

By: Representatives Martinson, Aldridge,
Blackmon, Fleming, Gunn, Smith (27th)

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1239

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 ICF-MR BEDS IN A COMMUNITY LIVING PROGRAM FOR DEVELOPMENTALLY
4 DISABLED ADULTS TO BE LOCATED IN MADISON COUNTY, MISSISSIPPI; AND
5 FOR RELATED PURPOSES.

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

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

9 41-7-191. (1) No person shall engage in any of the
10 following activities without obtaining the required certificate of
11 need:

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

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

21 (c) Any change in the existing bed complement of any
22 health care facility through the addition or conversion of any
23 beds or the alteration, modernizing or refurbishing of any unit or
24 department in which the beds may be located; however, if a health
25 care facility has voluntarily delicensed some of its existing bed
26 complement, it may later relicense some or all of its delicensed
27 beds without the necessity of having to acquire a certificate of
28 need. The State Department of Health shall maintain a record of

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

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

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

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

95 as a result of the change of ownership; an acquisition for less
96 than fair market value must be reviewed, if the acquisition at
97 fair market value would be subject to review;

98 (h) The change of ownership of any health care facility
99 defined in subparagraphs (iv), (vi) and (viii) of Section
100 41-7-173(h), in which a notice of intent as described in paragraph
101 (g) has not been filed and if the Executive Director, Division of
102 Medicaid, Office of the Governor, has not certified in writing
103 that there will be no increase in allowable costs to Medicaid from
104 revaluation of the assets or from increased interest and
105 depreciation as a result of the proposed change of ownership;

106 (i) Any activity described in paragraphs (a) through
107 (h) if undertaken by any person if that same activity would
108 require certificate of need approval if undertaken by a health
109 care facility;

110 (j) Any capital expenditure or deferred capital
111 expenditure by or on behalf of a health care facility not covered
112 by paragraphs (a) through (h);

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

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

126 (a) The department may issue a certificate of need to
127 any person proposing the new construction of any health care

128 facility defined in subparagraphs (iv) and (vi) of Section
129 41-7-173(h) as part of a life care retirement facility, in any
130 county bordering on the Gulf of Mexico in which is located a
131 National Aeronautics and Space Administration facility, not to
132 exceed forty (40) beds. From and after July 1, 1999, there shall
133 be no prohibition or restrictions on participation in the Medicaid
134 program (Section 43-13-101 et seq.) for the beds in the health
135 care facility that were authorized under this paragraph (a).

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

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

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

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

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

189 (f) The State Department of Health may issue a
190 certificate of need for conversion of a county hospital facility
191 in Itawamba County to a nursing facility, not to exceed sixty (60)
192 beds, including any necessary construction, renovation or
193 expansion. From and after July 1, 1999, there shall be no

194 prohibition or restrictions on participation in the Medicaid
195 program (Section 43-13-101 et seq.) for the beds in the nursing
196 facility that were authorized under this paragraph (f).

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

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

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

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

252 (j) The department may issue certificates of need to
253 allow any existing freestanding long-term care facility in
254 Tishomingo County and Hancock County that on July 1, 1995, is
255 licensed with fewer than sixty (60) beds. For the purposes of
256 this paragraph (j), the provision of Section 41-7-193(1) requiring
257 substantial compliance with the projection of need as reported in
258 the current State Health Plan is waived. From and after July 1,
259 1999, there shall be no prohibition or restrictions on

260 participation in the Medicaid program (Section 43-13-101 et seq.)
261 for the beds in the long-term care facilities that were authorized
262 under this paragraph (j).

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

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

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

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

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

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

390 (o) The department may issue a certificate of need for
391 the new construction, addition or conversion of skilled nursing

