

By: Senator(s) Huggins

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2340

1 AN ACT TO CODIFY SECTION 41-9-210, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A CRITICAL CARE HOSPITAL TO RELICENSE ANY ACUTE CARE
3 BEDS WHICH HAVE BEEN DELICENSED BY THE STATE DEPARTMENT OF HEALTH;
4 TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO PROVIDE
5 THAT ANY SUCH RELICENSED BEDS SHALL BE EXEMPT FROM THE REQUIREMENT
6 OF A HEALTH CARE FACILITY CERTIFICATE OF NEED; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** The following provision shall be codified as

10 Section 41-9-210, Mississippi Code of 1972:

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



30 delicensure of some of its beds without seeking certificate of
31 need approval.

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, in the event
50 a health care facility has voluntarily delicensed some of its
51 existing bed complement, it may later relicense some or all of its
52 delicensed beds without the necessity of having to acquire a
53 certificate of need. The State Department of Health is hereby
54 required to maintain a record of such delicensing health care
55 facility and its voluntarily delicensed beds and to continue
56 counting such beds as part of the state's total bed count for
57 health care planning purposes. If a health care facility that has
58 voluntarily delicensed some of its beds later desires to relicense
59 some or all of its voluntarily delicensed beds, it shall notify
60 the State Department of Health of its intent to increase the
61 number of its licensed beds. The licensing authority for the
62 State Department of Health shall survey the health care facility



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

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

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

93 (e) The relocation of one or more health services from
94 one physical facility or site to another physical facility or
95 site, unless such relocation, which does not involve a capital



96 expenditure by or on behalf of a health care facility, (i) is to a
97 physical facility or site within one thousand three hundred twenty
98 (1,320) feet from the main entrance of the health care facility
99 where the health care service is located, or (ii) is the result of
100 an order of a court of appropriate jurisdiction or a result of
101 pending litigation in such court, or by order of the State
102 Department of Health, or by order of any other agency or legal
103 entity of the state, the federal government, or any political
104 subdivision of either, whose order is also approved by the State
105 Department of Health;

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

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

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



129 that there will be no increase in allowable costs to Medicaid from
130 revaluation of the assets or from increased interest and
131 depreciation as a result of the proposed change of ownership;

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

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

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

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

152 (a) The department may issue a certificate of need to
153 any person proposing the new construction of any health care
154 facility defined in subparagraphs (iv) and (vi) of Section
155 41-7-173(h) as part of a life care retirement facility, in any
156 county bordering on the Gulf of Mexico in which is located a
157 National Aeronautics and Space Administration facility, not to
158 exceed forty (40) beds. From and after July 1, 1999, there shall
159 be no prohibition or restrictions on participation in the Medicaid
160 program (Section 43-13-101 et seq.) for the beds in the health
161 care facility that were authorized under this paragraph (a).



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

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



195 by the recipient of the certificate of need. The total number of
196 beds that may be authorized under the authority of this paragraph
197 (c) shall not exceed sixty (60) beds.

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

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

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

223 (g) The State Department of Health may issue a
224 certificate of need for the construction or expansion of nursing
225 facility beds or the conversion of other beds to nursing facility
226 beds in either Hinds, Madison or Rankin County, not to exceed
227 sixty (60) beds. From and after July 1, 1999, there shall be no



228 prohibition or restrictions on participation in the Medicaid
229 program (Section 43-13-101 et seq.) for the beds in the nursing
230 facility that were authorized under this paragraph (g).

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

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



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

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

289 (k) The department may issue a certificate of need for
290 the construction of a nursing facility at a continuing care
291 retirement community in Lowndes County. The total number of beds
292 that may be authorized under the authority of this paragraph (k)
293 shall not exceed sixty (60) beds. From and after July 1, 2001,



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

319 (1) Provided that funds are specifically appropriated
320 therefor by the Legislature, the department may issue a
321 certificate of need to a rehabilitation hospital in Hinds County
322 for the construction of a sixty-bed long-term care nursing
323 facility dedicated to the care and treatment of persons with
324 severe disabilities including persons with spinal cord and
325 closed-head injuries and ventilator-dependent patients. The
326 provision of Section 41-7-193(1) regarding substantial compliance



327 with projection of need as reported in the current State Health
328 Plan is hereby waived for the purpose of this paragraph.

