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To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 854

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A  
3 CERTIFICATE OF NEED TO A PRIVATELY-OWNED PSYCHIATRIC RESIDENTIAL  
4 TREATMENT FACILITY IN SIMPSON COUNTY FOR THE ADDITION,  
5 CONSTRUCTION OR EXPANSION OF FOURTEEN PSYCHIATRIC RESIDENTIAL  
6 TREATMENT FACILITY BEDS, PROVIDED THAT THE FACILITY AGREES TO GIVE  
7 PRIORITY FOR THE USE OF THOSE BEDS TO MISSISSIPPI RESIDENTS WHO  
8 ARE PRESENTLY BEING TREATED IN OUT-OF-STATE FACILITIES; AND FOR  
9 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; however, if a health  
29 care facility has voluntarily delicensed some of its existing bed  
30 complement, it may later relicense some or all of its delicensed

31 beds without the necessity of having to acquire a certificate of  
32 need. The State Department of Health shall maintain a record of  
33 the delicensing health care facility and its voluntarily  
34 delicensed beds and continue counting those beds as part of the  
35 state's total bed count for health care planning purposes. If a  
36 health care facility that has voluntarily delicensed some of its  
37 beds later desires to relicense some or all of its voluntarily  
38 delicensed beds, it shall notify the State Department of Health of  
39 its intent to increase the number of its licensed beds. The State  
40 Department of Health shall survey the health care facility within  
41 thirty (30) days of that notice and, if appropriate, issue the  
42 health care facility a new license reflecting the new contingent  
43 of beds. However, in no event may a health care facility that has  
44 voluntarily delicensed some of its beds be reissued a license to  
45 operate beds in excess of its bed count before the voluntary  
46 delicensure of some of its beds without seeking certificate of  
47 need approval;

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

- 52 (i) Open heart surgery services;
- 53 (ii) Cardiac catheterization services;
- 54 (iii) Comprehensive inpatient rehabilitation  
55 services;
- 56 (iv) Licensed psychiatric services;
- 57 (v) Licensed chemical dependency services;
- 58 (vi) Radiation therapy services;
- 59 (vii) Diagnostic imaging services of an invasive  
60 nature, i.e. invasive digital angiography;
- 61 (viii) Nursing home care as defined in  
62 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 63 (ix) Home health services;

64 (x) Swing-bed services;  
65 (xi) Ambulatory surgical services;  
66 (xii) Magnetic resonance imaging services;  
67 (xiii) Extracorporeal shock wave lithotripsy  
68 services;  
69 (xiv) Long-term care hospital services;  
70 (xv) Positron Emission Tomography (PET) services;  
71 (e) The relocation of one or more health services from  
72 one physical facility or site to another physical facility or  
73 site, unless such relocation, which does not involve a capital  
74 expenditure by or on behalf of a health care facility, (i) is to a  
75 physical facility or site within one thousand three hundred twenty  
76 (1,320) feet from the main entrance of the health care facility  
77 where the health care service is located, or (ii) is the result of  
78 an order of a court of appropriate jurisdiction or a result of  
79 pending litigation in such court, or by order of the State  
80 Department of Health, or by order of any other agency or legal  
81 entity of the state, the federal government, or any political  
82 subdivision of either, whose order is also approved by the State  
83 Department of Health;  
84 (f) The acquisition or otherwise control of any major  
85 medical equipment for the provision of medical services; provided,  
86 however, (i) the acquisition of any major medical equipment used  
87 only for research purposes, and (ii) the acquisition of major  
88 medical equipment to replace medical equipment for which a  
89 facility is already providing medical services and for which the  
90 State Department of Health has been notified before the date of  
91 such acquisition shall be exempt from this paragraph; an  
92 acquisition for less than fair market value must be reviewed, if  
93 the acquisition at fair market value would be subject to review;  
94 (g) Changes of ownership of existing health care  
95 facilities in which a notice of intent is not filed with the State  
96 Department of Health at least thirty (30) days prior to the date

97 such change of ownership occurs, or a change in services or bed  
98 capacity as prescribed in paragraph (c) or (d) of this subsection  
99 as a result of the change of ownership; an acquisition for less  
100 than fair market value must be reviewed, if the acquisition at  
101 fair market value would be subject to review;

102 (h) The change of ownership of any health care facility  
103 defined in subparagraphs (iv), (vi) and (viii) of Section  
104 41-7-173(h), in which a notice of intent as described in paragraph  
105 (g) has not been filed and if the Executive Director, Division of  
106 Medicaid, Office of the Governor, has not certified in writing  
107 that there will be no increase in allowable costs to Medicaid from  
108 revaluation of the assets or from increased interest and  
109 depreciation as a result of the proposed change of ownership;

110 (i) Any activity described in paragraphs (a) through  
111 (h) if undertaken by any person if that same activity would  
112 require certificate of need approval if undertaken by a health  
113 care facility;

114 (j) Any capital expenditure or deferred capital  
115 expenditure by or on behalf of a health care facility not covered  
116 by paragraphs (a) through (h);

117 (k) The contracting of a health care facility as  
118 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
119 to establish a home office, subunit, or branch office in the space  
120 operated as a health care facility through a formal arrangement  
121 with an existing health care facility as defined in subparagraph  
122 (ix) of Section 41-7-173(h).

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

130           (a) The department may issue a certificate of need to  
131 any person proposing the new construction of any health care  
132 facility defined in subparagraphs (iv) and (vi) of Section  
133 41-7-173(h) as part of a life care retirement facility, in any  
134 county bordering on the Gulf of Mexico in which is located a  
135 National Aeronautics and Space Administration facility, not to  
136 exceed forty (40) beds. From and after July 1, 1999, there shall  
137 be no prohibition or restrictions on participation in the Medicaid  
138 program (Section 43-13-101 et seq.) for the beds in the health  
139 care facility that were authorized under this paragraph (a).

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

147           (c) The department may issue a certificate of need for  
148 the addition to or expansion of any skilled nursing facility that  
149 is part of an existing continuing care retirement community  
150 located in Madison County, provided that the recipient of the  
151 certificate of need agrees in writing that the skilled nursing  
152 facility will not at any time participate in the Medicaid program  
153 (Section 43-13-101 et seq.) or admit or keep any patients in the  
154 skilled nursing facility who are participating in the Medicaid  
155 program. This written agreement by the recipient of the  
156 certificate of need shall be fully binding on any subsequent owner  
157 of the skilled nursing facility, if the ownership of the facility  
158 is transferred at any time after the issuance of the certificate  
159 of need. Agreement that the skilled nursing facility will not  
160 participate in the Medicaid program shall be a condition of the  
161 issuance of a certificate of need to any person under this  
162 paragraph (c), and if such skilled nursing facility at any time

163 after the issuance of the certificate of need, regardless of the  
164 ownership of the facility, participates in the Medicaid program or  
165 admits or keeps any patients in the facility who are participating  
166 in the Medicaid program, the State Department of Health shall  
167 revoke the certificate of need, if it is still outstanding, and  
168 shall deny or revoke the license of the skilled nursing facility,  
169 at the time that the department determines, after a hearing  
170 complying with due process, that the facility has failed to comply  
171 with any of the conditions upon which the certificate of need was  
172 issued, as provided in this paragraph and in the written agreement  
173 by the recipient of the certificate of need. The total number of  
174 beds that may be authorized under the authority of this paragraph  
175 (c) shall not exceed sixty (60) beds.

