

By: Senator(s) Chaney

To: Public Health and
Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2679

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO RESCIND A CERTAIN CERTIFICATE OF NEED AUTHORIZING PSYCHIATRIC
3 RESIDENTIAL TREATMENT FACILITY BEDS IN WARREN COUNTY AND TO
4 RESCIND A CERTAIN CERTIFICATE OF NEED AUTHORIZING CHILD/ADOLESCENT
5 PSYCHIATRIC BEDS IN WARREN COUNTY; TO DIRECT THE STATE DEPARTMENT
6 OF HEALTH TO ISSUE A NEW CERTIFICATE OF NEED AUTHORIZING
7 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS AND A NEW
8 CERTIFICATE OF NEED AUTHORIZING CHILD/ADOLESCENT PSYCHIATRIC BEDS
9 IN WARREN COUNTY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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



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

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

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

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

44 (ix) Home health services;

45 (x) Swing-bed services;

46 (xi) Ambulatory surgical services;

47 (xii) Magnetic resonance imaging services;

48 (xiii) Extracorporeal shock wave lithotripsy
49 services;

50 (xiv) Long-term care hospital services;

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

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



63 subdivision of either, whose order is also approved by the State
64 Department of Health;

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

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

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

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



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

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

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

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

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



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

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



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

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

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

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

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



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

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



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

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

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



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

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

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



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



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

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



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

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



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

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



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



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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

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

611 (b) The certificate of need issued under authority of
612 this paragraph (b) is hereby rescinded, and any certificate of
613 need issued under authority of this paragraph (b) shall be void
614 and of no effect. * * *

615 * * *

616 (c) Of the total number of beds authorized under this
617 subsection, the department shall issue a certificate of need to a
618 hospital currently operating Medicaid-certified acute psychiatric
619 beds for adolescents in DeSoto County, for the establishment of a



620 forty-bed psychiatric residential treatment facility in DeSoto
621 County, provided that the hospital agrees in writing (i) that the
622 hospital shall give priority for the use of those forty (40) beds
623 to Mississippi residents who are presently being treated in
624 out-of-state facilities, and (ii) that no more than fifteen (15)
625 of the beds at the psychiatric residential treatment facility will
626 be certified for participation in the Medicaid program (Section
627 43-13-101 et seq.), and that no claim will be submitted for
628 Medicaid reimbursement for more than fifteen (15) patients in the
629 psychiatric residential treatment facility in any day or for any
630 patient in the psychiatric residential treatment facility who is
631 in a bed that is not Medicaid-certified. This written agreement
632 by the recipient of the certificate of need shall be a condition
633 of the issuance of the certificate of need under this paragraph,
634 and the agreement shall be fully binding on any subsequent owner
635 of the psychiatric residential treatment facility if the ownership
636 of the facility is transferred at any time after the issuance of
637 the certificate of need. After this written agreement is
638 executed, the Division of Medicaid and the State Department of
639 Health shall not certify more than fifteen (15) of the beds in the
640 psychiatric residential treatment facility for participation in
641 the Medicaid program. If the psychiatric residential treatment
642 facility violates the terms of the written agreement by admitting
643 or keeping in the facility on a regular or continuing basis more
644 than fifteen (15) patients who are participating in the Medicaid
645 program, the State Department of Health shall revoke the license
646 of the facility, at the time that the department determines, after
647 a hearing complying with due process, that the facility has
648 violated the condition upon which the certificate of need was
649 issued, as provided in this paragraph and in the written
650 agreement.

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



653 of need for the construction or expansion of psychiatric
654 residential treatment facility beds or the conversion of other
655 beds to psychiatric treatment facility beds, not to exceed thirty
656 (30) psychiatric residential treatment facility beds, in either
657 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
658 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

659 (e) Of the total number of beds authorized under this
660 subsection (3) the department shall issue a certificate of need to
661 a privately-owned, nonprofit psychiatric residential treatment
662 facility in Hinds County for an eight-bed expansion of the
663 facility, provided that the facility agrees in writing that the
664 facility shall give priority for the use of those eight (8) beds
665 to Mississippi residents who are presently being treated in
666 out-of-state facilities.