392 facility beds in Leake County, provided that the recipient of the
393 certificate of need agrees in writing that the skilled nursing
394 facility will not at any time participate in the Medicaid program
395 (Section 43-13-101 et seq.) or admit or keep any patients in the
396 skilled nursing facility who are participating in the Medicaid
397 program. This written agreement by the recipient of the
398 certificate of need shall be fully binding on any subsequent owner
399 of the skilled nursing facility, if the ownership of the facility
400 is transferred at any time after the issuance of the certificate
401 of need. Agreement that the skilled nursing facility will not
402 participate in the Medicaid program shall be a condition of the
403 issuance of a certificate of need to any person under this
404 paragraph (o), and if such skilled nursing facility at any time
405 after the issuance of the certificate of need, regardless of the
406 ownership of the facility, participates in the Medicaid program or
407 admits or keeps any patients in the facility who are participating
408 in the Medicaid program, the State Department of Health shall
409 revoke the certificate of need, if it is still outstanding, and
410 shall deny or revoke the license of the skilled nursing facility,
411 at the time that the department determines, after a hearing
412 complying with due process, that the facility has failed to comply
413 with any of the conditions upon which the certificate of need was
414 issued, as provided in this paragraph and in the written agreement
415 by the recipient of the certificate of need. The total number of
416 nursing facility beds that may be authorized by any certificate of
417 need issued under this paragraph (o) shall not exceed sixty (60)
418 beds. If the certificate of need authorized under this paragraph
419 is not issued within twelve (12) months after July 1, 2001, the
420 department shall deny the application for the certificate of need
421 and shall not issue the certificate of need at any time after the
422 twelve-month period, unless the issuance is contested. If the
423 certificate of need is issued and substantial construction of the
424 nursing facility beds has not commenced within eighteen (18)

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

434 (p) The department may issue a certificate of need for
435 the construction of a municipally-owned nursing facility within
436 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
437 beds, provided that the recipient of the certificate of need
438 agrees in writing that the skilled nursing facility will not at
439 any time participate in the Medicaid program (Section 43-13-101 et
440 seq.) or admit or keep any patients in the skilled nursing
441 facility who are participating in the Medicaid program. This
442 written agreement by the recipient of the certificate of need
443 shall be fully binding on any subsequent owner of the skilled
444 nursing facility, if the ownership of the facility is transferred
445 at any time after the issuance of the certificate of need.
446 Agreement that the skilled nursing facility will not participate
447 in the Medicaid program shall be a condition of the issuance of a
448 certificate of need to any person under this paragraph (p), and if
449 such skilled nursing facility at any time after the issuance of
450 the certificate of need, regardless of the ownership of the
451 facility, participates in the Medicaid program or admits or keeps
452 any patients in the facility who are participating in the Medicaid
453 program, the State Department of Health shall revoke the
454 certificate of need, if it is still outstanding, and shall deny or
455 revoke the license of the skilled nursing facility, at the time
456 that the department determines, after a hearing complying with due
457 process, that the facility has failed to comply with any of the

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

480 (q) (i) Beginning on July 1, 1999, the State
481 Department of Health shall issue certificates of need during each
482 of the next four (4) fiscal years for the construction or
483 expansion of nursing facility beds or the conversion of other beds
484 to nursing facility beds in each county in the state having a need
485 for fifty (50) or more additional nursing facility beds, as shown
486 in the fiscal year 1999 State Health Plan, in the manner provided
487 in this paragraph (q). The total number of nursing facility beds
488 that may be authorized by any certificate of need authorized under
489 this paragraph (q) shall not exceed sixty (60) beds.

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

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

523 in other counties in the district in descending order of the need
524 for those beds, from the county with the second highest need to
525 the county with the lowest need, until an application is received
526 for nursing facility beds in an eligible county in the district.

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

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

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

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

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

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

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

586 (ii) Not more than twenty (20) beds may be
587 authorized by any certificate of need issued under this paragraph
588 (r), and not more than a total of sixty (60) beds may be

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

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

609 (3) The State Department of Health may grant approval for
610 and issue certificates of need to any person proposing the new
611 construction of, addition to, conversion of beds of or expansion
612 of any health care facility defined in subparagraph (x)
613 (psychiatric residential treatment facility) of Section
614 41-7-173(h). The total number of beds which may be authorized by
615 such certificates of need shall not exceed three hundred
616 thirty-four (334) beds for the entire state.

617 (a) Of the total number of beds authorized under this
618 subsection, the department shall issue a certificate of need to a
619 privately-owned psychiatric residential treatment facility in
620 Simpson County for the conversion of sixteen (16) intermediate
621 care facility for the mentally retarded (ICF-MR) beds to

622 psychiatric residential treatment facility beds, provided that
623 facility agrees in writing that the facility shall give priority
624 for the use of those sixteen (16) beds to Mississippi residents
625 who are presently being treated in out-of-state facilities.

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

655 agreement by admitting or keeping in the facility on a regular or
656 continuing basis more than thirty (30) patients who are
657 participating in the Mississippi Medicaid program, the State
658 Department of Health shall revoke the license of the facility, at
659 the time that the department determines, after a hearing complying
660 with due process, that the facility has violated the condition
661 upon which the certificate of need was issued, as provided in this
662 paragraph and in the written agreement.