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

184 (e) The State Department of Health may issue a  
185 certificate of need for the construction of a nursing facility or  
186 the conversion of beds to nursing facility beds at a personal care  
187 facility for the elderly in Lowndes County that is owned and  
188 operated by a Mississippi nonprofit corporation, not to exceed  
189 sixty (60) beds. From and after July 1, 1999, there shall be no  
190 prohibition or restrictions on participation in the Medicaid  
191 program (Section 43-13-101 et seq.) for the beds in the nursing  
192 facility that were authorized under this paragraph (e).

193 (f) The State Department of Health may issue a  
194 certificate of need for conversion of a county hospital facility  
195 in Itawamba County to a nursing facility, not to exceed sixty (60)

196 beds, including any necessary construction, renovation or  
197 expansion. From and after July 1, 1999, there shall be no  
198 prohibition or restrictions on participation in the Medicaid  
199 program (Section 43-13-101 et seq.) for the beds in the nursing  
200 facility that were authorized under this paragraph (f).

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

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

217 (i) The department may issue a certificate of need for  
218 the new construction of a skilled nursing facility in Leake  
219 County, provided that the recipient of the certificate of need  
220 agrees in writing that the skilled nursing facility will not at  
221 any time participate in the Medicaid program (Section 43-13-101 et  
222 seq.) or admit or keep any patients in the skilled nursing  
223 facility who are participating in the Medicaid program. This  
224 written agreement by the recipient of the certificate of need  
225 shall be fully binding on any subsequent owner of the skilled  
226 nursing facility, if the ownership of the facility is transferred  
227 at any time after the issuance of the certificate of need.  
228 Agreement that the skilled nursing facility will not participate

229 in the Medicaid program shall be a condition of the issuance of a  
230 certificate of need to any person under this paragraph (i), and if  
231 such skilled nursing facility at any time after the issuance of  
232 the certificate of need, regardless of the ownership of the  
233 facility, participates in the Medicaid program or admits or keeps  
234 any patients in the facility who are participating in the Medicaid  
235 program, the State Department of Health shall revoke the  
236 certificate of need, if it is still outstanding, and shall deny or  
237 revoke the license of the skilled nursing facility, at the time  
238 that the department determines, after a hearing complying with due  
239 process, that the facility has failed to comply with any of the  
240 conditions upon which the certificate of need was issued, as  
241 provided in this paragraph and in the written agreement by the  
242 recipient of the certificate of need. The provision of Section  
243 43-7-193(1) regarding substantial compliance of the projection of  
244 need as reported in the current State Health Plan is waived for  
245 the purposes of this paragraph. The total number of nursing  
246 facility beds that may be authorized by any certificate of need  
247 issued under this paragraph (i) shall not exceed sixty (60) beds.  
248 If the skilled nursing facility authorized by the certificate of  
249 need issued under this paragraph is not constructed and fully  
250 operational within eighteen (18) months after July 1, 1994, the  
251 State Department of Health, after a hearing complying with due  
252 process, shall revoke the certificate of need, if it is still  
253 outstanding, and shall not issue a license for the skilled nursing  
254 facility at any time after the expiration of the eighteen-month  
255 period.

256 (j) The department may issue certificates of need to  
257 allow any existing freestanding long-term care facility in  
258 Tishomingo County and Hancock County that on July 1, 1995, is  
259 licensed with fewer than sixty (60) beds. For the purposes of  
260 this paragraph (j), the provision of Section 41-7-193(1) requiring  
261 substantial compliance with the projection of need as reported in



262 the current State Health Plan is waived. From and after July 1,  
263 1999, there shall be no prohibition or restrictions on  
264 participation in the Medicaid program (Section 43-13-101 et seq.)  
265 for the beds in the long-term care facilities that were authorized  
266 under this paragraph (j).

267 (k) The department may issue a certificate of need for  
268 the construction of a nursing facility at a continuing care  
269 retirement community in Lowndes County. The total number of beds  
270 that may be authorized under the authority of this paragraph (k)  
271 shall not exceed sixty (60) beds. From and after July 1, 2001,  
272 the prohibition on the facility participating in the Medicaid  
273 program (Section 43-13-101 et seq.) that was a condition of  
274 issuance of the certificate of need under this paragraph (k) shall  
275 be revised as follows: The nursing facility may participate in  
276 the Medicaid program from and after July 1, 2001, if the owner of  
277 the facility on July 1, 2001, agrees in writing that no more than  
278 thirty (30) of the beds at the facility will be certified for  
279 participation in the Medicaid program, and that no claim will be  
280 submitted for Medicaid reimbursement for more than thirty (30)  
281 patients in the facility in any month or for any patient in the  
282 facility who is in a bed that is not Medicaid-certified. This  
283 written agreement by the owner of the facility shall be a  
284 condition of licensure of the facility, and the agreement shall be  
285 fully binding on any subsequent owner of the facility if the  
286 ownership of the facility is transferred at any time after July 1,  
287 2001. After this written agreement is executed, the Division of  
288 Medicaid and the State Department of Health shall not certify more  
289 than thirty (30) of the beds in the facility for participation in  
290 the Medicaid program. If the facility violates the terms of the  
291 written agreement by admitting or keeping in the facility on a  
292 regular or continuing basis more than thirty (30) patients who are  
293 participating in the Medicaid program, the State Department of  
294 Health shall revoke the license of the facility, at the time that

295 the department determines, after a hearing complying with due  
296 process, that the facility has violated the written agreement.

297 (l) Provided that funds are specifically appropriated  
298 therefor by the Legislature, the department may issue a  
299 certificate of need to a rehabilitation hospital in Hinds County  
300 for the construction of a sixty-bed long-term care nursing  
301 facility dedicated to the care and treatment of persons with  
302 severe disabilities including persons with spinal cord and  
303 closed-head injuries and ventilator-dependent patients. The  
304 provision of Section 41-7-193(1) regarding substantial compliance  
305 with projection of need as reported in the current State Health  
306 Plan is hereby waived for the purpose of this paragraph.

