not issued within twelve (12) months after July 1, 2001, the
445 department shall deny the application for the certificate of need
446 and shall not issue the certificate of need at any time after the
447 twelve-month period, unless the issuance is contested. If the
448 certificate of need is issued and substantial construction of the
449 nursing facility beds has not commenced within eighteen (18)
450 months after the effective date of July 1, 2001, the State
451 Department of Health, after a hearing complying with due process,
452 shall revoke the certificate of need if it is still outstanding,
453 and the department shall not issue a license for the nursing
454 facility at any time after the eighteen-month period. Provided,
455 however, that if the issuance of the certificate of need is



456 contested, the department shall require substantial construction
457 of the nursing facility beds within six (6) months after final
458 adjudication on the issuance of the certificate of need.

459 (p) The department may issue a certificate of need for
460 the construction of a municipally-owned nursing facility within
461 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
462 beds, provided that the recipient of the certificate of need
463 agrees in writing that the skilled nursing facility will not at
464 any time participate in the Medicaid program (Section 43-13-101 et
465 seq.) or admit or keep any patients in the skilled nursing
466 facility who are participating in the Medicaid program. This
467 written agreement by the recipient of the certificate of need
468 shall be fully binding on any subsequent owner of the skilled
469 nursing facility, if the ownership of the facility is transferred
470 at any time after the issuance of the certificate of need.
471 Agreement that the skilled nursing facility will not participate
472 in the Medicaid program shall be a condition of the issuance of a
473 certificate of need to any person under this paragraph (p), and if
474 such skilled nursing facility at any time after the issuance of
475 the certificate of need, regardless of the ownership of the
476 facility, participates in the Medicaid program or admits or keeps
477 any patients in the facility who are participating in the Medicaid
478 program, the State Department of Health shall revoke the
479 certificate of need, if it is still outstanding, and shall deny or
480 revoke the license of the skilled nursing facility, at the time
481 that the department determines, after a hearing complying with due
482 process, that the facility has failed to comply with any of the
483 conditions upon which the certificate of need was issued, as
484 provided in this paragraph and in the written agreement by the
485 recipient of the certificate of need. The provision of Section
486 43-7-193(1) regarding substantial compliance of the projection of
487 need as reported in the current State Health Plan is waived for
488 the purposes of this paragraph. If the certificate of need



489 authorized under this paragraph is not issued within twelve (12)
490 months after July 1, 1998, the department shall deny the
491 application for the certificate of need and shall not issue the
492 certificate of need at any time after the twelve-month period,
493 unless the issuance is contested. If the certificate of need is
494 issued and substantial construction of the nursing facility beds
495 has not commenced within eighteen (18) months after July 1, 1998,
496 the State Department of Health, after a hearing complying with due
497 process, shall revoke the certificate of need if it is still
498 outstanding, and the department shall not issue a license for the
499 nursing facility at any time after the eighteen-month period.
500 Provided, however, that if the issuance of the certificate of need
501 is contested, the department shall require substantial
502 construction of the nursing facility beds within six (6) months
503 after final adjudication on the issuance of the certificate of
504 need.

505 (q) (i) Beginning on July 1, 1999, the State
506 Department of Health shall issue certificates of need during each
507 of the next four (4) fiscal years for the construction or
508 expansion of nursing facility beds or the conversion of other beds
509 to nursing facility beds in each county in the state having a need
510 for fifty (50) or more additional nursing facility beds, as shown
511 in the fiscal year 1999 State Health Plan, in the manner provided
512 in this paragraph (q). The total number of nursing facility beds
513 that may be authorized by any certificate of need authorized under
514 this paragraph (q) shall not exceed sixty (60) beds.

