

By: Representatives Holland, Franks

To: Public Health and Human Services; Appropriations

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1493

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 FOR THE CONSTRUCTION OF A NEW COMPREHENSIVE  
4 GENERAL ACUTE CARE HOSPITAL IN LEE COUNTY; TO PROVIDE THAT, AS A  
5 CONDITION OF THE ISSUANCE OF THE CERTIFICATE OF NEED, THE  
6 RECIPIENT OF THE CERTIFICATE OF NEED MUST AGREE IN WRITING TO  
7 PARTICIPATE IN ALL STATE AND FEDERAL HEALTH CARE REIMBURSEMENT  
8 PROGRAMS OR THE DEPARTMENT WILL SUSPEND OR REVOKE THE LICENSE OF  
9 THE HOSPITAL; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL  
10 ISSUE A CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW ACUTE  
11 CARE HOSPITAL IN THE CITY OF OLIVE BRANCH IN DESOTO COUNTY; AND  
12 FOR RELATED PURPOSES.

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

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

16 41-7-191. (1) No person shall engage in any of the  
17 following activities without obtaining the required certificate of  
18 need:

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

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

28 (c) Any change in the existing bed complement of any  
29 health care facility through the addition or conversion of any  
30 beds or the alteration, modernizing or refurbishing of any unit or  
31 department in which the beds may be located; however, if a health  
32 care facility has voluntarily delicensed some of its existing bed

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

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

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

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

99 Department of Health at least thirty (30) days prior to the date  
100 such change of ownership occurs, or a change in services or bed  
101 capacity as prescribed in paragraph (c) or (d) of this subsection  
102 as a result of the change of ownership; an acquisition for less  
103 than fair market value must be reviewed, if the acquisition at  
104 fair market value would be subject to review;

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

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

117 (j) Any capital expenditure or deferred capital  
118 expenditure by or on behalf of a health care facility not covered  
119 by paragraphs (a) through (h);

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

126 (2) The State Department of Health shall not grant approval  
127 for or issue a certificate of need to any person proposing the new  
128 construction of, addition to, or expansion of any health care  
129 facility defined in subparagraphs (iv) (skilled nursing facility)  
130 and (vi) (intermediate care facility) of Section 41-7-173(h) or

131 the conversion of vacant hospital beds to provide skilled or  
132 intermediate nursing home care, except as hereinafter authorized:

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

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

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

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

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

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

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

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

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

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

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

259 (j) The department may issue certificates of need to  
260 allow any existing freestanding long-term care facility in  
261 Tishomingo County and Hancock County that on July 1, 1995, is



262 licensed with fewer than sixty (60) beds. For the purposes of  
263 this paragraph (j), the provision of Section 41-7-193(1) requiring  
264 substantial compliance with the projection of need as reported in  
265 the current State Health Plan is waived. From and after July 1,  
266 1999, there shall be no prohibition or restrictions on  
267 participation in the Medicaid program (Section 43-13-101 et seq.)  
268 for the beds in the long-term care facilities that were authorized  
269 under this paragraph (j).

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

295 regular or continuing basis more than thirty (30) patients who are  
296 participating in the Medicaid program, the State Department of  
297 Health shall revoke the license of the facility, at the time that  
298 the department determines, after a hearing complying with due  
299 process, that the facility has violated the written agreement.

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

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

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

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

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

394 contested, the department shall require substantial construction  
395 of the nursing facility beds within six (6) months after final  
396 adjudication on the issuance of the certificate of need.

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

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

441 (p) The department may issue a certificate of need for  
442 the construction of a municipally-owned nursing facility within  
443 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
444 beds, provided that the recipient of the certificate of need  
445 agrees in writing that the skilled nursing facility will not at  
446 any time participate in the Medicaid program (Section 43-13-101 et  
447 seq.) or admit or keep any patients in the skilled nursing  
448 facility who are participating in the Medicaid program. This  
449 written agreement by the recipient of the certificate of need  
450 shall be fully binding on any subsequent owner of the skilled  
451 nursing facility, if the ownership of the facility is transferred  
452 at any time after the issuance of the certificate of need.  
453 Agreement that the skilled nursing facility will not participate  
454 in the Medicaid program shall be a condition of the issuance of a  
455 certificate of need to any person under this paragraph (p), and if  
456 such skilled nursing facility at any time after the issuance of  
457 the certificate of need, regardless of the ownership of the  
458 facility, participates in the Medicaid program or admits or keeps  
459 any patients in the facility who are participating in the Medicaid

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

482 \* \* \* However, \* \* \* if the issuance of the certificate of need  
483 is contested, the department shall require substantial  
484 construction of the nursing facility beds within six (6) months  
485 after final adjudication on the issuance of the certificate of  
486 need.