307 (m) The State Department of Health may issue a  
308 certificate of need to a county-owned hospital in the Second  
309 Judicial District of Panola County for the conversion of not more  
310 than seventy-two (72) hospital beds to nursing facility beds,  
311 provided that the recipient of the certificate of need agrees in  
312 writing that none of the beds at the nursing facility will be  
313 certified for participation in the Medicaid program (Section  
314 43-13-101 et seq.), and that no claim will be submitted for  
315 Medicaid reimbursement in the nursing facility in any day or for  
316 any patient in the nursing facility. This written agreement by  
317 the recipient of the certificate of need shall be a condition of  
318 the issuance of the certificate of need under this paragraph, and  
319 the agreement shall be fully binding on any subsequent owner of  
320 the nursing facility if the ownership of the nursing facility is  
321 transferred at any time after the issuance of the certificate of  
322 need. After this written agreement is executed, the Division of  
323 Medicaid and the State Department of Health shall not certify any  
324 of the beds in the nursing facility for participation in the  
325 Medicaid program. If the nursing facility violates the terms of  
326 the written agreement by admitting or keeping in the nursing  
327 facility on a regular or continuing basis any patients who are

328 participating in the Medicaid program, the State Department of  
329 Health shall revoke the license of the nursing facility, at the  
330 time that the department determines, after a hearing complying  
331 with due process, that the nursing facility has violated the  
332 condition upon which the certificate of need was issued, as  
333 provided in this paragraph and in the written agreement. If the  
334 certificate of need authorized under this paragraph is not issued  
335 within twelve (12) months after July 1, 2001, the department shall  
336 deny the application for the certificate of need and shall not  
337 issue the certificate of need at any time after the twelve-month  
338 period, unless the issuance is contested. If the certificate of  
339 need is issued and substantial construction of the nursing  
340 facility beds has not commenced within eighteen (18) months after  
341 July 1, 2001, the State Department of Health, after a hearing  
342 complying with due process, shall revoke the certificate of need  
343 if it is still outstanding, and the department shall not issue a  
344 license for the nursing facility at any time after the  
345 eighteen-month period. Provided, however, that if the issuance of  
346 the certificate of need is contested, the department shall require  
347 substantial construction of the nursing facility beds within six  
348 (6) months after final adjudication on the issuance of the  
349 certificate of need.

350           (n) The department may issue a certificate of need for  
351 the new construction, addition or conversion of skilled nursing  
352 facility beds in Madison County, provided that the recipient of  
353 the certificate of need agrees in writing that the skilled nursing  
354 facility will not at any time participate in the Medicaid program  
355 (Section 43-13-101 et seq.) or admit or keep any patients in the  
356 skilled nursing facility who are participating in the Medicaid  
357 program. This written agreement by the recipient of the  
358 certificate of need shall be fully binding on any subsequent owner  
359 of the skilled nursing facility, if the ownership of the facility  
360 is transferred at any time after the issuance of the certificate

361 of need. Agreement that the skilled nursing facility will not  
362 participate in the Medicaid program shall be a condition of the  
363 issuance of a certificate of need to any person under this  
364 paragraph (n), and if such skilled nursing facility at any time  
365 after the issuance of the certificate of need, regardless of the  
366 ownership of the facility, participates in the Medicaid program or  
367 admits or keeps any patients in the facility who are participating  
368 in the Medicaid program, the State Department of Health shall  
369 revoke the certificate of need, if it is still outstanding, and  
370 shall deny or revoke the license of the skilled nursing facility,  
371 at the time that the department determines, after a hearing  
372 complying with due process, that the facility has failed to comply  
373 with any of the conditions upon which the certificate of need was  
374 issued, as provided in this paragraph and in the written agreement  
375 by the recipient of the certificate of need. The total number of  
376 nursing facility beds that may be authorized by any certificate of  
377 need issued under this paragraph (n) shall not exceed sixty (60)  
378 beds. If the certificate of need authorized under this paragraph  
379 is not issued within twelve (12) months after July 1, 1998, the  
380 department shall deny the application for the certificate of need  
381 and shall not issue the certificate of need at any time after the  
382 twelve-month period, unless the issuance is contested. If the  
383 certificate of need is issued and substantial construction of the  
384 nursing facility beds has not commenced within eighteen (18)  
385 months after the effective date of July 1, 1998, the State  
386 Department of Health, after a hearing complying with due process,  
387 shall revoke the certificate of need if it is still outstanding,  
388 and the department shall not issue a license for the nursing  
389 facility at any time after the eighteen-month period. Provided,  
390 however, that if the issuance of the certificate of need is  
391 contested, the department shall require substantial construction  
392 of the nursing facility beds within six (6) months after final  
393 adjudication on the issuance of the certificate of need.

394           (o) The department may issue a certificate of need for  
395 the new construction, addition or conversion of skilled nursing  
396 facility beds in Leake County, provided that the recipient of the  
397 certificate of need agrees in writing that the skilled nursing  
398 facility will not at any time participate in the Medicaid program  
399 (Section 43-13-101 et seq.) or admit or keep any patients in the  
400 skilled nursing facility who are participating in the Medicaid  
401 program. This written agreement by the recipient of the  
402 certificate of need shall be fully binding on any subsequent owner  
403 of the skilled nursing facility, if the ownership of the facility  
404 is transferred at any time after the issuance of the certificate  
405 of need. Agreement that the skilled nursing facility will not  
406 participate in the Medicaid program shall be a condition of the  
407 issuance of a certificate of need to any person under this  
408 paragraph (o), and if such skilled nursing facility at any time  
409 after the issuance of the certificate of need, regardless of the  
410 ownership of the facility, participates in the Medicaid program or  
411 admits or keeps any patients in the facility who are participating  
412 in the Medicaid program, the State Department of Health shall  
413 revoke the certificate of need, if it is still outstanding, and  
414 shall deny or revoke the license of the skilled nursing facility,  
415 at the time that the department determines, after a hearing  
416 complying with due process, that the facility has failed to comply  
417 with any of the conditions upon which the certificate of need was  
418 issued, as provided in this paragraph and in the written agreement  
419 by the recipient of the certificate of need. The total number of  
420 nursing facility beds that may be authorized by any certificate of  
421 need issued under this paragraph (o) shall not exceed sixty (60)  
422 beds. If the certificate of need authorized under this paragraph  
423 is not issued within twelve (12) months after July 1, 2001, the  
424 department shall deny the application for the certificate of need  
425 and shall not issue the certificate of need at any time after the  
426 twelve-month period, unless the issuance is contested. If the

427 certificate of need is issued and substantial construction of the  
428 nursing facility beds has not commenced within eighteen (18)  
429 months after the effective date of July 1, 2001, the State  
430 Department of Health, after a hearing complying with due process,  
431 shall revoke the certificate of need if it is still outstanding,  
432 and the department shall not issue a license for the nursing  
433 facility at any time after the eighteen-month period. Provided,  
434 however, that if the issuance of the certificate of need is  
435 contested, the department shall require substantial construction  
436 of the nursing facility beds within six (6) months after final  
437 adjudication on the issuance of the certificate of need.

