

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.