487 (q) (i) Beginning on July 1, 1999, the State  
488 Department of Health shall issue certificates of need during each  
489 of the next four (4) fiscal years for the construction or  
490 expansion of nursing facility beds or the conversion of other beds  
491 to nursing facility beds in each county in the state having a need  
492 for fifty (50) or more additional nursing facility beds, as shown

493 in the fiscal year 1999 State Health Plan, in the manner provided  
494 in this paragraph (q). The total number of nursing facility beds  
495 that may be authorized by any certificate of need authorized under  
496 this paragraph (q) shall not exceed sixty (60) beds.

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

520 (iii) Subject to the provisions of subparagraph  
521 (v), the certificate of need issued under subparagraph (ii) for  
522 nursing facility beds in each Long-Term Care Planning District  
523 during each fiscal year shall first be available for nursing  
524 facility beds in the county in the district having the highest  
525 need for those beds, as shown in the fiscal year 1999 State Health



526 Plan. If there are no applications for a certificate of need for  
527 nursing facility beds in the county having the highest need for  
528 those beds by the date specified by the department, then the  
529 certificate of need shall be available for nursing facility beds  
530 in other counties in the district in descending order of the need  
531 for those beds, from the county with the second highest need to  
532 the county with the lowest need, until an application is received  
533 for nursing facility beds in an eligible county in the district.

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

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

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

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

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

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

585 (r) (i) Beginning on July 1, 1999, the State  
586 Department of Health shall issue certificates of need during each  
587 of the next two (2) fiscal years for the construction or expansion  
588 of nursing facility beds or the conversion of other beds to  
589 nursing facility beds in each of the four (4) Long-Term Care  
590 Planning Districts designated in the fiscal year 1999 State Health

591 Plan, to provide care exclusively to patients with Alzheimer's  
592 disease.

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

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

616 (3) The State Department of Health may grant approval for  
617 and issue certificates of need to any person proposing the new  
618 construction of, addition to, conversion of beds of or expansion  
619 of any health care facility defined in subparagraph (x)  
620 (psychiatric residential treatment facility) of Section  
621 41-7-173(h). The total number of beds which may be authorized by  
622 such certificates of need shall not exceed three hundred  
623 thirty-four (334) beds for the entire state.

624           (a) Of the total number of beds authorized under this  
625 subsection, the department shall issue a certificate of need to a  
626 privately-owned psychiatric residential treatment facility in  
627 Simpson County for the conversion of sixteen (16) intermediate  
628 care facility for the mentally retarded (ICF-MR) beds to  
629 psychiatric residential treatment facility beds, provided that  
630 facility agrees in writing that the facility shall give priority  
631 for the use of those sixteen (16) beds to Mississippi residents  
632 who are presently being treated in out-of-state facilities.

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

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

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

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

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

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

717 (e) Of the total number of beds authorized under this  
718 subsection (3) the department shall issue a certificate of need to  
719 a privately-owned, nonprofit psychiatric residential treatment  
720 facility in Hinds County for an eight-bed expansion of the  
721 facility, provided that the facility agrees in writing that the  
722 facility shall give priority for the use of those eight (8) beds

723 to Mississippi residents who are presently being treated in  
724 out-of-state facilities.