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

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

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

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

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

718 (f) The department shall issue a certificate of need to
719 a one-hundred-thirty-four-bed specialty hospital located on
720 twenty-nine and forty-four one-hundredths (29.44) commercial acres

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

745 (4) (a) From and after July 1, 1993, the department shall
746 not issue a certificate of need to any person for the new
747 construction of any hospital, psychiatric hospital or chemical
748 dependency hospital that will contain any child/adolescent
749 psychiatric or child/adolescent chemical dependency beds, or for
750 the conversion of any other health care facility to a hospital,
751 psychiatric hospital or chemical dependency hospital that will
752 contain any child/adolescent psychiatric or child/adolescent
753 chemical dependency beds, or for the addition of any

754 child/adolescent psychiatric or child/adolescent chemical
755 dependency beds in any hospital, psychiatric hospital or chemical
756 dependency hospital, or for the conversion of any beds of another
757 category in any hospital, psychiatric hospital or chemical
758 dependency hospital to child/adolescent psychiatric or
759 child/adolescent chemical dependency beds, except as hereinafter
760 authorized:

761 (i) The department may issue certificates of need
762 to any person for any purpose described in this subsection,
763 provided that the hospital, psychiatric hospital or chemical
764 dependency hospital does not participate in the Medicaid program
765 (Section 43-13-101 et seq.) at the time of the application for the
766 certificate of need and the owner of the hospital, psychiatric
767 hospital or chemical dependency hospital agrees in writing that
768 the hospital, psychiatric hospital or chemical dependency hospital
769 will not at any time participate in the Medicaid program or admit
770 or keep any patients who are participating in the Medicaid program
771 in the hospital, psychiatric hospital or chemical dependency
772 hospital. This written agreement by the recipient of the
773 certificate of need shall be fully binding on any subsequent owner
774 of the hospital, psychiatric hospital or chemical dependency
775 hospital, if the ownership of the facility is transferred at any
776 time after the issuance of the certificate of need. Agreement
777 that the hospital, psychiatric hospital or chemical dependency
778 hospital will not participate in the Medicaid program shall be a
779 condition of the issuance of a certificate of need to any person
780 under this subparagraph (a)(i), and if such hospital, psychiatric
781 hospital or chemical dependency hospital at any time after the
782 issuance of the certificate of need, regardless of the ownership
783 of the facility, participates in the Medicaid program or admits or
784 keeps any patients in the hospital, psychiatric hospital or
785 chemical dependency hospital who are participating in the Medicaid
786 program, the State Department of Health shall revoke the

787 certificate of need, if it is still outstanding, and shall deny or
788 revoke the license of the hospital, psychiatric hospital or
789 chemical dependency hospital, at the time that the department
790 determines, after a hearing complying with due process, that the
791 hospital, psychiatric hospital or chemical dependency hospital has
792 failed to comply with any of the conditions upon which the
793 certificate of need was issued, as provided in this subparagraph
794 and in the written agreement by the recipient of the certificate
795 of need.

796 (ii) The department may issue a certificate of
797 need for the conversion of existing beds in a county hospital in
798 Choctaw County from acute care beds to child/adolescent chemical
799 dependency beds. For purposes of this subparagraph, the
800 provisions of Section 41-7-193(1) requiring substantial compliance
801 with the projection of need as reported in the current State
802 Health Plan is waived. The total number of beds that may be
803 authorized under authority of this subparagraph shall not exceed
804 twenty (20) beds. There shall be no prohibition or restrictions
805 on participation in the Medicaid program (Section 43-13-101 et
806 seq.) for the hospital receiving the certificate of need
807 authorized under this subparagraph (a)(ii) or for the beds
808 converted pursuant to the authority of that certificate of need.

809 (iii) The department may issue a certificate or
810 certificates of need for the construction or expansion of
811 child/adolescent psychiatric beds or the conversion of other beds
812 to child/adolescent psychiatric beds in Warren County. For
813 purposes of this subparagraph, the provisions of Section
814 41-7-193(1) requiring substantial compliance with the projection
815 of need as reported in the current State Health Plan are waived.
816 The total number of beds that may be authorized under the
817 authority of this subparagraph shall not exceed twenty (20) beds.
818 There shall be no prohibition or restrictions on participation in
819 the Medicaid program (Section 43-13-101 et seq.) for the person

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

823 If by January 1, 2002, there has been no significant
824 commencement of construction of the beds authorized under this
825 subparagraph (a)(iii), or no significant action taken to convert
826 existing beds to the beds authorized under this subparagraph, then
827 the certificate of need that was previously issued under this
828 subparagraph shall expire. If the previously issued certificate
829 of need expires, the department may accept applications for
830 issuance of another certificate of need for the beds authorized
831 under this subparagraph, and may issue a certificate of need to
832 authorize the construction, expansion or conversion of the beds
833 authorized under this subparagraph.