667 (f) The department shall issue a certificate of need to
668 a one-hundred-thirty-four-bed specialty hospital located on
669 twenty-nine and forty-four one-hundredths (29.44) commercial acres
670 at 5900 Highway 39 North in Meridian (Lauderdale County),
671 Mississippi, for the addition, construction or expansion of
672 child/adolescent psychiatric residential treatment facility beds
673 in Lauderdale County. As a condition of issuance of the
674 certificate of need under this paragraph, the facility shall give
675 priority in admissions to the child/adolescent psychiatric
676 residential treatment facility beds authorized under this
677 paragraph to patients who otherwise would require out-of-state
678 placement. The Division of Medicaid, in conjunction with the
679 Department of Human Services, shall furnish the facility a list of
680 all out-of-state patients on a quarterly basis. Furthermore,
681 notice shall also be provided to the parent, custodial parent or
682 guardian of each out-of-state patient notifying them of the
683 priority status granted by this paragraph. For purposes of this
684 paragraph, the provisions of Section 41-7-193(1) requiring
685 substantial compliance with the projection of need as reported in



686 the current State Health Plan are waived. The total number of
687 child/adolescent psychiatric residential treatment facility beds
688 that may be authorized under the authority of this paragraph shall
689 be sixty (60) beds. There shall be no prohibition or restrictions
690 on participation in the Medicaid program (Section 43-13-101 et
691 seq.) for the person receiving the certificate of need authorized
692 under this paragraph or for the beds converted pursuant to the
693 authority of that certificate of need.

694 (g) Of the total number of beds authorized under this
695 subsection, the department shall, immediately upon passage of this
696 Senate Bill No. 2679, 2003 Regular Session, issue a certificate of
697 need for the construction or expansion of psychiatric residential
698 treatment facility beds or the conversion of other beds to
699 psychiatric residential treatment facility beds in Warren County,
700 not to exceed sixty (60) psychiatric residential treatment
701 facility beds, provided that the facility agrees in writing that
702 no more than thirty (30) of the beds at the psychiatric
703 residential treatment facility will be certified for participation
704 in the Medicaid program (Section 43-13-101 et seq.) for the use of
705 any patients other than those who are participating only in the
706 Medicaid program of another state, and that no claim will be
707 submitted to the Division of Medicaid for Medicaid reimbursement
708 for more than thirty (30) patients in the psychiatric residential
709 treatment facility in any day or for any patient in the
710 psychiatric residential treatment facility who is in a bed that is
711 not Medicaid-certified. This written agreement by the recipient
712 of the certificate of need shall be a condition of the issuance of
713 the certificate of need under this paragraph, and the agreement
714 shall be fully binding on any subsequent owner of the psychiatric
715 residential treatment facility if the ownership of the facility is
716 transferred at any time after the issuance of the certificate of
717 need. After this written agreement is executed, the Division of
718 Medicaid and the State Department of Health shall not certify more



719 than thirty (30) of the beds in the psychiatric residential
720 treatment facility for participation in the Medicaid program for
721 the use of any patients other than those who are participating
722 only in the Medicaid program of another state. If the psychiatric
723 residential treatment facility violates the terms of the written
724 agreement by admitting or keeping in the facility on a regular or
725 continuing basis more than thirty (30) patients who are
726 participating in the Mississippi Medicaid program, the State
727 Department of Health shall revoke the license of the facility, at
728 the time that the department determines, after a hearing complying
729 with due process, that the facility has violated the condition
730 upon which the certificate of need was issued, as provided in this
731 paragraph and in the written agreement.