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

752 (4) (a) From and after July 1, 1993, the department shall  
753 not issue a certificate of need to any person for the new  
754 construction of any hospital, psychiatric hospital or chemical  
755 dependency hospital that will contain any child/adolescent

756 psychiatric or child/adolescent chemical dependency beds, or for  
757 the conversion of any other health care facility to a hospital,  
758 psychiatric hospital or chemical dependency hospital that will  
759 contain any child/adolescent psychiatric or child/adolescent  
760 chemical dependency beds, or for the addition of any  
761 child/adolescent psychiatric or child/adolescent chemical  
762 dependency beds in any hospital, psychiatric hospital or chemical  
763 dependency hospital, or for the conversion of any beds of another  
764 category in any hospital, psychiatric hospital or chemical  
765 dependency hospital to child/adolescent psychiatric or  
766 child/adolescent chemical dependency beds, except as hereinafter  
767 authorized:

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



789 issuance of the certificate of need, regardless of the ownership  
790 of the facility, participates in the Medicaid program or admits or  
791 keeps any patients in the hospital, psychiatric hospital or  
792 chemical dependency hospital who are participating in the Medicaid  
793 program, the State Department of Health shall revoke the  
794 certificate of need, if it is still outstanding, and shall deny or  
795 revoke the license of the hospital, psychiatric hospital or  
796 chemical dependency hospital, at the time that the department  
797 determines, after a hearing complying with due process, that the  
798 hospital, psychiatric hospital or chemical dependency hospital has  
799 failed to comply with any of the conditions upon which the  
800 certificate of need was issued, as provided in this subparagraph  
801 and in the written agreement by the recipient of the certificate  
802 of need.

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

816           (iii) The department may issue a certificate or  
817 certificates of need for the construction or expansion of  
818 child/adolescent psychiatric beds or the conversion of other beds  
819 to child/adolescent psychiatric beds in Warren County. For  
820 purposes of this subparagraph, the provisions of Section  
821 41-7-193(1) requiring substantial compliance with the projection

822 of need as reported in the current State Health Plan are waived.  
823 The total number of beds that may be authorized under the  
824 authority of this subparagraph shall not exceed twenty (20) beds.  
825 There shall be no prohibition or restrictions on participation in  
826 the Medicaid program (Section 43-13-101 et seq.) for the person  
827 receiving the certificate of need authorized under this  
828 subparagraph (a)(iii) or for the beds converted pursuant to the  
829 authority of that certificate of need.

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

841 (iv) The department shall issue a certificate of  
842 need to the Region 7 Mental Health/Retardation Commission for the  
843 construction or expansion of child/adolescent psychiatric beds or  
844 the conversion of other beds to child/adolescent psychiatric beds  
845 in any of the counties served by the commission. For purposes of  
846 this subparagraph, the provisions of Section 41-7-193(1) requiring  
847 substantial compliance with the projection of need as reported in  
848 the current State Health Plan is waived. The total number of beds  
849 that may be authorized under the authority of this subparagraph  
850 shall not exceed twenty (20) beds. There shall be no prohibition  
851 or restrictions on participation in the Medicaid program (Section  
852 43-13-101 et seq.) for the person receiving the certificate of  
853 need authorized under this subparagraph (a)(iv) or for the beds  
854 converted pursuant to the authority of that certificate of need.

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

883                   (vi) The department may issue a certificate or  
884 certificates of need for the expansion of child psychiatric beds  
885 or the conversion of other beds to child psychiatric beds at the  
886 University of Mississippi Medical Center. For purposes of this  
887 subparagraph (a)(vi), the provision of Section 41-7-193(1)

888 requiring substantial compliance with the projection of need as  
889 reported in the current State Health Plan is waived. The total  
890 number of beds that may be authorized under the authority of this  
891 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
892 shall be no prohibition or restrictions on participation in the  
893 Medicaid program (Section 43-13-101 et seq.) for the hospital  
894 receiving the certificate of need authorized under this  
895 subparagraph (a)(vi) or for the beds converted pursuant to the  
896 authority of that certificate of need.

897 (b) From and after July 1, 1990, no hospital,  
898 psychiatric hospital or chemical dependency hospital shall be  
899 authorized to add any child/adolescent psychiatric or  
900 child/adolescent chemical dependency beds or convert any beds of  
901 another category to child/adolescent psychiatric or  
902 child/adolescent chemical dependency beds without a certificate of  
903 need under the authority of subsection (1)(c) of this section.

