

By: Senator(s) Minor

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2065

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ALL OF THE BEDS IN A PSYCHIATRIC RESIDENTIAL
3 TREATMENT FACILITY AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED
4 TO A HOSPITAL IN DESOTO COUNTY MAY PARTICIPATE IN MEDICAID, AND
5 THAT UP TO (36) ACUTE CHILD/ADOLESCENT PSYCHIATRIC BEDS IN SAID
6 HOSPITAL IN DESOTO COUNTY MAY PARTICIPATE IN MEDICAID; AND FOR
7 RELATED PURPOSES.

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

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

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

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

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

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

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



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

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

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

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

42 (ix) Home health services;

43 (x) Swing-bed services;

44 (xi) Ambulatory surgical services;

45 (xii) Magnetic resonance imaging services;

46 (xiii) Extracorporeal shock wave lithotripsy
47 services;

48 (xiv) Long-term care hospital services;

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

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



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

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

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

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

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



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

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

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

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

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



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

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



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

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

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

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

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



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

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



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

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

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



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

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

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



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



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

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



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

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



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

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



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



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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

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

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



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

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



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



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

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

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

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



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

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

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



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

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



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

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

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



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

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

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



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

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

873 (vii) Notwithstanding the restrictions placed on
874 Medicaid participation in subsection (4)(a) and (4)(a)(i) herein,
875 from and after the effective date of this act, a hospital in
876 DeSoto County currently operating Medicaid-certified acute
877 child/adolescent psychiatric beds may be certified for
878 participation in the Medicaid program for up to thirty-six (36)
879 such acute child/adolescent psychiatric beds, and claims may be
880 submitted for Medicaid reimbursement for all patients occupying



881 said thirty-six (36) beds. From and after the effective date of
882 this act, any restrictions or limitations on Medicaid
883 participation or reimbursement in connection with acute
884 child/adolescent psychiatric beds, whether statutory or in any
885 certificate of need, written statement or otherwise, shall be
886 deemed null and void. In order for all thirty (30) beds currently
887 in operation pursuant to a certificate of need to become certified
888 for Medicaid reimbursement, the recipient of the certificate of
889 need for the facility shall not be required to obtain an
890 additional certificate of need but shall only be required to
891 provide written notice to the State Department of Health, or its
892 successor, and the Division of Medicaid, or its successor, shall
893 promptly issue a written approval authorizing all such beds
894 currently in operation to be certified for Medicaid participation
895 and shall promptly take any and all action required to certify all
896 such beds for participation in the Medicaid program. From and
897 after the effective date of this act, the State Department of
898 Health, or its successor, shall not be authorized to revoke the
899 license of the hospital in DeSoto County on the grounds that the
900 facility admits or keeps, on a regular or continuing basis, all of
901 its acute child/adolescent psychiatric patients as participants in
902 the Medicaid program. There shall be no restriction or limitation
903 regarding Medicaid participation with respect to any subsequent
904 owner of the relevant DeSoto County Hospital.

905 (b) From and after July 1, 1990, no hospital,
906 psychiatric hospital or chemical dependency hospital shall be
907 authorized to add any child/adolescent psychiatric or
908 child/adolescent chemical dependency beds or convert any beds of
909 another category to child/adolescent psychiatric or
910 child/adolescent chemical dependency beds without a certificate of
911 need under the authority of subsection (1)(c) of this section.