515 (ii) Subject to the provisions of subparagraph
516 (v), during each of the next four (4) fiscal years, the department
517 shall issue six (6) certificates of need for new nursing facility
518 beds, as follows: During fiscal years 2000, 2001 and 2002, one
519 (1) certificate of need shall be issued for new nursing facility
520 beds in the county in each of the four (4) Long-Term Care Planning
521 Districts designated in the fiscal year 1999 State Health Plan



522 that has the highest need in the district for those beds; and two
523 (2) certificates of need shall be issued for new nursing facility
524 beds in the two (2) counties from the state at large that have the
525 highest need in the state for those beds, when considering the
526 need on a statewide basis and without regard to the Long-Term Care
527 Planning Districts in which the counties are located. During
528 fiscal year 2003, one (1) certificate of need shall be issued for
529 new nursing facility beds in any county having a need for fifty
530 (50) or more additional nursing facility beds, as shown in the
531 fiscal year 1999 State Health Plan, that has not received a
532 certificate of need under this paragraph (q) during the three (3)
533 previous fiscal years. During fiscal year 2000, in addition to
534 the six (6) certificates of need authorized in this subparagraph,
535 the department also shall issue a certificate of need for new
536 nursing facility beds in Amite County and a certificate of need
537 for new nursing facility beds in Carroll County.

538 (iii) Subject to the provisions of subparagraph
539 (v), the certificate of need issued under subparagraph (ii) for
540 nursing facility beds in each Long-Term Care Planning District
541 during each fiscal year shall first be available for nursing
542 facility beds in the county in the district having the highest
543 need for those beds, as shown in the fiscal year 1999 State Health
544 Plan. If there are no applications for a certificate of need for
545 nursing facility beds in the county having the highest need for
546 those beds by the date specified by the department, then the
547 certificate of need shall be available for nursing facility beds
548 in other counties in the district in descending order of the need
549 for those beds, from the county with the second highest need to
550 the county with the lowest need, until an application is received
551 for nursing facility beds in an eligible county in the district.

552 (iv) Subject to the provisions of subparagraph
553 (v), the certificate of need issued under subparagraph (ii) for
554 nursing facility beds in the two (2) counties from the state at



555 large during each fiscal year shall first be available for nursing
556 facility beds in the two (2) counties that have the highest need
557 in the state for those beds, as shown in the fiscal year 1999
558 State Health Plan, when considering the need on a statewide basis
559 and without regard to the Long-Term Care Planning Districts in
560 which the counties are located. If there are no applications for
561 a certificate of need for nursing facility beds in either of the
562 two (2) counties having the highest need for those beds on a
563 statewide basis by the date specified by the department, then the
564 certificate of need shall be available for nursing facility beds
565 in other counties from the state at large in descending order of
566 the need for those beds on a statewide basis, from the county with
567 the second highest need to the county with the lowest need, until
568 an application is received for nursing facility beds in an
569 eligible county from the state at large.

570 (v) If a certificate of need is authorized to be
571 issued under this paragraph (q) for nursing facility beds in a
572 county on the basis of the need in the Long-Term Care Planning
573 District during any fiscal year of the four-year period, a
574 certificate of need shall not also be available under this
575 paragraph (q) for additional nursing facility beds in that county
576 on the basis of the need in the state at large, and that county
577 shall be excluded in determining which counties have the highest
578 need for nursing facility beds in the state at large for that
579 fiscal year. After a certificate of need has been issued under
580 this paragraph (q) for nursing facility beds in a county during
581 any fiscal year of the four-year period, a certificate of need
582 shall not be available again under this paragraph (q) for
583 additional nursing facility beds in that county during the
584 four-year period, and that county shall be excluded in determining
585 which counties have the highest need for nursing facility beds in
586 succeeding fiscal years.



587 (vi) If more than one (1) application is made for
588 a certificate of need for nursing home facility beds available
589 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
590 County, and one (1) of the applicants is a county-owned hospital
591 located in the county where the nursing facility beds are
592 available, the department shall give priority to the county-owned
593 hospital in granting the certificate of need if the following
594 conditions are met:

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

598 2. The county-owned hospital's qualifications
599 for the certificate of need, as shown in its application and as
600 determined by the department, are at least equal to the
601 qualifications of the other applicants for the certificate of
602 need.

603 (r) (i) Beginning on July 1, 1999, the State
604 Department of Health shall issue certificates of need during each
605 of the next two (2) fiscal years for the construction or expansion
606 of nursing facility beds or the conversion of other beds to
607 nursing facility beds in each of the four (4) Long-Term Care
608 Planning Districts designated in the fiscal year 1999 State Health
609 Plan, to provide care exclusively to patients with Alzheimer's
610 disease.