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

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

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

939 (7) The State Department of Health may issue a certificate  
940 of need to any hospital in the state to utilize a portion of its  
941 beds for the "swing-bed" concept. Any such hospital must be in  
942 conformance with the federal regulations regarding such swing-bed  
943 concept at the time it submits its application for a certificate  
944 of need to the State Department of Health, except that such  
945 hospital may have more licensed beds or a higher average daily  
946 census (ADC) than the maximum number specified in federal  
947 regulations for participation in the swing-bed program. Any  
948 hospital meeting all federal requirements for participation in the  
949 swing-bed program which receives such certificate of need shall  
950 render services provided under the swing-bed concept to any  
951 patient eligible for Medicare (Title XVIII of the Social Security  
952 Act) who is certified by a physician to be in need of such  
953 services, and no such hospital shall permit any patient who is

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

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

981 (9) The Department of Health shall not grant approval for or  
982 issue a certificate of need to any person proposing the  
983 establishment of, or expansion of the currently approved territory  
984 of, or the contracting to establish a home office, subunit or  
985 branch office within the space operated as a health care facility  
986 as defined in Section 41-7-173(h)(i) through (viii) by a health

987 care facility as defined in subparagraph (ix) of Section  
988 41-7-173(h).

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

999 (11) The new construction, renovation or expansion of or  
1000 addition to any health care facility defined in subparagraph (ii)  
1001 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1002 facility), subparagraph (vi) (intermediate care facility),  
1003 subparagraph (viii) (intermediate care facility for the mentally  
1004 retarded) and subparagraph (x) (psychiatric residential treatment  
1005 facility) of Section 41-7-173(h) which is owned by the State of  
1006 Mississippi and under the direction and control of the State  
1007 Department of Mental Health, and the addition of new beds or the  
1008 conversion of beds from one category to another in any such  
1009 defined health care facility which is owned by the State of  
1010 Mississippi and under the direction and control of the State  
1011 Department of Mental Health, shall not require the issuance of a  
1012 certificate of need under Section 41-7-171 et seq.,  
1013 notwithstanding any provision in Section 41-7-171 et seq. to the  
1014 contrary.

1015 (12) The new construction, renovation or expansion of or  
1016 addition to any veterans homes or domiciliaries for eligible  
1017 veterans of the State of Mississippi as authorized under Section  
1018 35-1-19 shall not require the issuance of a certificate of need,

1019 notwithstanding any provision in Section 41-7-171 et seq. to the  
1020 contrary.

1021 (13) The new construction of a nursing facility or nursing  
1022 facility beds or the conversion of other beds to nursing facility  
1023 beds 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, if the conditions of this subsection are met.

1026 (a) Before any construction or conversion may be  
1027 undertaken without a certificate of need, the owner of the nursing  
1028 facility, in the case of an existing facility, or the applicant to  
1029 construct a nursing facility, in the case of new construction,  
1030 first must file a written notice of intent and sign a written  
1031 agreement with the State Department of Health that the entire  
1032 nursing facility will not at any time participate in or have any  
1033 beds certified for participation in the Medicaid program (Section  
1034 43-13-101 et seq.), will not admit or keep any patients in the  
1035 nursing facility who are participating in the Medicaid program,  
1036 and will not submit any claim for Medicaid reimbursement for any  
1037 patient in the facility. This written agreement by the owner or  
1038 applicant shall be a condition of exercising the authority under  
1039 this subsection without a certificate of need, and the agreement  
1040 shall be fully binding on any subsequent owner of the nursing  
1041 facility if the ownership of the facility is transferred at any  
1042 time after the agreement is signed. After the written agreement  
1043 is signed, the Division of Medicaid and the State Department of  
1044 Health shall not certify any beds in the nursing facility for  
1045 participation in the Medicaid program. If the nursing facility  
1046 violates the terms of the written agreement by participating in  
1047 the Medicaid program, having any beds certified for participation  
1048 in the Medicaid program, admitting or keeping any patient in the  
1049 facility who is participating in the Medicaid program, or  
1050 submitting any claim for Medicaid reimbursement for any patient in  
1051 the facility, the State Department of Health shall revoke the



1052 license of the nursing facility at the time that the department  
1053 determines, after a hearing complying with due process, that the  
1054 facility has violated the terms of the written agreement.

1055 (b) For the purposes of this subsection, participation  
1056 in the Medicaid program by a nursing facility includes Medicaid  
1057 reimbursement of coinsurance and deductibles for recipients who  
1058 are qualified Medicare beneficiaries and/or those who are dually  
1059 eligible. Any nursing facility exercising the authority under  
1060 this subsection may not bill or submit a claim to the Division of  
1061 Medicaid for services to qualified Medicare beneficiaries and/or  
1062 those who are dually eligible.