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

915 (6) The State Department of Health shall issue a certificate
916 of need to a Mississippi corporation qualified to manage a
917 long-term care hospital as defined in Section 41-7-173(h) (xii) in
918 Harrison County, not to exceed eighty (80) beds, including any
919 necessary renovation or construction required for licensure and
920 certification, provided that the recipient of the certificate of
921 need agrees in writing that the long-term care hospital will not
922 at any time participate in the Medicaid program (Section 43-13-101
923 et seq.) or admit or keep any patients in the long-term care
924 hospital who are participating in the Medicaid program. This
925 written agreement by the recipient of the certificate of need
926 shall be fully binding on any subsequent owner of the long-term
927 care hospital, if the ownership of the facility is transferred at
928 any time after the issuance of the certificate of need. Agreement
929 that the long-term care hospital will not participate in the
930 Medicaid program shall be a condition of the issuance of a
931 certificate of need to any person under this subsection (6), and
932 if such long-term care hospital at any time after the issuance of
933 the certificate of need, regardless of the ownership of the
934 facility, participates in the Medicaid program or admits or keeps
935 any patients in the facility who are participating in the Medicaid
936 program, the State Department of Health shall revoke the
937 certificate of need, if it is still outstanding, and shall deny or
938 revoke the license of the long-term care hospital, at the time
939 that the department determines, after a hearing complying with due
940 process, that the facility has failed to comply with any of the
941 conditions upon which the certificate of need was issued, as
942 provided in this subsection and in the written agreement by the
943 recipient of the certificate of need. For purposes of this
944 subsection, the provision of Section 41-7-193(1) requiring



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

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



978 of the notice. Any hospital which is subject to the requirements
979 of the two (2) preceding sentences of this subsection may be
980 suspended from participation in the swing-bed program for a
981 reasonable period of time by the State Department of Health if the
982 department, after a hearing complying with due process, determines
983 that the hospital has failed to comply with any of those
984 requirements.

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

989 (9) The Department of Health shall not grant approval for or
990 issue a certificate of need to any person proposing the
991 establishment of, or expansion of the currently approved territory
992 of, or the contracting to establish a home office, subunit or
993 branch office within the space operated as a health care facility
994 as defined in Section 41-7-173(h) (i) through (viii) by a health
995 care facility as defined in subparagraph (ix) of Section
996 41-7-173(h).

997 (10) Health care facilities owned and/or operated by the
998 state or its agencies are exempt from the restraints in this
999 section against issuance of a certificate of need if such addition
1000 or expansion consists of repairing or renovation necessary to
1001 comply with the state licensure law. This exception shall not
1002 apply to the new construction of any building by such state
1003 facility. This exception shall not apply to any health care
1004 facilities owned and/or operated by counties, municipalities,
1005 districts, unincorporated areas, other defined persons, or any
1006 combination thereof.

1007 (11) The new construction, renovation or expansion of or
1008 addition to any health care facility defined in subparagraph (ii)
1009 (psychiatric hospital), subparagraph (iv) (skilled nursing
1010 facility), subparagraph (vi) (intermediate care facility),



1011 subparagraph (viii) (intermediate care facility for the mentally
1012 retarded) and subparagraph (x) (psychiatric residential treatment
1013 facility) of Section 41-7-173(h) which is owned by the State of
1014 Mississippi and under the direction and control of the State
1015 Department of Mental Health, and the addition of new beds or the
1016 conversion of beds from one category to another in any such
1017 defined health care facility which is owned by the State of
1018 Mississippi and under the direction and control of the State
1019 Department of Mental Health, shall not require the issuance of a
1020 certificate of need under Section 41-7-171 et seq.,
1021 notwithstanding any provision in Section 41-7-171 et seq. to the
1022 contrary.

1023 (12) The new construction, renovation or expansion of or
1024 addition to any veterans homes or domiciliaries for eligible
1025 veterans of the State of Mississippi as authorized under Section
1026 35-1-19 shall not require the issuance of a certificate of need,
1027 notwithstanding any provision in Section 41-7-171 et seq. to the
1028 contrary.

1029 (13) The new construction of a nursing facility or nursing
1030 facility beds or the conversion of other beds to nursing facility
1031 beds shall not require the issuance of a certificate of need,
1032 notwithstanding any provision in Section 41-7-171 et seq. to the
1033 contrary, if the conditions of this subsection are met.