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

748 (i) The department may issue certificates of need
749 to any person for any purpose described in this subsection,
750 provided that the hospital, psychiatric hospital or chemical
751 dependency hospital does not participate in the Medicaid program



752 (Section 43-13-101 et seq.) at the time of the application for the
753 certificate of need and the owner of the hospital, psychiatric
754 hospital or chemical dependency hospital agrees in writing that
755 the hospital, psychiatric hospital or chemical dependency hospital
756 will not at any time participate in the Medicaid program or admit
757 or keep any patients who are participating in the Medicaid program
758 in the hospital, psychiatric hospital or chemical dependency
759 hospital. This written agreement by the recipient of the
760 certificate of need shall be fully binding on any subsequent owner
761 of the hospital, psychiatric hospital or chemical dependency
762 hospital, if the ownership of the facility is transferred at any
763 time after the issuance of the certificate of need. Agreement
764 that the hospital, psychiatric hospital or chemical dependency
765 hospital will not participate in the Medicaid program shall be a
766 condition of the issuance of a certificate of need to any person
767 under this subparagraph (a)(i), and if such hospital, psychiatric
768 hospital or chemical dependency hospital at any time after the
769 issuance of the certificate of need, regardless of the ownership
770 of the facility, participates in the Medicaid program or admits or
771 keeps any patients in the hospital, psychiatric hospital or
772 chemical dependency hospital who are participating in the Medicaid
773 program, the State Department of Health shall revoke the
774 certificate of need, if it is still outstanding, and shall deny or
775 revoke the license of the hospital, psychiatric hospital or
776 chemical dependency hospital, at the time that the department
777 determines, after a hearing complying with due process, that the
778 hospital, psychiatric hospital or chemical dependency hospital has
779 failed to comply with any of the conditions upon which the
780 certificate of need was issued, as provided in this subparagraph
781 and in the written agreement by the recipient of the certificate
782 of need.

783 (ii) The department may issue a certificate of
784 need for the conversion of existing beds in a county hospital in



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

796 (iii) The certificate of need issued under
797 authority of this subparagraph (iii) is hereby rescinded, and any
798 certificate of need issued under authority of this subparagraph
799 (iii) shall be void and of no effect. * * *

800 * * *

801 (iv) The department shall issue a certificate of
802 need to the Region 7 Mental Health/Retardation Commission for the
803 construction or expansion of child/adolescent psychiatric beds or
804 the conversion of other beds to child/adolescent psychiatric beds
805 in any of the counties served by the commission. For purposes of
806 this subparagraph, the provisions of Section 41-7-193(1) requiring
807 substantial compliance with the projection of need as reported in
808 the current State Health Plan is waived. The total number of beds
809 that may be authorized under the authority of this subparagraph
810 shall not exceed twenty (20) beds. There shall be no prohibition
811 or restrictions on participation in the Medicaid program (Section
812 43-13-101 et seq.) for the person receiving the certificate of
813 need authorized under this subparagraph (a)(iv) or for the beds
814 converted pursuant to the authority of that certificate of need.

815 (v) The department may issue a certificate of need
816 to any county hospital located in Leflore County for the
817 construction or expansion of adult psychiatric beds or the



818 conversion of other beds to adult psychiatric beds, not to exceed
819 twenty (20) beds, provided that the recipient of the certificate
820 of need agrees in writing that the adult psychiatric beds will not
821 at any time be certified for participation in the Medicaid program
822 and that the hospital will not admit or keep any patients who are
823 participating in the Medicaid program in any of such adult
824 psychiatric beds. This written agreement by the recipient of the
825 certificate of need shall be fully binding on any subsequent owner
826 of the hospital if the ownership of the hospital is transferred at
827 any time after the issuance of the certificate of need. Agreement
828 that the adult psychiatric beds will not be certified for
829 participation in the Medicaid program shall be a condition of the
830 issuance of a certificate of need to any person under this
831 subparagraph (a)(v), and if such hospital at any time after the
832 issuance of the certificate of need, regardless of the ownership
833 of the hospital, has any of such adult psychiatric beds certified
834 for participation in the Medicaid program or admits or keeps any
835 Medicaid patients in such adult psychiatric beds, the State
836 Department of Health shall revoke the certificate of need, if it
837 is still outstanding, and shall deny or revoke the license of the
838 hospital at the time that the department determines, after a
839 hearing complying with due process, that the hospital has failed
840 to comply with any of the conditions upon which the certificate of
841 need was issued, as provided in this subparagraph and in the
842 written agreement by the recipient of the certificate of need.