438 (p) The department may issue a certificate of need for  
439 the construction of a municipally-owned nursing facility within  
440 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
441 beds, provided that the recipient of the certificate of need  
442 agrees in writing that the skilled nursing facility will not at  
443 any time participate in the Medicaid program (Section 43-13-101 et  
444 seq.) or admit or keep any patients in the skilled nursing  
445 facility who are participating in the Medicaid program. This  
446 written agreement by the recipient of the certificate of need  
447 shall be fully binding on any subsequent owner of the skilled  
448 nursing facility, if the ownership of the facility is transferred  
449 at any time after the issuance of the certificate of need.

450 Agreement that the skilled nursing facility will not participate  
451 in the Medicaid program shall be a condition of the issuance of a  
452 certificate of need to any person under this paragraph (p), and if  
453 such skilled nursing facility at any time after the issuance of  
454 the certificate of need, regardless of the ownership of the  
455 facility, participates in the Medicaid program or admits or keeps  
456 any patients in the facility who are participating in the Medicaid  
457 program, the State Department of Health shall revoke the  
458 certificate of need, if it is still outstanding, and shall deny or  
459 revoke the license of the skilled nursing facility, at the time

460 that the department determines, after a hearing complying with due  
461 process, that the facility has failed to comply with any of the  
462 conditions upon which the certificate of need was issued, as  
463 provided in this paragraph and in the written agreement by the  
464 recipient of the certificate of need. The provision of Section  
465 43-7-193(1) regarding substantial compliance of the projection of  
466 need as reported in the current State Health Plan is waived for  
467 the purposes of this paragraph. If the certificate of need  
468 authorized under this paragraph is not issued within twelve (12)  
469 months after July 1, 1998, the department shall deny the  
470 application for the certificate of need and shall not issue the  
471 certificate of need at any time after the twelve-month period,  
472 unless the issuance is contested. If the certificate of need is  
473 issued and substantial construction of the nursing facility beds  
474 has not commenced within eighteen (18) months after July 1, 1998,  
475 the State Department of Health, after a hearing complying with due  
476 process, shall revoke the certificate of need if it is still  
477 outstanding, and the department shall not issue a license for the  
478 nursing facility at any time after the eighteen-month period.  
479 Provided, however, that if the issuance of the certificate of need  
480 is contested, the department shall require substantial  
481 construction of the nursing facility beds within six (6) months  
482 after final adjudication on the issuance of the certificate of  
483 need.

484 (q) (i) Beginning on July 1, 1999, the State  
485 Department of Health shall issue certificates of need during each  
486 of the next four (4) fiscal years for the construction or  
487 expansion of nursing facility beds or the conversion of other beds  
488 to nursing facility beds in each county in the state having a need  
489 for fifty (50) or more additional nursing facility beds, as shown  
490 in the fiscal year 1999 State Health Plan, in the manner provided  
491 in this paragraph (q). The total number of nursing facility beds

492 that may be authorized by any certificate of need authorized under  
493 this paragraph (q) shall not exceed sixty (60) beds.

494 (ii) Subject to the provisions of subparagraph  
495 (v), during each of the next four (4) fiscal years, the department  
496 shall issue six (6) certificates of need for new nursing facility  
497 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
498 (1) certificate of need shall be issued for new nursing facility  
499 beds in the county in each of the four (4) Long-Term Care Planning  
500 Districts designated in the fiscal year 1999 State Health Plan  
501 that has the highest need in the district for those beds; and two  
502 (2) certificates of need shall be issued for new nursing facility  
503 beds in the two (2) counties from the state at large that have the  
504 highest need in the state for those beds, when considering the  
505 need on a statewide basis and without regard to the Long-Term Care  
506 Planning Districts in which the counties are located. During  
507 fiscal year 2003, one (1) certificate of need shall be issued for  
508 new nursing facility beds in any county having a need for fifty  
509 (50) or more additional nursing facility beds, as shown in the  
510 fiscal year 1999 State Health Plan, that has not received a  
511 certificate of need under this paragraph (q) during the three (3)  
512 previous fiscal years. During fiscal year 2000, in addition to  
513 the six (6) certificates of need authorized in this subparagraph,  
514 the department also shall issue a certificate of need for new  
515 nursing facility beds in Amite County and a certificate of need  
516 for new nursing facility beds in Carroll County.

517 (iii) Subject to the provisions of subparagraph  
518 (v), the certificate of need issued under subparagraph (ii) for  
519 nursing facility beds in each Long-Term Care Planning District  
520 during each fiscal year shall first be available for nursing  
521 facility beds in the county in the district having the highest  
522 need for those beds, as shown in the fiscal year 1999 State Health  
523 Plan. If there are no applications for a certificate of need for  
524 nursing facility beds in the county having the highest need for



525 those beds by the date specified by the department, then the  
526 certificate of need shall be available for nursing facility beds  
527 in other counties in the district in descending order of the need  
528 for those beds, from the county with the second highest need to  
529 the county with the lowest need, until an application is received  
530 for nursing facility beds in an eligible county in the district.

531 (iv) Subject to the provisions of subparagraph  
532 (v), the certificate of need issued under subparagraph (ii) for  
533 nursing facility beds in the two (2) counties from the state at  
534 large during each fiscal year shall first be available for nursing  
535 facility beds in the two (2) counties that have the highest need  
536 in the state for those beds, as shown in the fiscal year 1999  
537 State Health Plan, when considering the need on a statewide basis  
538 and without regard to the Long-Term Care Planning Districts in  
539 which the counties are located. If there are no applications for  
540 a certificate of need for nursing facility beds in either of the  
541 two (2) counties having the highest need for those beds on a  
542 statewide basis by the date specified by the department, then the  
543 certificate of need shall be available for nursing facility beds  
544 in other counties from the state at large in descending order of  
545 the need for those beds on a statewide basis, from the county with  
546 the second highest need to the county with the lowest need, until  
547 an application is received for nursing facility beds in an  
548 eligible county from the state at large.

549 (v) If a certificate of need is authorized to be  
550 issued under this paragraph (q) for nursing facility beds in a  
551 county on the basis of the need in the Long-Term Care Planning  
552 District during any fiscal year of the four-year period, a  
553 certificate of need shall not also be available under this  
554 paragraph (q) for additional nursing facility beds in that county  
555 on the basis of the need in the state at large, and that county  
556 shall be excluded in determining which counties have the highest  
557 need for nursing facility beds in the state at large for that

558 fiscal year. After a certificate of need has been issued under  
559 this paragraph (q) for nursing facility beds in a county during  
560 any fiscal year of the four-year period, a certificate of need  
561 shall not be available again under this paragraph (q) for  
562 additional nursing facility beds in that county during the  
563 four-year period, and that county shall be excluded in determining  
564 which counties have the highest need for nursing facility beds in  
565 succeeding fiscal years.