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



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

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



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

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



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



458 of the nursing facility beds within six (6) months after final
459 adjudication on the issuance of the certificate of need.

460 (p) The department may issue a certificate of need for
461 the construction of a municipally-owned nursing facility within
462 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
463 beds, provided that the recipient of the certificate of need
464 agrees in writing that the skilled nursing facility will not at
465 any time participate in the Medicaid program (Section 43-13-101 et
466 seq.) or admit or keep any patients in the skilled nursing
467 facility who are participating in the Medicaid program. This
468 written agreement by the recipient of the certificate of need
469 shall be fully binding on any subsequent owner of the skilled
470 nursing facility, if the ownership of the facility is transferred
471 at any time after the issuance of the certificate of need.

472 Agreement that the skilled nursing facility will not participate
473 in the Medicaid program shall be a condition of the issuance of a
474 certificate of need to any person under this paragraph (p), and if
475 such skilled nursing facility at any time after the issuance of
476 the certificate of need, regardless of the ownership of the
477 facility, participates in the Medicaid program or admits or keeps
478 any patients in the facility who are participating in the Medicaid
479 program, the State Department of Health shall revoke the
480 certificate of need, if it is still outstanding, and shall deny or
481 revoke the license of the skilled nursing facility, at the time
482 that the department determines, after a hearing complying with due
483 process, that the facility has failed to comply with any of the
484 conditions upon which the certificate of need was issued, as
485 provided in this paragraph and in the written agreement by the
486 recipient of the certificate of need. The provision of Section
487 43-7-193(1) regarding substantial compliance of the projection of
488 need as reported in the current State Health Plan is waived for
489 the purposes of this paragraph. If the certificate of need
490 authorized under this paragraph is not issued within twelve (12)



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

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

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



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

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

553 (iv) Subject to the provisions of subparagraph
554 (v), the certificate of need issued under subparagraph (ii) for
555 nursing facility beds in the two (2) counties from the state at
556 large during each fiscal year shall first be available for nursing



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

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

588 (vi) If more than one (1) application is made for
589 a certificate of need for nursing home facility beds available



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

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

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

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

612 (ii) Not more than twenty (20) beds may be
613 authorized by any certificate of need issued under this paragraph
614 (r), and not more than a total of sixty (60) beds may be
615 authorized in any Long-Term Care Planning District by all
616 certificates of need issued under this paragraph (r). However,
617 the total number of beds that may be authorized by all
618 certificates of need issued under this paragraph (r) during any
619 fiscal year shall not exceed one hundred twenty (120) beds, and
620 the total number of beds that may be authorized in any Long-Term
621 Care Planning District during any fiscal year shall not exceed
622 forty (40) beds. Of the certificates of need that are issued for



623 each Long-Term Care Planning District during the next two (2)
624 fiscal years, at least one (1) shall be issued for beds in the
625 northern part of the district, at least one (1) shall be issued
626 for beds in the central part of the district, and at least one (1)
627 shall be issued for beds in the southern part of the district.

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

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

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

652 (b) Of the total number of beds authorized under this
653 subsection, the department may issue a certificate or certificates
654 of need for the construction or expansion of psychiatric
655 residential treatment facility beds or the conversion of other



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



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

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



722 program, the State Department of Health shall revoke the license
723 of the facility, at the time that the department determines, after
724 a hearing complying with due process, that the facility has
725 violated the condition upon which the certificate of need was
726 issued, as provided in this paragraph and in the written
727 agreement.

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

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

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



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

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



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



820 and in the written agreement by the recipient of the certificate
821 of need.

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

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

849 If by January 1, 2002, there has been no significant
850 commencement of construction of the beds authorized under this
851 subparagraph (a)(iii), or no significant action taken to convert
852 existing beds to the beds authorized under this subparagraph, then



853 the certificate of need that was previously issued under this
854 subparagraph shall expire. If the previously issued certificate
855 of need expires, the department may accept applications for
856 issuance of another certificate of need for the beds authorized
857 under this subparagraph, and may issue a certificate of need to
858 authorize the construction, expansion or conversion of the beds
859 authorized under this subparagraph.

