

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 (l) 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.