566 (vi) If more than one (1) application is made for  
567 a certificate of need for nursing home facility beds available  
568 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
569 County, and one (1) of the applicants is a county-owned hospital  
570 located in the county where the nursing facility beds are  
571 available, the department shall give priority to the county-owned  
572 hospital in granting the certificate of need if the following  
573 conditions are met:

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

577 2. The county-owned hospital's qualifications  
578 for the certificate of need, as shown in its application and as  
579 determined by the department, are at least equal to the  
580 qualifications of the other applicants for the certificate of  
581 need.

582 (r) (i) Beginning on July 1, 1999, the State  
583 Department of Health shall issue certificates of need during each  
584 of the next two (2) fiscal years for the construction or expansion  
585 of nursing facility beds or the conversion of other beds to  
586 nursing facility beds in each of the four (4) Long-Term Care  
587 Planning Districts designated in the fiscal year 1999 State Health  
588 Plan, to provide care exclusively to patients with Alzheimer's  
589 disease.

590 (ii) Not more than twenty (20) beds may be  
591 authorized by any certificate of need issued under this paragraph  
592 (r), and not more than a total of sixty (60) beds may be  
593 authorized in any Long-Term Care Planning District by all  
594 certificates of need issued under this paragraph (r). However,  
595 the total number of beds that may be authorized by all  
596 certificates of need issued under this paragraph (r) during any  
597 fiscal year shall not exceed one hundred twenty (120) beds, and  
598 the total number of beds that may be authorized in any Long-Term  
599 Care Planning District during any fiscal year shall not exceed  
600 forty (40) beds. Of the certificates of need that are issued for  
601 each Long-Term Care Planning District during the next two (2)  
602 fiscal years, at least one (1) shall be issued for beds in the  
603 northern part of the district, at least one (1) shall be issued  
604 for beds in the central part of the district, and at least one (1)  
605 shall be issued for beds in the southern part of the district.

606 (iii) The State Department of Health, in  
607 consultation with the Department of Mental Health and the Division  
608 of Medicaid, shall develop and prescribe the staffing levels,  
609 space requirements and other standards and requirements that must  
610 be met with regard to the nursing facility beds authorized under  
611 this paragraph (r) to provide care exclusively to patients with  
612 Alzheimer's disease.

613 (3) The State Department of Health may grant approval for  
614 and issue certificates of need to any person proposing the new  
615 construction of, addition to, conversion of beds of or expansion  
616 of any health care facility defined in subparagraph (x)  
617 (psychiatric residential treatment facility) of Section  
618 41-7-173(h). The total number of beds that may be authorized by  
619 those certificates of need shall not exceed three hundred  
620 forty-eight (348) beds for the entire state.

621 (a) Of the total number of beds authorized under this  
622 subsection, the department shall issue a certificate of need to a

623 privately-owned psychiatric residential treatment facility in  
624 Simpson County for the conversion of sixteen (16) intermediate  
625 care facility for the mentally retarded (ICF-MR) beds to  
626 psychiatric residential treatment facility beds, provided that  
627 facility agrees in writing that the facility shall give priority  
628 for the use of those sixteen (16) beds to Mississippi residents  
629 who are presently being treated in out-of-state facilities.

630 (b) Of the total number of beds authorized under this  
631 subsection, the department may issue a certificate or certificates  
632 of need for the construction or expansion of psychiatric  
633 residential treatment facility beds or the conversion of other  
634 beds to psychiatric residential treatment facility beds in Warren  
635 County, not to exceed sixty (60) psychiatric residential treatment  
636 facility beds, provided that the facility agrees in writing that  
637 no more than thirty (30) of the beds at the psychiatric  
638 residential treatment facility will be certified for participation  
639 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
640 any patients other than those who are participating only in the  
641 Medicaid program of another state, and that no claim will be  
642 submitted to the Division of Medicaid for Medicaid reimbursement  
643 for more than thirty (30) patients in the psychiatric residential  
644 treatment facility in any day or for any patient in the  
645 psychiatric residential treatment facility who is in a bed that is  
646 not Medicaid-certified. This written agreement by the recipient  
647 of the certificate of need shall be a condition of the issuance of  
648 the certificate of need under this paragraph, and the agreement  
649 shall be fully binding on any subsequent owner of the psychiatric  
650 residential treatment facility if the ownership of the facility is  
651 transferred at any time after the issuance of the certificate of  
652 need. After this written agreement is executed, the Division of  
653 Medicaid and the State Department of Health shall not certify more  
654 than thirty (30) of the beds in the psychiatric residential  
655 treatment facility for participation in the Medicaid program for

656 the use of any patients other than those who are participating  
657 only in the Medicaid program of another state. If the psychiatric  
658 residential treatment facility violates the terms of the written  
659 agreement by admitting or keeping in the facility on a regular or  
660 continuing basis more than thirty (30) patients who are  
661 participating in the Mississippi Medicaid program, the State  
662 Department of Health shall revoke the license of the facility, at  
663 the time that the department determines, after a hearing complying  
664 with due process, that the facility has violated the condition  
665 upon which the certificate of need was issued, as provided in this  
666 paragraph and in the written agreement.

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

671 (c) Of the total number of beds authorized under this  
672 subsection, the department shall issue a certificate of need to a  
673 hospital currently operating Medicaid-certified acute psychiatric  
674 beds for adolescents in DeSoto County, for the establishment of a  
675 forty-bed psychiatric residential treatment facility in DeSoto  
676 County, provided that the hospital agrees in writing (i) that the  
677 hospital shall give priority for the use of those forty (40) beds  
678 to Mississippi residents who are presently being treated in  
679 out-of-state facilities, and (ii) that no more than fifteen (15)  
680 of the beds at the psychiatric residential treatment facility will  
681 be certified for participation in the Medicaid program (Section  
682 43-13-101 et seq.), and that no claim will be submitted for  
683 Medicaid reimbursement for more than fifteen (15) patients in the  
684 psychiatric residential treatment facility in any day or for any  
685 patient in the psychiatric residential treatment facility who is  
686 in a bed that is not Medicaid-certified. This written agreement  
687 by the recipient of the certificate of need shall be a condition  
688 of the issuance of the certificate of need under this paragraph,

689 and the agreement shall be fully binding on any subsequent owner  
690 of the psychiatric residential treatment facility if the ownership  
691 of the facility is transferred at any time after the issuance of  
692 the certificate of need. After this written agreement is  
693 executed, the Division of Medicaid and the State Department of  
694 Health shall not certify more than fifteen (15) of the beds in the  
695 psychiatric residential treatment facility for participation in  
696 the Medicaid program. If the psychiatric residential treatment  
697 facility violates the terms of the written agreement by admitting  
698 or keeping in the facility on a regular or continuing basis more  
699 than fifteen (15) patients who are participating in the Medicaid  
700 program, the State Department of Health shall revoke the license  
701 of the facility, at the time that the department determines, after  
702 a hearing complying with due process, that the facility has  
703 violated the condition upon which the certificate of need was  
704 issued, as provided in this paragraph and in the written  
705 agreement.