611 (ii) Not more than twenty (20) beds may be
612 authorized by any certificate of need issued under this paragraph
613 (r), and not more than a total of sixty (60) beds may be
614 authorized in any Long-Term Care Planning District by all
615 certificates of need issued under this paragraph (r). However,
616 the total number of beds that may be authorized by all
617 certificates of need issued under this paragraph (r) during any
618 fiscal year shall not exceed one hundred twenty (120) beds, and
619 the total number of beds that may be authorized in any Long-Term

620 Care Planning District during any fiscal year shall not exceed
621 forty (40) beds. Of the certificates of need that are issued for
622 each Long-Term Care Planning District during the next two (2)
623 fiscal years, at least one (1) shall be issued for beds in the
624 northern part of the district, at least one (1) shall be issued
625 for beds in the central part of the district, and at least one (1)
626 shall be issued for beds in the southern part of the district.

627 (iii) The State Department of Health, in
628 consultation with the Department of Mental Health and the Division
629 of Medicaid, shall develop and prescribe the staffing levels,
630 space requirements and other standards and requirements that must
631 be met with regard to the nursing facility beds authorized under
632 this paragraph (r) to provide care exclusively to patients with
633 Alzheimer's disease.

634 (3) The State Department of Health may grant approval for
635 and issue certificates of need to any person proposing the new
636 construction of, addition to, conversion of beds of or expansion
637 of any health care facility defined in subparagraph (x)
638 (psychiatric residential treatment facility) of Section
639 41-7-173(h). The total number of beds which may be authorized by
640 such certificates of need shall not exceed three hundred
641 thirty-four (334) beds for the entire state.

642 (a) Of the total number of beds authorized under this
643 subsection, the department shall issue a certificate of need to a
644 privately-owned psychiatric residential treatment facility in
645 Simpson County for the conversion of sixteen (16) intermediate
646 care facility for the mentally retarded (ICF-MR) beds to
647 psychiatric residential treatment facility beds, provided that
648 facility agrees in writing that the facility shall give priority
649 for the use of those sixteen (16) beds to Mississippi residents
650 who are presently being treated in out-of-state facilities.

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



653 of need for the construction or expansion of psychiatric
654 residential treatment facility beds or the conversion of other
655 beds to psychiatric residential treatment facility beds in Warren
656 County, not to exceed sixty (60) psychiatric residential treatment
657 facility beds, provided that the facility agrees in writing that
658 no more than thirty (30) of the beds at the psychiatric
659 residential treatment facility will be certified for participation
660 in the Medicaid program (Section 43-13-101 et seq.) for the use of
661 any patients other than those who are participating only in the
662 Medicaid program of another state, and that no claim will be
663 submitted to the Division of Medicaid for Medicaid reimbursement
664 for more than thirty (30) patients in the psychiatric residential
665 treatment facility in any day or for any patient in the
666 psychiatric residential treatment facility who is in a bed that is
667 not Medicaid-certified. This written agreement by the recipient
668 of the certificate of need shall be a condition of the issuance of
669 the certificate of need under this paragraph, and the agreement
670 shall be fully binding on any subsequent owner of the psychiatric
671 residential treatment facility if the ownership of the facility is
672 transferred at any time after the issuance of the certificate of
673 need. After this written agreement is executed, the Division of
674 Medicaid and the State Department of Health shall not certify more
675 than thirty (30) of the beds in the psychiatric residential
676 treatment facility for participation in the Medicaid program for
677 the use of any patients other than those who are participating
678 only in the Medicaid program of another state. If the psychiatric
679 residential treatment facility violates the terms of the written
680 agreement by admitting or keeping in the facility on a regular or
681 continuing basis more than thirty (30) patients who are
682 participating in the Mississippi Medicaid program, the State
683 Department of Health shall revoke the license of the facility, at
684 the time that the department determines, after a hearing complying
685 with due process, that the facility has violated the condition