843 (vi) The department may issue a certificate or
844 certificates of need for the expansion of child psychiatric beds
845 or the conversion of other beds to child psychiatric beds at the
846 University of Mississippi Medical Center. For purposes of this
847 subparagraph (a)(vi), the provision of Section 41-7-193(1)
848 requiring substantial compliance with the projection of need as
849 reported in the current State Health Plan is waived. The total
850 number of beds that may be authorized under the authority of this



851 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
852 shall be no prohibition or restrictions on participation in the
853 Medicaid program (Section 43-13-101 et seq.) for the hospital
854 receiving the certificate of need authorized under this
855 subparagraph (a)(vi) or for the beds converted pursuant to the
856 authority of that certificate of need.

857 (vii) The department shall, immediately upon
858 passage of this Senate Bill No. 2679, 2003 Regular Session, issue
859 a certificate of need for the construction or expansion of
860 child/adolescent psychiatric beds or the conversion of other beds
861 to child/adolescent psychiatric beds in Warren County. For
862 purposes of this subparagraph, the provisions of Section
863 41-7-193(1) requiring substantial compliance with the projection
864 of need as reported in the current State Health Plan are waived.
865 The total number of beds that may be authorized under the
866 authority of this subparagraph shall not exceed twenty (20) beds.
867 There shall be no prohibition or restrictions on participation in
868 the Medicaid program (Section 43-13-101 et seq.) for the person
869 receiving the certificate of need authorized under this
870 subparagraph (a)(vii) or for the beds converted pursuant to the
871 authority of that certificate of need.

872 (b) From and after July 1, 1990, no hospital,
873 psychiatric hospital or chemical dependency hospital shall be
874 authorized to add any child/adolescent psychiatric or
875 child/adolescent chemical dependency beds or convert any beds of
876 another category to child/adolescent psychiatric or
877 child/adolescent chemical dependency beds without a certificate of
878 need under the authority of subsection (1)(c) of this section.

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

882 (6) The State Department of Health shall issue a certificate
883 of need to a Mississippi corporation qualified to manage a



884 long-term care hospital as defined in Section 41-7-173(h) (xii) in
885 Harrison County, not to exceed eighty (80) beds, including any
886 necessary renovation or construction required for licensure and
887 certification, provided that the recipient of the certificate of
888 need agrees in writing that the long-term care hospital will not
889 at any time participate in the Medicaid program (Section 43-13-101
890 et seq.) or admit or keep any patients in the long-term care
891 hospital who are participating in the Medicaid program. This
892 written agreement by the recipient of the certificate of need
893 shall be fully binding on any subsequent owner of the long-term
894 care hospital, if the ownership of the facility is transferred at
895 any time after the issuance of the certificate of need. Agreement
896 that the long-term care hospital will not participate in the
897 Medicaid program shall be a condition of the issuance of a
898 certificate of need to any person under this subsection (6), and
899 if such long-term care hospital at any time after the issuance of
900 the certificate of need, regardless of the ownership of the
901 facility, participates in the Medicaid program or admits or keeps
902 any patients in the facility who are participating in the Medicaid
903 program, the State Department of Health shall revoke the
904 certificate of need, if it is still outstanding, and shall deny or
905 revoke the license of the long-term care hospital, at the time
906 that the department determines, after a hearing complying with due
907 process, that the facility has failed to comply with any of the
908 conditions upon which the certificate of need was issued, as
909 provided in this subsection and in the written agreement by the
910 recipient of the certificate of need. For purposes of this
911 subsection, the provision of Section 41-7-193(1) requiring
912 substantial compliance with the projection of need as reported in
913 the current State Health Plan is hereby waived.