706 (d) Of the total number of beds authorized under this  
707 subsection, the department may issue a certificate or certificates  
708 of need for the construction or expansion of psychiatric  
709 residential treatment facility beds or the conversion of other  
710 beds to psychiatric treatment facility beds, not to exceed thirty  
711 (30) psychiatric residential treatment facility beds, in either  
712 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
713 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

714 (e) Of the total number of beds authorized under this  
715 subsection (3) the department shall issue a certificate of need to  
716 a privately-owned, nonprofit psychiatric residential treatment  
717 facility in Hinds County for an eight-bed expansion of the  
718 facility, provided that the facility agrees in writing that the  
719 facility shall give priority for the use of those eight (8) beds  
720 to Mississippi residents who are presently being treated in  
721 out-of-state facilities.

722 (f) The department shall issue a certificate of need to  
723 a one-hundred-thirty-four-bed specialty hospital located on  
724 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
725 at 5900 Highway 39 North in Meridian (Lauderdale County),  
726 Mississippi, for the addition, construction or expansion of  
727 child/adolescent psychiatric residential treatment facility beds  
728 in Lauderdale County. As a condition of issuance of the  
729 certificate of need under this paragraph, the facility shall give  
730 priority in admissions to the child/adolescent psychiatric  
731 residential treatment facility beds authorized under this  
732 paragraph to patients who otherwise would require out-of-state  
733 placement. The Division of Medicaid, in conjunction with the  
734 Department of Human Services, shall furnish the facility a list of  
735 all out-of-state patients on a quarterly basis. Furthermore,  
736 notice shall also be provided to the parent, custodial parent or  
737 guardian of each out-of-state patient notifying them of the  
738 priority status granted by this paragraph. For purposes of this  
739 paragraph, the provisions of Section 41-7-193(1) requiring  
740 substantial compliance with the projection of need as reported in  
741 the current State Health Plan are waived. The total number of  
742 child/adolescent psychiatric residential treatment facility beds  
743 that may be authorized under the authority of this paragraph shall  
744 be sixty (60) beds. There shall be no prohibition or restrictions  
745 on participation in the Medicaid program (Section 43-13-101 et  
746 seq.) for the person receiving the certificate of need authorized  
747 under this paragraph or for the beds converted pursuant to the  
748 authority of that certificate of need.

749 (g) Of the total number of beds authorized under this  
750 subsection, the department shall issue a certificate of need to a  
751 privately-owned psychiatric residential treatment facility in  
752 Simpson County for the addition, construction or expansion of  
753 fourteen (14) psychiatric residential treatment facility beds,  
754 provided that the facility agrees in writing that the facility

755 shall give priority for the use of those fourteen (14) beds to  
756 Mississippi residents who are presently being treated in  
757 out-of-state facilities.

758 (4) (a) From and after July 1, 1993, the department shall  
759 not issue a certificate of need to any person for the new  
760 construction of any hospital, psychiatric hospital or chemical  
761 dependency hospital that will contain any child/adolescent  
762 psychiatric or child/adolescent chemical dependency beds, or for  
763 the conversion of any other health care facility to a hospital,  
764 psychiatric hospital or chemical dependency hospital that will  
765 contain any child/adolescent psychiatric or child/adolescent  
766 chemical dependency beds, or for the addition of any  
767 child/adolescent psychiatric or child/adolescent chemical  
768 dependency beds in any hospital, psychiatric hospital or chemical  
769 dependency hospital, or for the conversion of any beds of another  
770 category in any hospital, psychiatric hospital or chemical  
771 dependency hospital to child/adolescent psychiatric or  
772 child/adolescent chemical dependency beds, except as hereinafter  
773 authorized:

774 (i) The department may issue certificates of need  
775 to any person for any purpose described in this subsection,  
776 provided that the hospital, psychiatric hospital or chemical  
777 dependency hospital does not participate in the Medicaid program  
778 (Section 43-13-101 et seq.) at the time of the application for the  
779 certificate of need and the owner of the hospital, psychiatric  
780 hospital or chemical dependency hospital agrees in writing that  
781 the hospital, psychiatric hospital or chemical dependency hospital  
782 will not at any time participate in the Medicaid program or admit  
783 or keep any patients who are participating in the Medicaid program  
784 in the hospital, psychiatric hospital or chemical dependency  
785 hospital. This written agreement by the recipient of the  
786 certificate of need shall be fully binding on any subsequent owner  
787 of the hospital, psychiatric hospital or chemical dependency



788 hospital, if the ownership of the facility is transferred at any  
789 time after the issuance of the certificate of need. Agreement  
790 that the hospital, psychiatric hospital or chemical dependency  
791 hospital will not participate in the Medicaid program shall be a  
792 condition of the issuance of a certificate of need to any person  
793 under this subparagraph (a)(i), and if such hospital, psychiatric  
794 hospital or chemical dependency hospital at any time after the  
795 issuance of the certificate of need, regardless of the ownership  
796 of the facility, participates in the Medicaid program or admits or  
797 keeps any patients in the hospital, psychiatric hospital or  
798 chemical dependency hospital who are participating in the Medicaid  
799 program, the State Department of Health shall revoke the  
800 certificate of need, if it is still outstanding, and shall deny or  
801 revoke the license of the hospital, psychiatric hospital or  
802 chemical dependency hospital, at the time that the department  
803 determines, after a hearing complying with due process, that the  
804 hospital, psychiatric hospital or chemical dependency hospital has  
805 failed to comply with any of the conditions upon which the  
806 certificate of need was issued, as provided in this subparagraph  
807 and in the written agreement by the recipient of the certificate  
808 of need.

809                   (ii) The department may issue a certificate of  
810 need for the conversion of existing beds in a county hospital in  
811 Choctaw County from acute care beds to child/adolescent chemical  
812 dependency beds. For purposes of this subparagraph, the  
813 provisions of Section 41-7-193(1) requiring substantial compliance  
814 with the projection of need as reported in the current State  
815 Health Plan is waived. The total number of beds that may be  
816 authorized under authority of this subparagraph shall not exceed  
817 twenty (20) beds. There shall be no prohibition or restrictions  
818 on participation in the Medicaid program (Section 43-13-101 et  
819 seq.) for the hospital receiving the certificate of need

820 authorized under this subparagraph (a)(ii) or for the beds  
821 converted pursuant to the authority of that certificate of need.