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

848 (v) The department may issue a certificate of need
849 to any county hospital located in Leflore County for the
850 construction or expansion of adult psychiatric beds or the
851 conversion of other beds to adult psychiatric beds, not to exceed
852 twenty (20) beds, provided that the recipient of the certificate

853 of need agrees in writing that the adult psychiatric beds will not
854 at any time be certified for participation in the Medicaid program
855 and that the hospital will not admit or keep any patients who are
856 participating in the Medicaid program in any of such adult
857 psychiatric beds. This written agreement by the recipient of the
858 certificate of need shall be fully binding on any subsequent owner
859 of the hospital if the ownership of the hospital is transferred at
860 any time after the issuance of the certificate of need. Agreement
861 that the adult psychiatric beds will not be certified for
862 participation in the Medicaid program shall be a condition of the
863 issuance of a certificate of need to any person under this
864 subparagraph (a)(v), and if such hospital at any time after the
865 issuance of the certificate of need, regardless of the ownership
866 of the hospital, has any of such adult psychiatric beds certified
867 for participation in the Medicaid program or admits or keeps any
868 Medicaid patients in such adult psychiatric beds, the State
869 Department of Health shall revoke the certificate of need, if it
870 is still outstanding, and shall deny or revoke the license of the
871 hospital at the time that the department determines, after a
872 hearing complying with due process, that the hospital has failed
873 to comply with any of the conditions upon which the certificate of
874 need was issued, as provided in this subparagraph and in the
875 written agreement by the recipient of the certificate of need.

876 (vi) The department may issue a certificate or
877 certificates of need for the expansion of child psychiatric beds
878 or the conversion of other beds to child psychiatric beds at the
879 University of Mississippi Medical Center. For purposes of this
880 subparagraph (a)(vi), the provision of Section 41-7-193(1)
881 requiring substantial compliance with the projection of need as
882 reported in the current State Health Plan is waived. The total
883 number of beds that may be authorized under the authority of this
884 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
885 shall be no prohibition or restrictions on participation in the

886 Medicaid program (Section 43-13-101 et seq.) for the hospital
887 receiving the certificate of need authorized under this
888 subparagraph (a)(vi) or for the beds converted pursuant to the
889 authority of that certificate of need.

890 (b) From and after July 1, 1990, no hospital,
891 psychiatric hospital or chemical dependency hospital shall be
892 authorized to add any child/adolescent psychiatric or
893 child/adolescent chemical dependency beds or convert any beds of
894 another category to child/adolescent psychiatric or
895 child/adolescent chemical dependency beds without a certificate of
896 need under the authority of subsection (1)(c) of this section.

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

900 (6) The State Department of Health shall issue a certificate
901 of need to a Mississippi corporation qualified to manage a
902 long-term care hospital as defined in Section 41-7-173(h)(xii) in
903 Harrison County, not to exceed eighty (80) beds, including any
904 necessary renovation or construction required for licensure and
905 certification, provided that the recipient of the certificate of
906 need agrees in writing that the long-term care hospital will not
907 at any time participate in the Medicaid program (Section 43-13-101
908 et seq.) or admit or keep any patients in the long-term care
909 hospital who are participating in the Medicaid program. This
910 written agreement by the recipient of the certificate of need
911 shall be fully binding on any subsequent owner of the long-term
912 care hospital, if the ownership of the facility is transferred at
913 any time after the issuance of the certificate of need. Agreement
914 that the long-term care hospital will not participate in the
915 Medicaid program shall be a condition of the issuance of a
916 certificate of need to any person under this subsection (6), and
917 if such long-term care hospital at any time after the issuance of
918 the certificate of need, regardless of the ownership of the

919 facility, participates in the Medicaid program or admits or keeps
920 any patients in the facility who are participating in the Medicaid
921 program, the State Department of Health shall revoke the
922 certificate of need, if it is still outstanding, and shall deny or
923 revoke the license of the long-term care hospital, at the time
924 that the department determines, after a hearing complying with due
925 process, that the facility has failed to comply with any of the
926 conditions upon which the certificate of need was issued, as
927 provided in this subsection and in the written agreement by the
928 recipient of the certificate of need. For purposes of this
929 subsection, the provision of Section 41-7-193(1) requiring
930 substantial compliance with the projection of need as reported in
931 the current State Health Plan is hereby waived.

