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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 (1) 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.