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

836           If by January 1, 2002, there has been no significant  
837 commencement of construction of the beds authorized under this  
838 subparagraph (a)(iii), or no significant action taken to convert  
839 existing beds to the beds authorized under this subparagraph, then  
840 the certificate of need that was previously issued under this  
841 subparagraph shall expire. If the previously issued certificate  
842 of need expires, the department may accept applications for  
843 issuance of another certificate of need for the beds authorized  
844 under this subparagraph, and may issue a certificate of need to  
845 authorize the construction, expansion or conversion of the beds  
846 authorized under this subparagraph.

847           (iv) The department shall issue a certificate of  
848 need to the Region 7 Mental Health/Retardation Commission for the  
849 construction or expansion of child/adolescent psychiatric beds or  
850 the conversion of other beds to child/adolescent psychiatric beds  
851 in any of the counties served by the commission. For purposes of  
852 this subparagraph, the provisions of Section 41-7-193(1) requiring

853 substantial compliance with the projection of need as reported in  
854 the current State Health Plan is waived. The total number of beds  
855 that may be authorized under the authority of this subparagraph  
856 shall not exceed twenty (20) beds. There shall be no prohibition  
857 or restrictions on participation in the Medicaid program (Section  
858 43-13-101 et seq.) for the person receiving the certificate of  
859 need authorized under this subparagraph (a)(iv) or for the beds  
860 converted pursuant to the authority of that certificate of need.

861 (v) The department may issue a certificate of need  
862 to any county hospital located in Leflore County for the  
863 construction or expansion of adult psychiatric beds or the  
864 conversion of other beds to adult psychiatric beds, not to exceed  
865 twenty (20) beds, provided that the recipient of the certificate  
866 of need agrees in writing that the adult psychiatric beds will not  
867 at any time be certified for participation in the Medicaid program  
868 and that the hospital will not admit or keep any patients who are  
869 participating in the Medicaid program in any of such adult  
870 psychiatric beds. This written agreement by the recipient of the  
871 certificate of need shall be fully binding on any subsequent owner  
872 of the hospital if the ownership of the hospital is transferred at  
873 any time after the issuance of the certificate of need. Agreement  
874 that the adult psychiatric beds will not be certified for  
875 participation in the Medicaid program shall be a condition of the  
876 issuance of a certificate of need to any person under this  
877 subparagraph (a)(v), and if such hospital at any time after the  
878 issuance of the certificate of need, regardless of the ownership  
879 of the hospital, has any of such adult psychiatric beds certified  
880 for participation in the Medicaid program or admits or keeps any  
881 Medicaid patients in such adult psychiatric beds, the State  
882 Department of Health shall revoke the certificate of need, if it  
883 is still outstanding, and shall deny or revoke the license of the  
884 hospital at the time that the department determines, after a  
885 hearing complying with due process, that the hospital has failed

886 to comply with any of the conditions upon which the certificate of  
887 need was issued, as provided in this subparagraph and in the  
888 written agreement by the recipient of the certificate of need.

889           (vi) The department may issue a certificate or  
890 certificates of need for the expansion of child psychiatric beds  
891 or the conversion of other beds to child psychiatric beds at the  
892 University of Mississippi Medical Center. For purposes of this  
893 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
894 requiring substantial compliance with the projection of need as  
895 reported in the current State Health Plan is waived. The total  
896 number of beds that may be authorized under the authority of this  
897 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
898 shall be no prohibition or restrictions on participation in the  
899 Medicaid program (Section 43-13-101 et seq.) for the hospital  
900 receiving the certificate of need authorized under this  
901 subparagraph (a)(vi) or for the beds converted pursuant to the  
902 authority of that certificate of need.

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

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

913           (6) The State Department of Health shall issue a certificate  
914 of need to a Mississippi corporation qualified to manage a  
915 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
916 Harrison County, not to exceed eighty (80) beds, including any  
917 necessary renovation or construction required for licensure and  
918 certification, provided that the recipient of the certificate of

919 need agrees in writing that the long-term care hospital will not  
920 at any time participate in the Medicaid program (Section 43-13-101  
921 et seq.) or admit or keep any patients in the long-term care  
922 hospital who are participating in the Medicaid program. This  
923 written agreement by the recipient of the certificate of need  
924 shall be fully binding on any subsequent owner of the long-term  
925 care hospital, if the ownership of the facility is transferred at  
926 any time after the issuance of the certificate of need. Agreement  
927 that the long-term care hospital will not participate in the  
928 Medicaid program shall be a condition of the issuance of a  
929 certificate of need to any person under this subsection (6), and  
930 if such long-term care hospital at any time after the issuance of  
931 the certificate of need, regardless of the ownership of the  
932 facility, participates in the Medicaid program or admits or keeps  
933 any patients in the facility who are participating in the Medicaid  
934 program, the State Department of Health shall revoke the  
935 certificate of need, if it is still outstanding, and shall deny or  
936 revoke the license of the long-term care hospital, at the time  
937 that the department determines, after a hearing complying with due  
938 process, that the facility has failed to comply with any of the  
939 conditions upon which the certificate of need was issued, as  
940 provided in this subsection and in the written agreement by the  
941 recipient of the certificate of need. For purposes of this  
942 subsection, the provision of Section 41-7-193(1) requiring  
943 substantial compliance with the projection of need as reported in  
944 the current State Health Plan is hereby waived.

945 (7) The State Department of Health may issue a certificate  
946 of need to any hospital in the state to utilize a portion of its  
947 beds for the "swing-bed" concept. Any such hospital must be in  
948 conformance with the federal regulations regarding such swing-bed  
949 concept at the time it submits its application for a certificate  
950 of need to the State Department of Health, except that such  
951 hospital may have more licensed beds or a higher average daily

952 census (ADC) than the maximum number specified in federal  
953 regulations for participation in the swing-bed program. Any  
954 hospital meeting all federal requirements for participation in the  
955 swing-bed program which receives such certificate of need shall  
956 render services provided under the swing-bed concept to any  
957 patient eligible for Medicare (Title XVIII of the Social Security  
958 Act) who is certified by a physician to be in need of such  
959 services, and no such hospital shall permit any patient who is  
960 eligible for both Medicaid and Medicare or eligible only for  
961 Medicaid to stay in the swing beds of the hospital for more than  
962 thirty (30) days per admission unless the hospital receives prior  
963 approval for such patient from the Division of Medicaid, Office of  
964 the Governor. Any hospital having more licensed beds or a higher  
965 average daily census (ADC) than the maximum number specified in  
966 federal regulations for participation in the swing-bed program  
967 which receives such certificate of need shall develop a procedure  
968 to insure that before a patient is allowed to stay in the swing  
969 beds of the hospital, there are no vacant nursing home beds  
970 available for that patient located within a fifty-mile radius of  
971 the hospital. When any such hospital has a patient staying in the  
972 swing beds of the hospital and the hospital receives notice from a  
973 nursing home located within such radius that there is a vacant bed  
974 available for that patient, the hospital shall transfer the  
975 patient to the nursing home within a reasonable time after receipt  
976 of the notice. Any hospital which is subject to the requirements  
977 of the two (2) preceding sentences of this subsection may be  
978 suspended from participation in the swing-bed program for a  
979 reasonable period of time by the State Department of Health if the  
980 department, after a hearing complying with due process, determines  
981 that the hospital has failed to comply with any of those  
982 requirements.