932 (7) The State Department of Health may issue a certificate
933 of need to any hospital in the state to utilize a portion of its
934 beds for the "swing-bed" concept. Any such hospital must be in
935 conformance with the federal regulations regarding such swing-bed
936 concept at the time it submits its application for a certificate
937 of need to the State Department of Health, except that such
938 hospital may have more licensed beds or a higher average daily
939 census (ADC) than the maximum number specified in federal
940 regulations for participation in the swing-bed program. Any
941 hospital meeting all federal requirements for participation in the
942 swing-bed program which receives such certificate of need shall
943 render services provided under the swing-bed concept to any
944 patient eligible for Medicare (Title XVIII of the Social Security
945 Act) who is certified by a physician to be in need of such
946 services, and no such hospital shall permit any patient who is
947 eligible for both Medicaid and Medicare or eligible only for
948 Medicaid to stay in the swing beds of the hospital for more than
949 thirty (30) days per admission unless the hospital receives prior
950 approval for such patient from the Division of Medicaid, Office of
951 the Governor. Any hospital having more licensed beds or a higher

952 average daily census (ADC) than the maximum number specified in
953 federal regulations for participation in the swing-bed program
954 which receives such certificate of need shall develop a procedure
955 to insure that before a patient is allowed to stay in the swing
956 beds of the hospital, there are no vacant nursing home beds
957 available for that patient located within a fifty-mile radius of
958 the hospital. When any such hospital has a patient staying in the
959 swing beds of the hospital and the hospital receives notice from a
960 nursing home located within such radius that there is a vacant bed
961 available for that patient, the hospital shall transfer the
962 patient to the nursing home within a reasonable time after receipt
963 of the notice. Any hospital which is subject to the requirements
964 of the two (2) preceding sentences of this subsection may be
965 suspended from participation in the swing-bed program for a
966 reasonable period of time by the State Department of Health if the
967 department, after a hearing complying with due process, determines
968 that the hospital has failed to comply with any of those
969 requirements.

970 (8) The Department of Health shall not grant approval for or
971 issue a certificate of need to any person proposing the new
972 construction of, addition to or expansion of a health care
973 facility as defined in subparagraph (viii) of Section 41-7-173(h),
974 except as follows: The department may issue a certificate of need
975 to a nonprofit corporation located in Madison County, Mississippi,
976 for the construction, expansion or conversion of not more than
977 twenty (20) beds in a community living program for developmentally
978 disabled adults in a facility as defined in subparagraph (viii) of
979 Section 41-7-173(h). For purposes of this subsection (8), the
980 provisions of Section 41-7-193(1) requiring substantial compliance
981 with the projection of need as reported in the current State
982 Health Plan are waived. There shall be no prohibition or
983 restrictions on participation in the Medicaid program for the

984 person receiving the certificate of need authorized under this
985 subsection (8).

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

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

1004 (11) The new construction, renovation or expansion of or
1005 addition to any health care facility defined in subparagraph (ii)
1006 (psychiatric hospital), subparagraph (iv) (skilled nursing
1007 facility), subparagraph (vi) (intermediate care facility),
1008 subparagraph (viii) (intermediate care facility for the mentally
1009 retarded) and subparagraph (x) (psychiatric residential treatment
1010 facility) of Section 41-7-173(h) which is owned by the State of
1011 Mississippi and under the direction and control of the State
1012 Department of Mental Health, and the addition of new beds or the
1013 conversion of beds from one category to another in any such
1014 defined health care facility which is owned by the State of
1015 Mississippi and under the direction and control of the State
1016 Department of Mental Health, shall not require the issuance of a

1017 certificate of need under Section 41-7-171 et seq.,
1018 notwithstanding any provision in Section 41-7-171 et seq. to the
1019 contrary.

1020 (12) The new construction, renovation or expansion of or
1021 addition to any veterans homes or domiciliaries for eligible
1022 veterans of the State of Mississippi as authorized under Section
1023 35-1-19 shall not require the issuance of a certificate of need,
1024 notwithstanding any provision in Section 41-7-171 et seq. to the
1025 contrary.