1063 (c) The new construction of a nursing facility or  
1064 nursing facility beds or the conversion of other beds to nursing  
1065 facility beds described in this section must be either a part of a  
1066 completely new continuing care retirement community, as described  
1067 in the latest edition of the Mississippi State Health Plan, or an  
1068 addition to existing personal care and independent living  
1069 components, and so that the completed project will be a continuing  
1070 care retirement community, containing (i) independent living  
1071 accommodations, (ii) personal care beds, and (iii) the nursing  
1072 home facility beds. The three (3) components must be located on a  
1073 single site and be operated as one (1) inseparable facility. The  
1074 nursing facility component must contain a minimum of thirty (30)  
1075 beds. Any nursing facility beds authorized by this section will  
1076 not be counted against the bed need set forth in the State Health  
1077 Plan, as identified in Section 41-7-171 et seq.

1078 This subsection (13) shall stand repealed from and after July  
1079 1, 2005.

1080 (14) The State Department of Health shall issue a  
1081 certificate of need to any hospital which is currently licensed  
1082 for two hundred fifty (250) or more acute care beds and is located  
1083 in any general hospital service area not having a comprehensive  
1084 cancer center, for the establishment and equipping of such a

1085 center which provides facilities and services for outpatient  
1086 radiation oncology therapy, outpatient medical oncology therapy,  
1087 and appropriate support services including the provision of  
1088 radiation therapy services. The provision of Section 41-7-193(1)  
1089 regarding substantial compliance with the projection of need as  
1090 reported in the current State Health Plan is waived for the  
1091 purpose of this subsection.

1092 (15) The State Department of Health may authorize the  
1093 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1094 North Panola Community Hospital to the South Panola Community  
1095 Hospital. The authorization for the transfer of those beds shall  
1096 be exempt from the certificate of need review process.

1097 (16) The State Department of Health shall issue a  
1098 certificate of need for the construction of a new comprehensive  
1099 general acute care hospital in Lee County, with not less than one  
1100 hundred (100) nor more than two hundred and fifty (250) acute care  
1101 beds. As a condition of the issuance of the certificate of need  
1102 under this subsection, the recipient of the certificate of need  
1103 must agree in writing to participate in all state and federal  
1104 health care reimbursement programs, including, but not limited to,  
1105 Medicare, Medicaid, CHAMPUS, CHIP, and to provide treatment to  
1106 patients who are beneficiaries of the State and School Employees  
1107 Health Insurance Program. This written agreement by the recipient  
1108 of the certificate of need shall be fully binding on any later  
1109 owner of the hospital, if the ownership of the hospital is  
1110 transferred at any time after the issuance of the certificate of  
1111 need. If, after the issuance of the certificate of need, the  
1112 hospital fails to participate in the state and federal health care  
1113 reimbursement programs as required under this subsection, the  
1114 State Department of Health shall revoke the certificate of need,  
1115 if it is still outstanding, and shall deny, suspend or revoke the  
1116 license of the hospital, at the time that the department  
1117 determines, after a hearing complying with due process, that the

1118 hospital has failed to comply with the conditions upon which the  
1119 certificate of need was issued, as provided in this subsection and  
1120 in the written agreement by the recipient of the certificate of  
1121 need. For purposes of this subsection, the provisions of Section  
1122 41-7-193(1) requiring substantial compliance with the projection  
1123 of need as reported in the current State Health Plan are waived.

1124 (17) The State Department of Health shall issue a  
1125 certificate of need for the construction of a new acute care  
1126 hospital in the City of Olive Branch in DeSoto County, not to  
1127 exceed one hundred (100) acute care beds. For purposes of this  
1128 subsection, the provisions of Section 41-7-193(1) requiring  
1129 substantial compliance with the projection of need as reported in  
1130 the current State Health Plan are waived.

1131 (18) Nothing in this section or in any other provision of  
1132 Section 41-7-171 et seq. shall prevent any nursing facility from  
1133 designating an appropriate number of existing beds in the facility  
1134 as beds for providing care exclusively to patients with  
1135 Alzheimer's disease.

1136 **SECTION 2.** This act shall take effect and be in force from  
1137 and after July 1, 2004.