

By: Senator(s) Huggins

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2340  
(As Sent to Governor)

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.