1026 (13) The new construction of a nursing facility or nursing
1027 facility beds or the conversion of other beds to nursing facility
1028 beds shall not require the issuance of a certificate of need,
1029 notwithstanding any provision in Section 41-7-171 et seq. to the
1030 contrary, if the conditions of this subsection are met.

1031 (a) Before any construction or conversion may be
1032 undertaken without a certificate of need, the owner of the nursing
1033 facility, in the case of an existing facility, or the applicant to
1034 construct a nursing facility, in the case of new construction,
1035 first must file a written notice of intent and sign a written
1036 agreement with the State Department of Health that the entire
1037 nursing facility will not at any time participate in or have any
1038 beds certified for participation in the Medicaid program (Section
1039 43-13-101 et seq.), will not admit or keep any patients in the
1040 nursing facility who are participating in the Medicaid program,
1041 and will not submit any claim for Medicaid reimbursement for any
1042 patient in the facility. This written agreement by the owner or
1043 applicant shall be a condition of exercising the authority under
1044 this subsection without a certificate of need, and the agreement
1045 shall be fully binding on any subsequent owner of the nursing
1046 facility if the ownership of the facility is transferred at any
1047 time after the agreement is signed. After the written agreement
1048 is signed, the Division of Medicaid and the State Department of
1049 Health shall not certify any beds in the nursing facility for

1050 participation in the Medicaid program. If the nursing facility
1051 violates the terms of the written agreement by participating in
1052 the Medicaid program, having any beds certified for participation
1053 in the Medicaid program, admitting or keeping any patient in the
1054 facility who is participating in the Medicaid program, or
1055 submitting any claim for Medicaid reimbursement for any patient in
1056 the facility, the State Department of Health shall revoke the
1057 license of the nursing facility at the time that the department
1058 determines, after a hearing complying with due process, that the
1059 facility has violated the terms of the written agreement.

1060 (b) For the purposes of this subsection, participation
1061 in the Medicaid program by a nursing facility includes Medicaid
1062 reimbursement of coinsurance and deductibles for recipients who
1063 are qualified Medicare beneficiaries and/or those who are dually
1064 eligible. Any nursing facility exercising the authority under
1065 this subsection may not bill or submit a claim to the Division of
1066 Medicaid for services to qualified Medicare beneficiaries and/or
1067 those who are dually eligible.

1068 (c) The new construction of a nursing facility or
1069 nursing facility beds or the conversion of other beds to nursing
1070 facility beds described in this section must be either a part of a
1071 completely new continuing care retirement community, as described
1072 in the latest edition of the Mississippi State Health Plan, or an
1073 addition to existing personal care and independent living
1074 components, and so that the completed project will be a continuing
1075 care retirement community, containing (i) independent living
1076 accommodations, (ii) personal care beds, and (iii) the nursing
1077 home facility beds. The three (3) components must be located on a
1078 single site and be operated as one (1) inseparable facility. The
1079 nursing facility component must contain a minimum of thirty (30)
1080 beds. Any nursing facility beds authorized by this section will
1081 not be counted against the bed need set forth in the State Health
1082 Plan, as identified in Section 41-7-171 et seq.

1083 This subsection (13) shall stand repealed from and after July
1084 1, 2005.

1085 (14) The State Department of Health shall issue a
1086 certificate of need to any hospital which is currently licensed
1087 for two hundred fifty (250) or more acute care beds and is located
1088 in any general hospital service area not having a comprehensive
1089 cancer center, for the establishment and equipping of such a
1090 center which provides facilities and services for outpatient
1091 radiation oncology therapy, outpatient medical oncology therapy,
1092 and appropriate support services including the provision of
1093 radiation therapy services. The provision of Section 41-7-193(1)
1094 regarding substantial compliance with the projection of need as
1095 reported in the current State Health Plan is waived for the
1096 purpose of this subsection.

1097 (15) The State Department of Health may authorize the
1098 transfer of hospital beds, not to exceed sixty (60) beds, from the
1099 North Panola Community Hospital to the South Panola Community
1100 Hospital. The authorization for the transfer of those beds shall
1101 be exempt from the certificate of need review process.

1102 (16) Nothing in this section or in any other provision of
1103 Section 41-7-171 et seq. shall prevent any nursing facility from
1104 designating an appropriate number of existing beds in the facility
1105 as beds for providing care exclusively to patients with
1106 Alzheimer's disease.

1107 **SECTION 2.** This act shall take effect and be in force from
1108 and after July 1, 2004.