1034 (a) Before any construction or conversion may be
1035 undertaken without a certificate of need, the owner of the nursing
1036 facility, in the case of an existing facility, or the applicant to
1037 construct a nursing facility, in the case of new construction,
1038 first must file a written notice of intent and sign a written
1039 agreement with the State Department of Health that the entire
1040 nursing facility will not at any time participate in or have any
1041 beds certified for participation in the Medicaid program (Section
1042 43-13-101 et seq.), will not admit or keep any patients in the
1043 nursing facility who are participating in the Medicaid program,



1044 and will not submit any claim for Medicaid reimbursement for any
1045 patient in the facility. This written agreement by the owner or
1046 applicant shall be a condition of exercising the authority under
1047 this subsection without a certificate of need, and the agreement
1048 shall be fully binding on any subsequent owner of the nursing
1049 facility if the ownership of the facility is transferred at any
1050 time after the agreement is signed. After the written agreement
1051 is signed, the Division of Medicaid and the State Department of
1052 Health shall not certify any beds in the nursing facility for
1053 participation in the Medicaid program. If the nursing facility
1054 violates the terms of the written agreement by participating in
1055 the Medicaid program, having any beds certified for participation
1056 in the Medicaid program, admitting or keeping any patient in the
1057 facility who is participating in the Medicaid program, or
1058 submitting any claim for Medicaid reimbursement for any patient in
1059 the facility, the State Department of Health shall revoke the
1060 license of the nursing facility at the time that the department
1061 determines, after a hearing complying with due process, that the
1062 facility has violated the terms of the written agreement.

1063 (b) For the purposes of this subsection, participation
1064 in the Medicaid program by a nursing facility includes Medicaid
1065 reimbursement of coinsurance and deductibles for recipients who
1066 are qualified Medicare beneficiaries and/or those who are dually
1067 eligible. Any nursing facility exercising the authority under
1068 this subsection may not bill or submit a claim to the Division of
1069 Medicaid for services to qualified Medicare beneficiaries and/or
1070 those who are dually eligible.

1071 (c) The new construction of a nursing facility or
1072 nursing facility beds or the conversion of other beds to nursing
1073 facility beds described in this section must be either a part of a
1074 completely new continuing care retirement community, as described
1075 in the latest edition of the Mississippi State Health Plan, or an
1076 addition to existing personal care and independent living



1077 components, and so that the completed project will be a continuing
1078 care retirement community, containing (i) independent living
1079 accommodations, (ii) personal care beds, and (iii) the nursing
1080 home facility beds. The three (3) components must be located on a
1081 single site and be operated as one (1) inseparable facility. The
1082 nursing facility component must contain a minimum of thirty (30)
1083 beds. Any nursing facility beds authorized by this section will
1084 not be counted against the bed need set forth in the State Health
1085 Plan, as identified in Section 41-7-171 et seq.

1086 This subsection (13) shall stand repealed from and after July
1087 1, 2005.

1088 (14) The State Department of Health shall issue a
1089 certificate of need to any hospital which is currently licensed
1090 for two hundred fifty (250) or more acute care beds and is located
1091 in any general hospital service area not having a comprehensive
1092 cancer center, for the establishment and equipping of such a
1093 center which provides facilities and services for outpatient
1094 radiation oncology therapy, outpatient medical oncology therapy,
1095 and appropriate support services including the provision of
1096 radiation therapy services. The provision of Section 41-7-193(1)
1097 regarding substantial compliance with the projection of need as
1098 reported in the current State Health Plan is waived for the
1099 purpose of this subsection.

1100 (15) The State Department of Health may authorize the
1101 transfer of hospital beds, not to exceed sixty (60) beds, from the
1102 North Panola Community Hospital to the South Panola Community
1103 Hospital. The authorization for the transfer of those beds shall
1104 be exempt from the certificate of need review process.

1105 (16) Nothing in this section or in any other provision of
1106 Section 41-7-171 et seq. shall prevent any nursing facility from
1107 designating an appropriate number of existing beds in the facility
1108 as beds for providing care exclusively to patients with
1109 Alzheimer's disease.



1110 **SECTION 2.** This act shall take effect and be in force from
1111 and after its passage.

