

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2782

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO IMPOSE A MORATORIUM ON THE ISSUANCE OF CERTIFICATES OF NEED FOR
3 PHYSICIAN-OWNED SPECIALTY HOSPITALS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

61 (xiii) Extracorporeal shock wave lithotripsy
62 services;

63 (xiv) Long-term care hospital services;

64 (xv) Positron Emission Tomography (PET) services;

65 (e) The relocation of one or more health services from
66 one physical facility or site to another physical facility or
67 site, unless such relocation, which does not involve a capital
68 expenditure by or on behalf of a health care facility, (i) is to a
69 physical facility or site within one thousand three hundred twenty
70 (1,320) feet from the main entrance of the health care facility
71 where the health care service is located, or (ii) is the result of
72 an order of a court of appropriate jurisdiction or a result of
73 pending litigation in such court, or by order of the State
74 Department of Health, or by order of any other agency or legal
75 entity of the state, the federal government, or any political
76 subdivision of either, whose order is also approved by the State
77 Department of Health;

78 (f) The acquisition or otherwise control of any major
79 medical equipment for the provision of medical services; provided,
80 however, (i) the acquisition of any major medical equipment used
81 only for research purposes, and (ii) the acquisition of major
82 medical equipment to replace medical equipment for which a
83 facility is already providing medical services and for which the
84 State Department of Health has been notified before the date of
85 such acquisition shall be exempt from this paragraph; an
86 acquisition for less than fair market value must be reviewed, if
87 the acquisition at fair market value would be subject to review;

88 (g) Changes of ownership of existing health care
89 facilities in which a notice of intent is not filed with the State
90 Department of Health at least thirty (30) days prior to the date
91 such change of ownership occurs, or a change in services or bed
92 capacity as prescribed in paragraph (c) or (d) of this subsection
93 as a result of the change of ownership; an acquisition for less

94 than fair market value must be reviewed, if the acquisition at
95 fair market value would be subject to review;

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

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

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

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

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

124 (a) The department may issue a certificate of need to
125 any person proposing the new construction of any health care
126 facility defined in subparagraphs (iv) and (vi) of Section

127 41-7-173(h) as part of a life care retirement facility, in any
128 county bordering on the Gulf of Mexico in which is located a
129 National Aeronautics and Space Administration facility, not to
130 exceed forty (40) beds. From and after July 1, 1999, there shall
131 be no prohibition or restrictions on participation in the Medicaid
132 program (Section 43-13-101 et seq.) for the beds in the health
133 care facility that were authorized under this paragraph (a).

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

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

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

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

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

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

193 program (Section 43-13-101 et seq.) for the beds in the nursing
194 facility that were authorized under this paragraph (f).

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

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

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

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

250 (j) The department may issue certificates of need to
251 allow any existing freestanding long-term care facility in
252 Tishomingo County and Hancock County that on July 1, 1995, is
253 licensed with fewer than sixty (60) beds. For the purposes of
254 this paragraph (j), the provision of Section 41-7-193(1) requiring
255 substantial compliance with the projection of need as reported in
256 the current State Health Plan is waived. From and after July 1,
257 1999, there shall be no prohibition or restrictions on
258 participation in the Medicaid program (Section 43-13-101 et seq.)

259 for the beds in the long-term care facilities that were authorized
260 under this paragraph (j).

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

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

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

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

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

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

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

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

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

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

444 Agreement that the skilled nursing facility will not participate
445 in the Medicaid program shall be a condition of the issuance of a
446 certificate of need to any person under this paragraph (p), and if
447 such skilled nursing facility at any time after the issuance of
448 the certificate of need, regardless of the ownership of the
449 facility, participates in the Medicaid program or admits or keeps
450 any patients in the facility who are participating in the Medicaid
451 program, the State Department of Health shall revoke the
452 certificate of need, if it is still outstanding, and shall deny or
453 revoke the license of the skilled nursing facility, at the time
454 that the department determines, after a hearing complying with due
455 process, that the facility has failed to comply with any of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

972 (9) The Department of Health shall not grant approval for or
973 issue a certificate of need to any person proposing the
974 establishment of, or expansion of the currently approved territory
975 of, or the contracting to establish a home office, subunit or
976 branch office within the space operated as a health care facility
977 as defined in Section 41-7-173(h)(i) through (viii) by a health
978 care facility as defined in subparagraph (ix) of Section
979 41-7-173(h).

980 (10) Health care facilities owned and/or operated by the
981 state or its agencies are exempt from the restraints in this
982 section against issuance of a certificate of need if such addition

983 or expansion consists of repairing or renovation necessary to
984 comply with the state licensure law. This exception shall not
985 apply to the new construction of any building by such state
986 facility. This exception shall not apply to any health care
987 facilities owned and/or operated by counties, municipalities,
988 districts, unincorporated areas, other defined persons, or any
989 combination thereof.

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

1006 (12) The new construction, renovation or expansion of or
1007 addition to any veterans homes or domiciliaries for eligible
1008 veterans of the State of Mississippi as authorized under Section
1009 35-1-19 shall not require the issuance of a certificate of need,
1010 notwithstanding any provision in Section 41-7-171 et seq. to the
1011 contrary.

1012 (13) The new construction of a nursing facility or nursing
1013 facility beds or the conversion of other beds to nursing facility
1014 beds shall not require the issuance of a certificate of need,

1015 notwithstanding any provision in Section 41-7-171 et seq. to the
1016 contrary, if the conditions of this subsection are met.