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

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



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

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

916 (b) From and after July 1, 1990, no hospital,
917 psychiatric hospital or chemical dependency hospital shall be
918 authorized to add any child/adolescent psychiatric or



919 child/adolescent chemical dependency beds or convert any beds of
920 another category to child/adolescent psychiatric or
921 child/adolescent chemical dependency beds without a certificate of
922 need under the authority of subsection (1)(c) of this section.

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

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



952 conditions upon which the certificate of need was issued, as
953 provided in this subsection and in the written agreement by the
954 recipient of the certificate of need. For purposes of this
955 subsection, the provision of Section 41-7-193(1) requiring
956 substantial compliance with the projection of need as reported in
957 the current State Health Plan is hereby waived.

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



985 swing beds of the hospital and the hospital receives notice from a
986 nursing home located within such radius that there is a vacant bed
987 available for that patient, the hospital shall transfer the
988 patient to the nursing home within a reasonable time after receipt
989 of the notice. Any hospital which is subject to the requirements
990 of the two (2) preceding sentences of this subsection may be
991 suspended from participation in the swing-bed program for a
992 reasonable period of time by the State Department of Health if the
993 department, after a hearing complying with due process, determines
994 that the hospital has failed to comply with any of those
995 requirements.

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

1000 (9) The Department of Health shall not grant approval for or
1001 issue a certificate of need to any person proposing the
1002 establishment of, or expansion of the currently approved territory
1003 of, or the contracting to establish a home office, subunit or
1004 branch office within the space operated as a health care facility
1005 as defined in Section 41-7-173(h) (i) through (viii) by a health
1006 care facility as defined in subparagraph (ix) of Section
1007 41-7-173(h).

1008 (10) Health care facilities owned and/or operated by the
1009 state or its agencies are exempt from the restraints in this
1010 section against issuance of a certificate of need if such addition
1011 or expansion consists of repairing or renovation necessary to
1012 comply with the state licensure law. This exception shall not
1013 apply to the new construction of any building by such state
1014 facility. This exception shall not apply to any health care
1015 facilities owned and/or operated by counties, municipalities,
1016 districts, unincorporated areas, other defined persons, or any
1017 combination thereof.



1018 (11) The new construction, renovation or expansion of or
1019 addition to any health care facility defined in subparagraph (ii)
1020 (psychiatric hospital), subparagraph (iv) (skilled nursing
1021 facility), subparagraph (vi) (intermediate care facility),
1022 subparagraph (viii) (intermediate care facility for the mentally
1023 retarded) and subparagraph (x) (psychiatric residential treatment
1024 facility) of Section 41-7-173(h) which is owned by the State of
1025 Mississippi and under the direction and control of the State
1026 Department of Mental Health, and the addition of new beds or the
1027 conversion of beds from one category to another in any such
1028 defined health care facility which is owned by the State of
1029 Mississippi and under the direction and control of the State
1030 Department of Mental Health, shall not require the issuance of a
1031 certificate of need under Section 41-7-171 et seq.,
1032 notwithstanding any provision in Section 41-7-171 et seq. to the
1033 contrary.

1034 (12) The new construction, renovation or expansion of or
1035 addition to any veterans homes or domiciliaries for eligible
1036 veterans of the State of Mississippi as authorized under Section
1037 35-1-19 shall not require the issuance of a certificate of need,
1038 notwithstanding any provision in Section 41-7-171 et seq. to the
1039 contrary.

1040 (13) The new construction of a nursing facility or nursing
1041 facility beds or the conversion of other beds to nursing facility
1042 beds shall not require the issuance of a certificate of need,
1043 notwithstanding any provision in Section 41-7-171 et seq. to the
1044 contrary, if the conditions of this subsection are met.