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

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

692 (c) Of the total number of beds authorized under this
693 subsection, the department shall issue a certificate of need to a
694 hospital currently operating Medicaid-certified acute psychiatric
695 beds for adolescents in DeSoto County, for the establishment of a
696 forty-bed psychiatric residential treatment facility in DeSoto
697 County, provided that the hospital agrees in writing (i) that the
698 hospital shall give priority for the use of those forty (40) beds
699 to Mississippi residents who are presently being treated in
700 out-of-state facilities, and (ii) that no more than fifteen (15)
701 of the beds at the psychiatric residential treatment facility will
702 be certified for participation in the Medicaid program (Section
703 43-13-101 et seq.), and that no claim will be submitted for
704 Medicaid reimbursement for more than fifteen (15) patients in the
705 psychiatric residential treatment facility in any day or for any
706 patient in the psychiatric residential treatment facility who is
707 in a bed that is not Medicaid-certified. This written agreement
708 by the recipient of the certificate of need shall be a condition
709 of the issuance of the certificate of need under this paragraph,
710 and the agreement shall be fully binding on any subsequent owner
711 of the psychiatric residential treatment facility if the ownership
712 of the facility is transferred at any time after the issuance of
713 the certificate of need. After this written agreement is
714 executed, the Division of Medicaid and the State Department of
715 Health shall not certify more than fifteen (15) of the beds in the
716 psychiatric residential treatment facility for participation in
717 the Medicaid program. If the psychiatric residential treatment
718 facility violates the terms of the written agreement by admitting



719 or keeping in the facility on a regular or continuing basis more
720 than fifteen (15) patients who are participating in the Medicaid
721 program, the State Department of Health shall revoke the license
722 of the facility, at the time that the department determines, after
723 a hearing complying with due process, that the facility has
724 violated the condition upon which the certificate of need was
725 issued, as provided in this paragraph and in the written
726 agreement.

727 (d) Of the total number of beds authorized under this
728 subsection, the department may issue a certificate or certificates
729 of need for the construction or expansion of psychiatric
730 residential treatment facility beds or the conversion of other
731 beds to psychiatric treatment facility beds, not to exceed thirty
732 (30) psychiatric residential treatment facility beds, in either
733 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
734 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

735 (e) Of the total number of beds authorized under this
736 subsection (3) the department shall issue a certificate of need to
737 a privately-owned, nonprofit psychiatric residential treatment
738 facility in Hinds County for an eight-bed expansion of the
739 facility, provided that the facility agrees in writing that the
740 facility shall give priority for the use of those eight (8) beds
741 to Mississippi residents who are presently being treated in
742 out-of-state facilities.

743 (f) The department shall issue a certificate of need to
744 a one-hundred-thirty-four-bed specialty hospital located on
745 twenty-nine and forty-four one-hundredths (29.44) commercial acres
746 at 5900 Highway 39 North in Meridian (Lauderdale County),
747 Mississippi, for the addition, construction or expansion of
748 child/adolescent psychiatric residential treatment facility beds
749 in Lauderdale County. As a condition of issuance of the
750 certificate of need under this paragraph, the facility shall give
751 priority in admissions to the child/adolescent psychiatric



752 residential treatment facility beds authorized under this
753 paragraph to patients who otherwise would require out-of-state
754 placement. The Division of Medicaid, in conjunction with the
755 Department of Human Services, shall furnish the facility a list of
756 all out-of-state patients on a quarterly basis. Furthermore,
757 notice shall also be provided to the parent, custodial parent or
758 guardian of each out-of-state patient notifying them of the
759 priority status granted by this paragraph. For purposes of this
760 paragraph, the provisions of Section 41-7-193(1) requiring
761 substantial compliance with the projection of need as reported in
762 the current State Health Plan are waived. The total number of
763 child/adolescent psychiatric residential treatment facility beds
764 that may be authorized under the authority of this paragraph shall
765 be sixty (60) beds. There shall be no prohibition or restrictions
766 on participation in the Medicaid program (Section 43-13-101 et
767 seq.) for the person receiving the certificate of need authorized
768 under this paragraph or for the beds converted pursuant to the
769 authority of that certificate of need.

770 (4) (a) From and after July 1, 1993, the department shall
771 not issue a certificate of need to any person for the new
772 construction of any hospital, psychiatric hospital or chemical
773 dependency hospital that will contain any child/adolescent
774 psychiatric or child/adolescent chemical dependency beds, or for
775 the conversion of any other health care facility to a hospital,
776 psychiatric hospital or chemical dependency hospital that will
777 contain any child/adolescent psychiatric or child/adolescent
778 chemical dependency beds, or for the addition of any
779 child/adolescent psychiatric or child/adolescent chemical
780 dependency beds in any hospital, psychiatric hospital or chemical
781 dependency hospital, or for the conversion of any beds of another
782 category in any hospital, psychiatric hospital or chemical
783 dependency hospital to child/adolescent psychiatric or