1017 (a) Before any construction or conversion may be
1018 undertaken without a certificate of need, the owner of the nursing
1019 facility, in the case of an existing facility, or the applicant to
1020 construct a nursing facility, in the case of new construction,
1021 first must file a written notice of intent and sign a written
1022 agreement with the State Department of Health that the entire
1023 nursing facility will not at any time participate in or have any
1024 beds certified for participation in the Medicaid program (Section
1025 43-13-101 et seq.), will not admit or keep any patients in the
1026 nursing facility who are participating in the Medicaid program,
1027 and will not submit any claim for Medicaid reimbursement for any
1028 patient in the facility. This written agreement by the owner or
1029 applicant shall be a condition of exercising the authority under
1030 this subsection without a certificate of need, and the agreement
1031 shall be fully binding on any subsequent owner of the nursing
1032 facility if the ownership of the facility is transferred at any
1033 time after the agreement is signed. After the written agreement
1034 is signed, the Division of Medicaid and the State Department of
1035 Health shall not certify any beds in the nursing facility for
1036 participation in the Medicaid program. If the nursing facility
1037 violates the terms of the written agreement by participating in
1038 the Medicaid program, having any beds certified for participation
1039 in the Medicaid program, admitting or keeping any patient in the
1040 facility who is participating in the Medicaid program, or
1041 submitting any claim for Medicaid reimbursement for any patient in
1042 the facility, the State Department of Health shall revoke the
1043 license of the nursing facility at the time that the department
1044 determines, after a hearing complying with due process, that the
1045 facility has violated the terms of the written agreement.

1046 (b) For the purposes of this subsection, participation
1047 in the Medicaid program by a nursing facility includes Medicaid

1048 reimbursement of coinsurance and deductibles for recipients who
1049 are qualified Medicare beneficiaries and/or those who are dually
1050 eligible. Any nursing facility exercising the authority under
1051 this subsection may not bill or submit a claim to the Division of
1052 Medicaid for services to qualified Medicare beneficiaries and/or
1053 those who are dually eligible.

1054 (c) The new construction of a nursing facility or
1055 nursing facility beds or the conversion of other beds to nursing
1056 facility beds described in this section must be either a part of a
1057 completely new continuing care retirement community, as described
1058 in the latest edition of the Mississippi State Health Plan, or an
1059 addition to existing personal care and independent living
1060 components, and so that the completed project will be a continuing
1061 care retirement community, containing (i) independent living
1062 accommodations, (ii) personal care beds, and (iii) the nursing
1063 home facility beds. The three (3) components must be located on a
1064 single site and be operated as one (1) inseparable facility. The
1065 nursing facility component must contain a minimum of thirty (30)
1066 beds. Any nursing facility beds authorized by this section will
1067 not be counted against the bed need set forth in the State Health
1068 Plan, as identified in Section 41-7-171 et seq.

1069 This subsection (13) shall stand repealed from and after July
1070 1, 2005.

1071 (14) The State Department of Health shall issue a
1072 certificate of need to any hospital which is currently licensed
1073 for two hundred fifty (250) or more acute care beds and is located
1074 in any general hospital service area not having a comprehensive
1075 cancer center, for the establishment and equipping of such a
1076 center which provides facilities and services for outpatient
1077 radiation oncology therapy, outpatient medical oncology therapy,
1078 and appropriate support services including the provision of
1079 radiation therapy services. The provision of Section 41-7-193(1)
1080 regarding substantial compliance with the projection of need as

1081 reported in the current State Health Plan is waived for the
1082 purpose of this subsection.

1083 (15) The State Department of Health may authorize the
1084 transfer of hospital beds, not to exceed sixty (60) beds, from the
1085 North Panola Community Hospital to the South Panola Community
1086 Hospital. The authorization for the transfer of those beds shall
1087 be exempt from the certificate of need review process.

1088 (16) Nothing in this section or in any other provision of
1089 Section 41-7-171 et seq. shall prevent any nursing facility from
1090 designating an appropriate number of existing beds in the facility
1091 as beds for providing care exclusively to patients with
1092 Alzheimer's disease.

1093 (17) The State Department of Health shall not (a) receive
1094 application for, grant approval for or issue a certificate of need
1095 to any person proposing the construction, establishment,
1096 development or expansion of a physician-owned specialty hospital
1097 devoted primarily or exclusively to cardiac, orthopedic, surgical
1098 or other specialty as designated by the Secretary of the
1099 Department of Health and Human Services in accordance with the
1100 provisions of Title V of the Medicare Prescription Drug,
1101 Improvement and Modernization Act of 2003; or (b) permit a change
1102 of ownership of an existing specialty hospital from a
1103 nonphysician-owned specialty hospital to a physician-owned
1104 specialty hospital, whether or not a notice of intent is filed
1105 with the Department of Health thirty (30) days prior to the date
1106 such change of ownership occurs as permitted by subsection (1)(g)
1107 of this section. General acute care hospitals, long-term acute
1108 care hospitals, rehabilitation hospitals, psychiatric hospitals,
1109 chemical dependency hospitals, cancer hospitals and children's
1110 hospitals are not considered to be specialty hospitals for
1111 purposes of this subsection. This subsection (17) will stand
1112 repealed as of July 1, 2005.

1113 **SECTION 2.** This act shall take effect and be in force from
1114 and after its passage.