914 (7) The State Department of Health may issue a certificate
915 of need to any hospital in the state to utilize a portion of its
916 beds for the "swing-bed" concept. Any such hospital must be in



917 conformance with the federal regulations regarding such swing-bed
918 concept at the time it submits its application for a certificate
919 of need to the State Department of Health, except that such
920 hospital may have more licensed beds or a higher average daily
921 census (ADC) than the maximum number specified in federal
922 regulations for participation in the swing-bed program. Any
923 hospital meeting all federal requirements for participation in the
924 swing-bed program which receives such certificate of need shall
925 render services provided under the swing-bed concept to any
926 patient eligible for Medicare (Title XVIII of the Social Security
927 Act) who is certified by a physician to be in need of such
928 services, and no such hospital shall permit any patient who is
929 eligible for both Medicaid and Medicare or eligible only for
930 Medicaid to stay in the swing beds of the hospital for more than
931 thirty (30) days per admission unless the hospital receives prior
932 approval for such patient from the Division of Medicaid, Office of
933 the Governor. Any hospital having more licensed beds or a higher
934 average daily census (ADC) than the maximum number specified in
935 federal regulations for participation in the swing-bed program
936 which receives such certificate of need shall develop a procedure
937 to insure that before a patient is allowed to stay in the swing
938 beds of the hospital, there are no vacant nursing home beds
939 available for that patient located within a fifty-mile radius of
940 the hospital. When any such hospital has a patient staying in the
941 swing beds of the hospital and the hospital receives notice from a
942 nursing home located within such radius that there is a vacant bed
943 available for that patient, the hospital shall transfer the
944 patient to the nursing home within a reasonable time after receipt
945 of the notice. Any hospital which is subject to the requirements
946 of the two (2) preceding sentences of this subsection may be
947 suspended from participation in the swing-bed program for a
948 reasonable period of time by the State Department of Health if the
949 department, after a hearing complying with due process, determines



950 that the hospital has failed to comply with any of those
951 requirements.

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

956 (9) The Department of Health shall not grant approval for or
957 issue a certificate of need to any person proposing the
958 establishment of, or expansion of the currently approved territory
959 of, or the contracting to establish a home office, subunit or
960 branch office within the space operated as a health care facility
961 as defined in Section 41-7-173(h) (i) through (viii) by a health
962 care facility as defined in subparagraph (ix) of Section
963 41-7-173(h).

964 (10) Health care facilities owned and/or operated by the
965 state or its agencies are exempt from the restraints in this
966 section against issuance of a certificate of need if such addition
967 or expansion consists of repairing or renovation necessary to
968 comply with the state licensure law. This exception shall not
969 apply to the new construction of any building by such state
970 facility. This exception shall not apply to any health care
971 facilities owned and/or operated by counties, municipalities,
972 districts, unincorporated areas, other defined persons, or any
973 combination thereof.

974 (11) The new construction, renovation or expansion of or
975 addition to any health care facility defined in subparagraph (ii)
976 (psychiatric hospital), subparagraph (iv) (skilled nursing
977 facility), subparagraph (vi) (intermediate care facility),
978 subparagraph (viii) (intermediate care facility for the mentally
979 retarded) and subparagraph (x) (psychiatric residential treatment
980 facility) of Section 41-7-173(h) which is owned by the State of
981 Mississippi and under the direction and control of the State
982 Department of Mental Health, and the addition of new beds or the



983 conversion of beds from one category to another in any such
984 defined health care facility which is owned by the State of
985 Mississippi and under the direction and control of the State
986 Department of Mental Health, shall not require the issuance of a
987 certificate of need under Section 41-7-171 et seq.,
988 notwithstanding any provision in Section 41-7-171 et seq. to the
989 contrary.

990 (12) The new construction, renovation or expansion of or
991 addition to any veterans homes or domiciliaries for eligible
992 veterans of the State of Mississippi as authorized under Section
993 35-1-19 shall not require the issuance of a certificate of need,
994 notwithstanding any provision in Section 41-7-171 et seq. to the
995 contrary.

996 (13) The new construction of a nursing facility or nursing
997 facility beds or the conversion of other beds to nursing facility
998 beds shall not require the issuance of a certificate of need,
999 notwithstanding any provision in Section 41-7-171 et seq. to the
1000 contrary, if the conditions of this subsection are met.