784 child/adolescent chemical dependency beds, except as hereinafter
785 authorized:

786 (i) The department may issue certificates of need
787 to any person for any purpose described in this subsection,
788 provided that the hospital, psychiatric hospital or chemical
789 dependency hospital does not participate in the Medicaid program
790 (Section 43-13-101 et seq.) at the time of the application for the
791 certificate of need and the owner of the hospital, psychiatric
792 hospital or chemical dependency hospital agrees in writing that
793 the hospital, psychiatric hospital or chemical dependency hospital
794 will not at any time participate in the Medicaid program or admit
795 or keep any patients who are participating in the Medicaid program
796 in the hospital, psychiatric hospital or chemical dependency
797 hospital. This written agreement by the recipient of the
798 certificate of need shall be fully binding on any subsequent owner
799 of the hospital, psychiatric hospital or chemical dependency
800 hospital, if the ownership of the facility is transferred at any
801 time after the issuance of the certificate of need. Agreement
802 that the hospital, psychiatric hospital or chemical dependency
803 hospital will not participate in the Medicaid program shall be a
804 condition of the issuance of a certificate of need to any person
805 under this subparagraph (a)(i), and if such hospital, psychiatric
806 hospital or chemical dependency hospital at any time after the
807 issuance of the certificate of need, regardless of the ownership
808 of the facility, participates in the Medicaid program or admits or
809 keeps any patients in the hospital, psychiatric hospital or
810 chemical dependency hospital who are participating in the Medicaid
811 program, the State Department of Health shall revoke the
812 certificate of need, if it is still outstanding, and shall deny or
813 revoke the license of the hospital, psychiatric hospital or
814 chemical dependency hospital, at the time that the department
815 determines, after a hearing complying with due process, that the
816 hospital, psychiatric hospital or chemical dependency hospital has



817 failed to comply with any of the conditions upon which the
818 certificate of need was issued, as provided in this subparagraph
819 and in the written agreement by the recipient of the certificate
820 of need.

821 (ii) The department may issue a certificate of
822 need for the conversion of existing beds in a county hospital in
823 Choctaw County from acute care beds to child/adolescent chemical
824 dependency beds. For purposes of this subparagraph, the
825 provisions of Section 41-7-193(1) requiring substantial compliance
826 with the projection of need as reported in the current State
827 Health Plan is waived. The total number of beds that may be
828 authorized under authority of this subparagraph shall not exceed
829 twenty (20) beds. There shall be no prohibition or restrictions
830 on participation in the Medicaid program (Section 43-13-101 et
831 seq.) for the hospital receiving the certificate of need
832 authorized under this subparagraph (a)(ii) or for the beds
833 converted pursuant to the authority of that certificate of need.

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

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



850 subparagraph (a)(iii), or no significant action taken to convert
851 existing beds to the beds authorized under this subparagraph, then
852 the certificate of need that was previously issued under this
853 subparagraph shall expire. If the previously issued certificate
854 of need expires, the department may accept applications for
855 issuance of another certificate of need for the beds authorized
856 under this subparagraph, and may issue a certificate of need to
857 authorize the construction, expansion or conversion of the beds
858 authorized under this subparagraph.

859 (iv) The department shall issue a certificate of
860 need to the Region 7 Mental Health/Retardation Commission for the
861 construction or expansion of child/adolescent psychiatric beds or
862 the conversion of other beds to child/adolescent psychiatric beds
863 in any of the counties served by the commission. For purposes of
864 this subparagraph, the provisions of Section 41-7-193(1) requiring
865 substantial compliance with the projection of need as reported in
866 the current State Health Plan is waived. The total number of beds
867 that may be authorized under the authority of this subparagraph
868 shall not exceed twenty (20) beds. There shall be no prohibition
869 or restrictions on participation in the Medicaid program (Section
870 43-13-101 et seq.) for the person receiving the certificate of
871 need authorized under this subparagraph (a)(iv) or for the beds
872 converted pursuant to the authority of that certificate of need.