1045 (a) Before any construction or conversion may be
1046 undertaken without a certificate of need, the owner of the nursing
1047 facility, in the case of an existing facility, or the applicant to
1048 construct a nursing facility, in the case of new construction,
1049 first must file a written notice of intent and sign a written
1050 agreement with the State Department of Health that the entire



1051 nursing facility will not at any time participate in or have any
1052 beds certified for participation in the Medicaid program (Section
1053 43-13-101 et seq.), will not admit or keep any patients in the
1054 nursing facility who are participating in the Medicaid program,
1055 and will not submit any claim for Medicaid reimbursement for any
1056 patient in the facility. This written agreement by the owner or
1057 applicant shall be a condition of exercising the authority under
1058 this subsection without a certificate of need, and the agreement
1059 shall be fully binding on any subsequent owner of the nursing
1060 facility if the ownership of the facility is transferred at any
1061 time after the agreement is signed. After the written agreement
1062 is signed, the Division of Medicaid and the State Department of
1063 Health shall not certify any beds in the nursing facility for
1064 participation in the Medicaid program. If the nursing facility
1065 violates the terms of the written agreement by participating in
1066 the Medicaid program, having any beds certified for participation
1067 in the Medicaid program, admitting or keeping any patient in the
1068 facility who is participating in the Medicaid program, or
1069 submitting any claim for Medicaid reimbursement for any patient in
1070 the facility, the State Department of Health shall revoke the
1071 license of the nursing facility at the time that the department
1072 determines, after a hearing complying with due process, that the
1073 facility has violated the terms of the written agreement.

1074 (b) For the purposes of this subsection, participation
1075 in the Medicaid program by a nursing facility includes Medicaid
1076 reimbursement of coinsurance and deductibles for recipients who
1077 are qualified Medicare beneficiaries and/or those who are dually
1078 eligible. Any nursing facility exercising the authority under
1079 this subsection may not bill or submit a claim to the Division of
1080 Medicaid for services to qualified Medicare beneficiaries and/or
1081 those who are dually eligible.

1082 (c) The new construction of a nursing facility or
1083 nursing facility beds or the conversion of other beds to nursing



1084 facility beds described in this section must be either a part of a
1085 completely new continuing care retirement community, as described
1086 in the latest edition of the Mississippi State Health Plan, or an
1087 addition to existing personal care and independent living
1088 components, and so that the completed project will be a continuing
1089 care retirement community, containing (i) independent living
1090 accommodations, (ii) personal care beds, and (iii) the nursing
1091 home facility beds. The three (3) components must be located on a
1092 single site and be operated as one (1) inseparable facility. The
1093 nursing facility component must contain a minimum of thirty (30)
1094 beds. Any nursing facility beds authorized by this section will
1095 not be counted against the bed need set forth in the State Health
1096 Plan, as identified in Section 41-7-171 et seq.

1097 This subsection (13) shall stand repealed from and after July
1098 1, 2005.

1099 (14) The State Department of Health shall issue a
1100 certificate of need to any hospital which is currently licensed
1101 for two hundred fifty (250) or more acute care beds and is located
1102 in any general hospital service area not having a comprehensive
1103 cancer center, for the establishment and equipping of such a
1104 center which provides facilities and services for outpatient
1105 radiation oncology therapy, outpatient medical oncology therapy,
1106 and appropriate support services including the provision of
1107 radiation therapy services. The provision of Section 41-7-193(1)
1108 regarding substantial compliance with the projection of need as
1109 reported in the current State Health Plan is waived for the
1110 purpose of this subsection.

1111 (15) The State Department of Health may authorize the
1112 transfer of hospital beds, not to exceed sixty (60) beds, from the
1113 North Panola Community Hospital to the South Panola Community
1114 Hospital. The authorization for the transfer of those beds shall
1115 be exempt from the certificate of need review process.



1116 (16) Nothing in this section or in any other provision of
1117 Section 41-7-171 et seq. shall prevent any nursing facility from
1118 designating an appropriate number of existing beds in the facility
1119 as beds for providing care exclusively to patients with
1120 Alzheimer's disease.

1121 **SECTION 3.** This act shall take effect and be in force from
1122 and after July 1, 2003.