983 (8) The Department of Health shall not grant approval for or  
984 issue a certificate of need to any person proposing the new

985 construction of, addition to or expansion of a health care  
986 facility as defined in subparagraph (viii) of Section 41-7-173(h).

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

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

1005 (11) The new construction, renovation or expansion of or  
1006 addition to any health care facility defined in subparagraph (ii)  
1007 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1008 facility), subparagraph (vi) (intermediate care facility),  
1009 subparagraph (viii) (intermediate care facility for the mentally  
1010 retarded) and subparagraph (x) (psychiatric residential treatment  
1011 facility) of Section 41-7-173(h) which is owned by the State of  
1012 Mississippi and under the direction and control of the State  
1013 Department of Mental Health, and the addition of new beds or the  
1014 conversion of beds from one category to another in any such  
1015 defined health care facility which is owned by the State of  
1016 Mississippi and under the direction and control of the State  
1017 Department of Mental Health, shall not require the issuance of a

1018 certificate of need under Section 41-7-171 et seq.,  
1019 notwithstanding any provision in Section 41-7-171 et seq. to the  
1020 contrary.

1021 (12) The new construction, renovation or expansion of or  
1022 addition to any veterans homes or domiciliaries for eligible  
1023 veterans of the State of Mississippi as authorized under Section  
1024 35-1-19 shall not require the issuance of a certificate of need,  
1025 notwithstanding any provision in Section 41-7-171 et seq. to the  
1026 contrary.

1027 (13) The new construction of a nursing facility or nursing  
1028 facility beds or the conversion of other beds to nursing facility  
1029 beds shall not require the issuance of a certificate of need,  
1030 notwithstanding any provision in Section 41-7-171 et seq. to the  
1031 contrary, if the conditions of this subsection are met.

1032 (a) Before any construction or conversion may be  
1033 undertaken without a certificate of need, the owner of the nursing  
1034 facility, in the case of an existing facility, or the applicant to  
1035 construct a nursing facility, in the case of new construction,  
1036 first must file a written notice of intent and sign a written  
1037 agreement with the State Department of Health that the entire  
1038 nursing facility will not at any time participate in or have any  
1039 beds certified for participation in the Medicaid program (Section  
1040 43-13-101 et seq.), will not admit or keep any patients in the  
1041 nursing facility who are participating in the Medicaid program,  
1042 and will not submit any claim for Medicaid reimbursement for any  
1043 patient in the facility. This written agreement by the owner or  
1044 applicant shall be a condition of exercising the authority under  
1045 this subsection without a certificate of need, and the agreement  
1046 shall be fully binding on any subsequent owner of the nursing  
1047 facility if the ownership of the facility is transferred at any  
1048 time after the agreement is signed. After the written agreement  
1049 is signed, the Division of Medicaid and the State Department of  
1050 Health shall not certify any beds in the nursing facility for



1051 participation in the Medicaid program. If the nursing facility  
1052 violates the terms of the written agreement by participating in  
1053 the Medicaid program, having any beds certified for participation  
1054 in the Medicaid program, admitting or keeping any patient in the  
1055 facility who is participating in the Medicaid program, or  
1056 submitting any claim for Medicaid reimbursement for any patient in  
1057 the facility, the State Department of Health shall revoke the  
1058 license of the nursing facility at the time that the department  
1059 determines, after a hearing complying with due process, that the  
1060 facility has violated the terms of the written agreement.

1061 (b) For the purposes of this subsection, participation  
1062 in the Medicaid program by a nursing facility includes Medicaid  
1063 reimbursement of coinsurance and deductibles for recipients who  
1064 are qualified Medicare beneficiaries and/or those who are dually  
1065 eligible. Any nursing facility exercising the authority under  
1066 this subsection may not bill or submit a claim to the Division of  
1067 Medicaid for services to qualified Medicare beneficiaries and/or  
1068 those who are dually eligible.

1069 (c) The new construction of a nursing facility or  
1070 nursing facility beds or the conversion of other beds to nursing  
1071 facility beds described in this section must be either a part of a  
1072 completely new continuing care retirement community, as described  
1073 in the latest edition of the Mississippi State Health Plan, or an  
1074 addition to existing personal care and independent living  
1075 components, and so that the completed project will be a continuing  
1076 care retirement community, containing (i) independent living  
1077 accommodations, (ii) personal care beds, and (iii) the nursing  
1078 home facility beds. The three (3) components must be located on a  
1079 single site and be operated as one (1) inseparable facility. The  
1080 nursing facility component must contain a minimum of thirty (30)  
1081 beds. Any nursing facility beds authorized by this section will  
1082 not be counted against the bed need set forth in the State Health  
1083 Plan, as identified in Section 41-7-171 et seq.

1084           This subsection (13) shall stand repealed from and after July  
1085 1, 2005.

1086           (14) The State Department of Health shall issue a  
1087 certificate of need to any hospital which is currently licensed  
1088 for two hundred fifty (250) or more acute care beds and is located  
1089 in any general hospital service area not having a comprehensive  
1090 cancer center, for the establishment and equipping of such a  
1091 center which provides facilities and services for outpatient  
1092 radiation oncology therapy, outpatient medical oncology therapy,  
1093 and appropriate support services including the provision of  
1094 radiation therapy services. The provision of Section 41-7-193(1)  
1095 regarding substantial compliance with the projection of need as  
1096 reported in the current State Health Plan is waived for the  
1097 purpose of this subsection.

1098           (15) The State Department of Health may authorize the  
1099 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1100 North Panola Community Hospital to the South Panola Community  
1101 Hospital. The authorization for the transfer of those beds shall  
1102 be exempt from the certificate of need review process.

1103           (16) Nothing in this section or in any other provision of  
1104 Section 41-7-171 et seq. shall prevent any nursing facility from  
1105 designating an appropriate number of existing beds in the facility  
1106 as beds for providing care exclusively to patients with  
1107 Alzheimer's disease.

1108           **SECTION 2.** This act shall take effect and be in force from  
1109 and after July 1, 2004.