873 (v) The department may issue a certificate of need
874 to any county hospital located in Leflore County for the
875 construction or expansion of adult psychiatric beds or the
876 conversion of other beds to adult psychiatric beds, not to exceed
877 twenty (20) beds, provided that the recipient of the certificate
878 of need agrees in writing that the adult psychiatric beds will not
879 at any time be certified for participation in the Medicaid program
880 and that the hospital will not admit or keep any patients who are
881 participating in the Medicaid program in any of such adult
882 psychiatric beds. This written agreement by the recipient of the



883 certificate of need shall be fully binding on any subsequent owner
884 of the hospital if the ownership of the hospital is transferred at
885 any time after the issuance of the certificate of need. Agreement
886 that the adult psychiatric beds will not be certified for
887 participation in the Medicaid program shall be a condition of the
888 issuance of a certificate of need to any person under this
889 subparagraph (a)(v), and if such hospital at any time after the
890 issuance of the certificate of need, regardless of the ownership
891 of the hospital, has any of such adult psychiatric beds certified
892 for participation in the Medicaid program or admits or keeps any
893 Medicaid patients in such adult psychiatric beds, the State
894 Department of Health shall revoke the certificate of need, if it
895 is still outstanding, and shall deny or revoke the license of the
896 hospital at the time that the department determines, after a
897 hearing complying with due process, that the hospital has failed
898 to comply with any of the conditions upon which the certificate of
899 need was issued, as provided in this subparagraph and in the
900 written agreement by the recipient of the certificate of need.

901 (vi) The department may issue a certificate or
902 certificates of need for the expansion of child psychiatric beds
903 or the conversion of other beds to child psychiatric beds at the
904 University of Mississippi Medical Center. For purposes of this
905 subparagraph (a)(vi), the provision of Section 41-7-193(1)
906 requiring substantial compliance with the projection of need as
907 reported in the current State Health Plan is waived. The total
908 number of beds that may be authorized under the authority of this
909 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
910 shall be no prohibition or restrictions on participation in the
911 Medicaid program (Section 43-13-101 et seq.) for the hospital
912 receiving the certificate of need authorized under this
913 subparagraph (a)(vi) or for the beds converted pursuant to the
914 authority of that certificate of need.



915 (b) From and after July 1, 1990, no hospital,
916 psychiatric hospital or chemical dependency hospital shall be
917 authorized to add any child/adolescent psychiatric or
918 child/adolescent chemical dependency beds or convert any beds of
919 another category to child/adolescent psychiatric or
920 child/adolescent chemical dependency beds without a certificate of
921 need under the authority of subsection (1)(c) of this section.

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

925 (6) The State Department of Health shall issue a certificate
926 of need to a Mississippi corporation qualified to manage a
927 long-term care hospital as defined in Section 41-7-173(h)(xii) in
928 Harrison County, not to exceed eighty (80) beds, including any
929 necessary renovation or construction required for licensure and
930 certification, provided that the recipient of the certificate of
931 need agrees in writing that the long-term care hospital will not
932 at any time participate in the Medicaid program (Section 43-13-101
933 et seq.) or admit or keep any patients in the long-term care
934 hospital who are participating in the Medicaid program. This
935 written agreement by the recipient of the certificate of need
936 shall be fully binding on any subsequent owner of the long-term
937 care hospital, if the ownership of the facility is transferred at
938 any time after the issuance of the certificate of need. Agreement
939 that the long-term care hospital will not participate in the
940 Medicaid program shall be a condition of the issuance of a
941 certificate of need to any person under this subsection (6), and
942 if such long-term care hospital at any time after the issuance of
943 the certificate of need, regardless of the ownership of the
944 facility, participates in the Medicaid program or admits or keeps
945 any patients in the facility who are participating in the Medicaid
946 program, the State Department of Health shall revoke the
947 certificate of need, if it is still outstanding, and shall deny or



948 revoke the license of the long-term care hospital, at the time
949 that the department determines, after a hearing complying with due
950 process, that the facility has failed to comply with any of the
951 conditions upon which the certificate of need was issued, as
952 provided in this subsection and in the written agreement by the
953 recipient of the certificate of need. For purposes of this
954 subsection, the provision of Section 41-7-193(1) requiring
955 substantial compliance with the projection of need as reported in
956 the current State Health Plan is hereby waived.