1001 (a) Before any construction or conversion may be
1002 undertaken without a certificate of need, the owner of the nursing
1003 facility, in the case of an existing facility, or the applicant to
1004 construct a nursing facility, in the case of new construction,
1005 first must file a written notice of intent and sign a written
1006 agreement with the State Department of Health that the entire
1007 nursing facility will not at any time participate in or have any
1008 beds certified for participation in the Medicaid program (Section
1009 43-13-101 et seq.), will not admit or keep any patients in the
1010 nursing facility who are participating in the Medicaid program,
1011 and will not submit any claim for Medicaid reimbursement for any
1012 patient in the facility. This written agreement by the owner or
1013 applicant shall be a condition of exercising the authority under
1014 this subsection without a certificate of need, and the agreement
1015 shall be fully binding on any subsequent owner of the nursing



1016 facility if the ownership of the facility is transferred at any
1017 time after the agreement is signed. After the written agreement
1018 is signed, the Division of Medicaid and the State Department of
1019 Health shall not certify any beds in the nursing facility for
1020 participation in the Medicaid program. If the nursing facility
1021 violates the terms of the written agreement by participating in
1022 the Medicaid program, having any beds certified for participation
1023 in the Medicaid program, admitting or keeping any patient in the
1024 facility who is participating in the Medicaid program, or
1025 submitting any claim for Medicaid reimbursement for any patient in
1026 the facility, the State Department of Health shall revoke the
1027 license of the nursing facility at the time that the department
1028 determines, after a hearing complying with due process, that the
1029 facility has violated the terms of the written agreement.

1030 (b) For the purposes of this subsection, participation
1031 in the Medicaid program by a nursing facility includes Medicaid
1032 reimbursement of coinsurance and deductibles for recipients who
1033 are qualified Medicare beneficiaries and/or those who are dually
1034 eligible. Any nursing facility exercising the authority under
1035 this subsection may not bill or submit a claim to the Division of
1036 Medicaid for services to qualified Medicare beneficiaries and/or
1037 those who are dually eligible.

1038 (c) The new construction of a nursing facility or
1039 nursing facility beds or the conversion of other beds to nursing
1040 facility beds described in this section must be either a part of a
1041 completely new continuing care retirement community, as described
1042 in the latest edition of the Mississippi State Health Plan, or an
1043 addition to existing personal care and independent living
1044 components, and so that the completed project will be a continuing
1045 care retirement community, containing (i) independent living
1046 accommodations, (ii) personal care beds, and (iii) the nursing
1047 home facility beds. The three (3) components must be located on a
1048 single site and be operated as one (1) inseparable facility. The



1049 nursing facility component must contain a minimum of thirty (30)
1050 beds. Any nursing facility beds authorized by this section will
1051 not be counted against the bed need set forth in the State Health
1052 Plan, as identified in Section 41-7-171 et seq.

1053 This subsection (13) shall stand repealed from and after July
1054 1, 2005.

1055 (14) The State Department of Health shall issue a
1056 certificate of need to any hospital which is currently licensed
1057 for two hundred fifty (250) or more acute care beds and is located
1058 in any general hospital service area not having a comprehensive
1059 cancer center, for the establishment and equipping of such a
1060 center which provides facilities and services for outpatient
1061 radiation oncology therapy, outpatient medical oncology therapy,
1062 and appropriate support services including the provision of
1063 radiation therapy services. The provision of Section 41-7-193(1)
1064 regarding substantial compliance with the projection of need as
1065 reported in the current State Health Plan is waived for the
1066 purpose of this subsection.

1067 (15) The State Department of Health may authorize the
1068 transfer of hospital beds, not to exceed sixty (60) beds, from the
1069 North Panola Community Hospital to the South Panola Community
1070 Hospital. The authorization for the transfer of those beds shall
1071 be exempt from the certificate of need review process.

1072 (16) Nothing in this section or in any other provision of
1073 Section 41-7-171 et seq. shall prevent any nursing facility from
1074 designating an appropriate number of existing beds in the facility
1075 as beds for providing care exclusively to patients with
1076 Alzheimer's disease.

1077 **SECTION 2.** This act shall take effect and be in force from
1078 and after its passage.