957 (7) The State Department of Health may issue a certificate
958 of need to any hospital in the state to utilize a portion of its
959 beds for the "swing-bed" concept. Any such hospital must be in
960 conformance with the federal regulations regarding such swing-bed
961 concept at the time it submits its application for a certificate
962 of need to the State Department of Health, except that such
963 hospital may have more licensed beds or a higher average daily
964 census (ADC) than the maximum number specified in federal
965 regulations for participation in the swing-bed program. Any
966 hospital meeting all federal requirements for participation in the
967 swing-bed program which receives such certificate of need shall
968 render services provided under the swing-bed concept to any
969 patient eligible for Medicare (Title XVIII of the Social Security
970 Act) who is certified by a physician to be in need of such
971 services, and no such hospital shall permit any patient who is
972 eligible for both Medicaid and Medicare or eligible only for
973 Medicaid to stay in the swing beds of the hospital for more than
974 thirty (30) days per admission unless the hospital receives prior
975 approval for such patient from the Division of Medicaid, Office of
976 the Governor. Any hospital having more licensed beds or a higher
977 average daily census (ADC) than the maximum number specified in
978 federal regulations for participation in the swing-bed program
979 which receives such certificate of need shall develop a procedure
980 to insure that before a patient is allowed to stay in the swing



981 beds of the hospital, there are no vacant nursing home beds
982 available for that patient located within a fifty-mile radius of
983 the hospital. When any such hospital has a patient staying in the
984 swing beds of the hospital and the hospital receives notice from a
985 nursing home located within such radius that there is a vacant bed
986 available for that patient, the hospital shall transfer the
987 patient to the nursing home within a reasonable time after receipt
988 of the notice. Any hospital which is subject to the requirements
989 of the two (2) preceding sentences of this subsection may be
990 suspended from participation in the swing-bed program for a
991 reasonable period of time by the State Department of Health if the
992 department, after a hearing complying with due process, determines
993 that the hospital has failed to comply with any of those
994 requirements.

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

999 (9) The Department of Health shall not grant approval for or
1000 issue a certificate of need to any person proposing the
1001 establishment of, or expansion of the currently approved territory
1002 of, or the contracting to establish a home office, subunit or
1003 branch office within the space operated as a health care facility
1004 as defined in Section 41-7-173(h) (i) through (viii) by a health
1005 care facility as defined in subparagraph (ix) of Section
1006 41-7-173(h).

1007 (10) Health care facilities owned and/or operated by the
1008 state or its agencies are exempt from the restraints in this
1009 section against issuance of a certificate of need if such addition
1010 or expansion consists of repairing or renovation necessary to
1011 comply with the state licensure law. This exception shall not
1012 apply to the new construction of any building by such state
1013 facility. This exception shall not apply to any health care



1014 facilities owned and/or operated by counties, municipalities,
1015 districts, unincorporated areas, other defined persons, or any
1016 combination thereof.

1017 (11) The new construction, renovation or expansion of or
1018 addition to any health care facility defined in subparagraph (ii)
1019 (psychiatric hospital), subparagraph (iv) (skilled nursing
1020 facility), subparagraph (vi) (intermediate care facility),
1021 subparagraph (viii) (intermediate care facility for the mentally
1022 retarded) and subparagraph (x) (psychiatric residential treatment
1023 facility) of Section 41-7-173(h) which is owned by the State of
1024 Mississippi and under the direction and control of the State
1025 Department of Mental Health, and the addition of new beds or the
1026 conversion of beds from one category to another in any such
1027 defined health care facility which is owned by the State of
1028 Mississippi and under the direction and control of the State
1029 Department of Mental Health, shall not require the issuance of a
1030 certificate of need under Section 41-7-171 et seq.,
1031 notwithstanding any provision in Section 41-7-171 et seq. to the
1032 contrary.

1033 (12) The new construction, renovation or expansion of or
1034 addition to any veterans homes or domiciliaries for eligible
1035 veterans of the State of Mississippi as authorized under Section
1036 35-1-19 shall not require the issuance of a certificate of need,
1037 notwithstanding any provision in Section 41-7-171 et seq. to the
1038 contrary.

1039 (13) The new construction of a nursing facility or nursing
1040 facility beds or the conversion of other beds to nursing facility
1041 beds shall not require the issuance of a certificate of need,
1042 notwithstanding any provision in Section 41-7-171 et seq. to the
1043 contrary, if the conditions of this subsection are met.

1044 (a) Before any construction or conversion may be
1045 undertaken without a certificate of need, the owner of the nursing
1046 facility, in the case of an existing facility, or the applicant to



1047 construct a nursing facility, in the case of new construction,
1048 first must file a written notice of intent and sign a written
1049 agreement with the State Department of Health that the entire
1050 nursing facility will not at any time participate in or have any
1051 beds certified for participation in the Medicaid program (Section
1052 43-13-101 et seq.), will not admit or keep any patients in the
1053 nursing facility who are participating in the Medicaid program,
1054 and will not submit any claim for Medicaid reimbursement for any
1055 patient in the facility. This written agreement by the owner or
1056 applicant shall be a condition of exercising the authority under
1057 this subsection without a certificate of need, and the agreement
1058 shall be fully binding on any subsequent owner of the nursing
1059 facility if the ownership of the facility is transferred at any
1060 time after the agreement is signed. After the written agreement
1061 is signed, the Division of Medicaid and the State Department of
1062 Health shall not certify any beds in the nursing facility for
1063 participation in the Medicaid program. If the nursing facility
1064 violates the terms of the written agreement by participating in
1065 the Medicaid program, having any beds certified for participation
1066 in the Medicaid program, admitting or keeping any patient in the
1067 facility who is participating in the Medicaid program, or
1068 submitting any claim for Medicaid reimbursement for any patient in
1069 the facility, the State Department of Health shall revoke the
1070 license of the nursing facility at the time that the department
1071 determines, after a hearing complying with due process, that the
1072 facility has violated the terms of the written agreement.

1073 (b) For the purposes of this subsection, participation
1074 in the Medicaid program by a nursing facility includes Medicaid
1075 reimbursement of coinsurance and deductibles for recipients who
1076 are qualified Medicare beneficiaries and/or those who are dually
1077 eligible. Any nursing facility exercising the authority under
1078 this subsection may not bill or submit a claim to the Division of



1079 Medicaid for services to qualified Medicare beneficiaries and/or
1080 those who are dually eligible.

1081 (c) The new construction of a nursing facility or
1082 nursing facility beds or the conversion of other beds to nursing
1083 facility beds described in this section must be either a part of a
1084 completely new continuing care retirement community, as described
1085 in the latest edition of the Mississippi State Health Plan, or an
1086 addition to existing personal care and independent living
1087 components, and so that the completed project will be a continuing
1088 care retirement community, containing (i) independent living
1089 accommodations, (ii) personal care beds, and (iii) the nursing
1090 home facility beds. The three (3) components must be located on a
1091 single site and be operated as one (1) inseparable facility. The
1092 nursing facility component must contain a minimum of thirty (30)
1093 beds. Any nursing facility beds authorized by this section will
1094 not be counted against the bed need set forth in the State Health
1095 Plan, as identified in Section 41-7-171 et seq.

1096 This subsection (13) shall stand repealed from and after July
1097 1, 2005.

1098 (14) The State Department of Health shall issue a
1099 certificate of need to any hospital which is currently licensed
1100 for two hundred fifty (250) or more acute care beds and is located
1101 in any general hospital service area not having a comprehensive
1102 cancer center, for the establishment and equipping of such a
1103 center which provides facilities and services for outpatient
1104 radiation oncology therapy, outpatient medical oncology therapy,
1105 and appropriate support services including the provision of
1106 radiation therapy services. The provision of Section 41-7-193(1)
1107 regarding substantial compliance with the projection of need as
1108 reported in the current State Health Plan is waived for the
1109 purpose of this subsection.

1110 (15) The State Department of Health may authorize the
1111 transfer of hospital beds, not to exceed sixty (60) beds, from the



1112 North Panola Community Hospital to the South Panola Community
1113 Hospital. The authorization for the transfer of those beds shall
1114 be exempt from the certificate of need review process.

1115 (16) Nothing in this section or in any other provision of
1116 Section 41-7-171 et seq. shall prevent any nursing facility from
1117 designating an appropriate number of existing beds in the facility
1118 as beds for providing care exclusively to patients with
1119 Alzheimer's disease.

1120 **SECTION 3.** This act shall take effect and be in force from
1121 and after July 1, 2003.

